

## About the Tenants' Union NSW

The Tenants' Union of NSW is the peak body representing the interests of tenants in New South Wales, including tenants in social housing and residents of boarding houses. We are recognised as a key stakeholder by a number of government departments, particularly in relation to housing and renting.

We are a Community Legal Centre specialising in residential tenancy law and policy, and the main resourcing body for the state-wide network of Tenants Advice and Advocacy Services (TAASs) in New South Wales. Collectively the TAASs and TUNSW provide information, advice and advocacy to tens of thousands of renters across New South Wales each year.

## About this submission

We are pleased to provide comment on the [Explanation of Intended Effect](#) (EIE) for the proposed new Housing Diversity SEPP. The Tenants' Union of NSW recently provided substantial feedback on the [discussion paper on A Housing Strategy for NSW](#). These comments draw and expand on the feedback provided in [our submission](#). Our comments on the Explanation of Intended Effect will primarily be focused on the changes proposed in relation to:

- Build to rent housing
- Boarding Houses, co-living and purpose-built student housing, and the
- Social housing provisions of the ARHSEPP

The Explanation of Intended Effect explains the need for consolidation of the three identified existing housing related SEPPs and their updating and amending on the basis this is required towards fulfilling government's commitment to ensuring there is adequate supply of new dwellings that are affordable, well-designed and located in places that people want to live. It acknowledges affordability as a key challenge across NSW, and particularly in the Sydney metropolitan area, and that a more stable rental sector that delivers on security and stability for those who rent their homes within it is required.

The acknowledgement that our current housing system has failed to deliver on this is helpful. We also agree that updating and amending of the SEPPS is required. However, we are concerned with an approach to facilitate delivery of affordability and stability that seeks to reduce the costs of development by reducing amenity for residents. We refer to a reduction of amenity across a range of housing types in terms of the various proposed amendments that allow for smaller rooms, reduced privacy and security, shared facilities, possible reduction in accessibility, and potentially insecure tenure to better bolster 'viability' for development of particular housing types. Lower income households have been failed by our housing system, and the 'demand' for smaller, 'compact' housing types might be better understood as evidence of this failure rather than as a desire on the part of people on lower incomes for compromised design and amenity, and lesser, more insecure renting arrangements (leasing agreements).

The range of proposed new SEPP provisions are not generally referenced within a broader strategy of reform that would more effectively support the supply of new, additional social

and affordable housing. Such a strategy should include reform of tax settings at both the state and Commonwealth level, and significant capital investment from both levels of government in public and community housing to improve existing stock, and build new, additional social housing.

We recognise it is not within scope or the role of planning instruments to address or 'fix' systemic issues such as a lack of affordable and secure rental housing. We highlight this only to make the point changes to planning provisions that may reduce amenity for residents of new housing, or fast-track and thereby reduce the opportunity for stakeholder and community consultation should not be pursued on the basis that they are a real solution to these problems.

To further discuss our comments please feel free to contact Jemima Mowbray, Policy and Advocacy Coordinator, Tenants' Union of NSW on mobile: 0433 584 050, or by email: [jemima.mowbray@tenantsunion.org.au](mailto:jemima.mowbray@tenantsunion.org.au).

## Build to Rent Housing

The Tenants' Union of NSW generally considers Build to Rent to be a positive development in terms of providing diversity of housing options for renters. However, a better tenant experience is not assured without some clear requirements and accountability around how positive outcomes especially in relation to security of tenure and affordability will be delivered.

We acknowledge that the NSW Government has recently made a clear commitment to support Build to Rent developments through removing the barrier to developments imposed by the previous land tax structure to provide a 50% discount on land valuations for the purposes of calculating land tax in build to rent developments. The discount was explained on the basis of the potential such housing holds for providing affordability and stability for renting households.

In our submission to the Discussion Paper on the NSW Housing Strategy which also noted this potential, we recommended that such a substantial subsidy only be made available for Built to Rent properties where a better tenant experience can be demonstrated. We suggested this could be achieved by including within the guidelines, clear requirements and accountability mechanisms in relation to security of tenure, affordability and tenant participation outcomes. Generally, we urge further consideration be given regards appropriate models and safeguards or mechanisms for delivering on a better tenant experience before further support by way of further subsidy or – specifically with reference to the proposed HD SEPP – benefits including expanded permissibility, lower rates of parking and a state approval pathway are provided to new build to rent developments.

Towards this and specifically in relation to any further subsidy or exemptions being considered, we draw attention to the concerns raised by Institute for Culture and Society, Western Sydney University and the advice against the pursuit and implementation of for-profit models.<sup>1</sup> This is supported by the LandCom findings that except where supported by some form of public subsidy or under rezoning, Build to Rent will not generate affordable housing. Nor will it significantly ease wider housing affordability.<sup>2</sup> LandCom also found that it is not really achievable without a strategic national framework that integrates tax reform, revenue support, land and planning levers, because it will fail to generate rental at scale. In this regard Australia will continue to lag comparable countries like the US and UK.

In terms of the examples currently in NSW we have not seen affordable rents or security of tenure, nor tenant participation or mechanisms for reporting against these elements that would justify significant ongoing government subsidy or support. Perhaps further consideration should be given to whether the proposed HD SEPP could play a role in establishing such mechanisms for build to rent housing to report against.

The mechanisms could be, for example, requirements around security and affordability in build to rent properties, such that developers would need to be able to demonstrate for each previous year, and going forward commit for each coming year they have or will provide:

- **stability** as measured by a minimum percentage of long-term residents (where this is defined as continuous occupancy of 3+ years, or since commencement of

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<sup>1</sup> Institute for Culture and Society WSU (2020), *Submission: Discussion Paper - Housing Strategy for NSW*, [https://www.westernsydney.edu.au/\\_data/assets/pdf\\_file/0020/1731143/housing-strategy-for-nsw-submission-ics.pdf](https://www.westernsydney.edu.au/_data/assets/pdf_file/0020/1731143/housing-strategy-for-nsw-submission-ics.pdf), accessed 18 September 2020

<sup>2</sup> Landcom (2019), *Build-to-rent in Australia: Product feasibility and potential affordable housing contribution*, p9, [https://cityfutures.be.unsw.edu.au/documents/558/LCOM\\_0000\\_Build\\_to\\_Rent\\_Report\\_WEB.pdf](https://cityfutures.be.unsw.edu.au/documents/558/LCOM_0000_Build_to_Rent_Report_WEB.pdf), accessed 18 September 2020

the Build to Rent property, whichever is shorter), and

- **affordability** as measured by a minimum percentage of available dwellings being affordable according to the current definition of affordable rent (see definition set out in AHRSEPP).

We are aware Shelter NSW has provided comment on the Explanation of Intended Effect, and support their comments regards subdivision of Build to Rent developments requiring change of use approval at the point of subdivision, and that specific design guidance be appropriately set out in the Design and Place SEPP.

We more firmly express the view that a building that can be converted for sale and owner-occupation in a mere 15 years is not properly called build-to-rent. The ability to reconfigure and seek development consent should not be entirely closed off to allow for adaption to change, but the costs of doing so should be significant, including potentially a refund of land tax exemptions and other financial benefits received by the developer on the basis that the development would be build-to-rent. The recently launched build-to-rent development 'LIV' promises residents the 'security of ownership'<sup>3</sup> which would not be reflected in a development that could fundamentally alter the premises use, and the presumed eviction of its residents, after such a short time. This is especially true as build-to-rent developments will have received a premium rent specifically for their promise of a different tenure that could not be so easily lodged.

We can contrast this removal from your home after 15 years without compensation with redevelopments under a Strata Scheme Development Act which place significant consideration and barriers to a significant life upheaval, including a voting process and financial reward in the form of a purchase of an appreciated asset. If sub-division of the premises were to occur, first-right-of-refusal to purchase or the continued occupation as a tenant with protected lease terms should be a bare minimum. This appropriately allows for the separate treatment of the asset without disturbing the occupants use.

## Boarding Houses, Co-living and purpose-built Student Housing

### Proposed requirement for affordability in new boarding houses

There is an overall issue arising from the lack of a broader strategy and understanding of the housing system. Boarding houses are increasingly unsuited to either their built form or management, performing a role of filling the gap of a lack of supply of social housing. The proposed definition of boarding house requires the management of boarding houses by registered Community Housing Providers. If the Community Housing Provider was able to provide housing, whether with their own finances or in partnership with a private developer, the argument for them to provide boarding houses rather than a form of housing resembling co-living appears unsupported.

We welcome the proposed change to the boarding house definition to require the boarding house development to be affordable. We note the proposed definition does not set out or include a specific definition of affordable for boarding houses. Currently the ARHSEPP includes a definition at section 6, Part 1 that defines affordable housing as housing for very low, low- and moderate-income households where the household pays no more than 30% of their gross income in rent or a reduced rent set in relation to market as per the NRAS scheme. Consideration should be given as to whether it would be more appropriate to target boarding house accommodation to very low- and low-income households, possibly by

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<sup>3</sup>LIV Website archival view as at 18<sup>th</sup> September 2020:  
[https://web.archive.org/web/20200918024717if\\_/https://www.livmirvac.com/](https://web.archive.org/web/20200918024717if_/https://www.livmirvac.com/)



providing a minimum ratio number of very low- and low-income residents accommodated. We appreciate some cross subsidisation with residents on medium incomes may be required to ensure viability of developments, but note the development of boarding houses as opposed to other forms of compact housing seeks to ensure affordability for people across a range of lower to medium incomes. A ratio would help ensure delivery on this intention.

There appears to be an assumption that premises managed by community housing providers will inevitably be affordable. This is a questionable assumption. Community Housing Providers are only limited in their activity where they are operating under a grant from government that does so, or are registered as a charity.<sup>4</sup> Neither of these are guaranteed to be the case in the current definition.

Further, where a community housing provider is a charity, the inclusion of housing for moderate income residents in the boarding house will constitute a commercial activity that supports the charitable activities of the organisation. Under the current definition this can result in housing targeted entirely at moderate income earners or higher after 10 years, with no provision for housing for low or very low-income people in the development. This does not align with the current profile of boarding house residents, especially given the separation of co-living and purpose-built student housing from the definition.

We recommend providing a specific definition of affordability for boarding houses that limits rents in such developments be set only in relation to the income of the resident, though we note the definition could appropriately set an upper cap on rents that refers to local market rents to account for local conditions.

We also recommend that some measure of reasonable management of boarding houses be included, as is currently done for the existing land tax exemption for boarding houses. Eligibility for the exemption set out in the guidelines requires at least 80% of residents were long term during the previous year, where long term is defined as “a boarder or lodger who used and occupied a bed or a room or a suite of rooms for a continuous period of at least 3 months.”<sup>5</sup>

### **10-year duration limit on affordability requirement**

We do not support a 10-year duration limit on the affordability requirement for boarding houses. As we understand it the intention of existing and proposed boarding houses provisions has been to allow ongoing provision of affordable housing within communities. The delivery of this form of housing is encouraged by way of allowing more compact accommodation (smaller rooms, shared facilities, etc.), a substantial density bonus (+20% FSR) and mandated development in a broad range of zones (noting the EIE proposes boarding houses will no longer be mandated in R2 Low Density Residential Zones). Given this, we do not feel it is appropriate to allow developments to revert to market rents after 10 years. Removing the requirement for affordability after 10 years would not simply affect affordability, but also the security of housing for residents who very likely entered into the agreement for rental housing (whether that be an occupancy agreement or a residential tenancy agreement) on the basis of longer-term affordability.

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<sup>4</sup> Australian Charities and Not-for-Profits Commission (2014) *Commissioners Interpretation Statement – Provision of housing by charities* CIS2014/02  
<https://www.acnc.gov.au/tools/guidance/commissioners-interpretation-statements/provision-housing-charities> accessed 18 September 2020

<sup>5</sup> Revenue NSW (2020) *Exemption: land used and occupied primarily for a boarding house – 2020 tax year*, <https://www.revenue.nsw.gov.au/help-centre/resources-library/lt06>, accessed 18 September 2020

## **Leasing arrangements in boarding houses, co-living and purpose-built student housing**

The Tenants' Union does not support a requirement for accommodation provided in boarding houses developed under the new HD-SEPP to be leased under occupancy agreements in the Boarding Houses Act. As with the *Boarding Houses Act 2012* occupants should be defined without reference to their leasing arrangement. This allows providers and residents to assess whether an occupancy agreement under the *Boarding Houses Act 2012* or a tenancy agreement under the *Residential Tenancies Act 2010* is most appropriate for their circumstances.

Given the nature of the self-contained accommodation provided through co-living we do believe the HD-SEPP could usefully mandate that leasing arrangements for co-living developments be leased through tenancy agreements under the *Residential Tenancies Act 2010*.

As we understand it the introduction of purpose-built student housing as a new housing type under the HD-SEPP would not have any interaction with the current exemption for residential colleges and halls of residence in education institutions outlined in the regulations of the *Residential Tenancies Act 2010* (part 4, section 31). This is appropriate. As with co-living arrangements, the HD-SEPP might usefully mandate that leasing arrangements in purpose-built student accommodation, other than where an exemption applies, be leased under residential tenancy agreements.

## **Social housing provisions of the ARHSEPP**

The Tenants' Union of NSW appreciates and understands the stated intention for the updating of the social housing provisions of the ARHSEPP to ensure NSW Land and Housing Corporation (LAHC) can deliver new housing projects, especially given the demonstrated need for new and additional social housing. We also take note of LAHC's development model under the Future Directions for Social Housing in NSW, which includes a mixture of social, affordable and private housing. We understand the benefit an expanded ability for self-assessment and self-approval provides LAHC, allowing them to better utilise a diverse range of delivery pathways.

However, we suggest given the benefit provided by expanded self-assessment and self-approval, the HD-SEPP should offset the loss of community and local Council oversight with minimum social and affordable housing targets for any proposed self-assessed and/or self-approved LAHC development. Minimum targets should refer to the overall *increase* in number of residents who will be housed (rather than units of housing) in social and affordable housing in the proposed new developments, with reference to the number of residents in social and affordable housing in the existing dwellings (i.e. prior to redevelopment).

## **Other comments**

### **Inclusionary planning provisions**

As noted above we are aware Shelter NSW has provided comment on the Explanation of Intended Effect. We support and recommend to you their comments on inclusionary planning provisions, in particular:

- the density bonus that currently applies to in-fill housing should not be provided to private developers of time limited affordable housing
- the current definition of affordable housing be amended to account for local rental markets, such that where rents are based on household income a cap is in place to

ensure this does not rise above a reduced market-based rent (e.g. rents set as per the NRAS scheme).

- the setting of more ambitious targets for delivery of affordable housing, noting that while this is beyond the scope of the HD-SEPP it might appropriately be linked to a broader affordable housing strategy that mandates social and affordable housing targets. The Tenants' Union supports calls for implementation of inclusionary zoning, with targets of at least 15% new and additional social and affordable housing on all new developments on private land and at least 30% on government land applied across the whole developments.

### **Application of lift access exemption**

We are concerned about the exemption from lift access as set out in the Seniors SEPP in general, and do not support the further exemption to allow LAHC to apply the exemption for all seniors housing developments including dwellings that are not proposed to be used for social housing.

### **Proposed amendments to ARHSEPP provisions: Group Homes**

The EIE proposes amendments to the existing ARHSEPP to facilitate the development of new group homes, stating group homes are an important accommodation choice for people with a disability or people who are socially disadvantaged. We would like to recommend to you the People with Disability Australia submission to the Disability Royal Commission, '[Realising Our Right to Live Independently in the Community](https://pwd.org.au/wp-content/uploads/2020/07/PWDA-Sub-DRC-Group-Homes-June-2020.pdf)'.<sup>6</sup> The submission highlights the role of group homes, and other congregate living situations like assisted boarding houses, in perpetuating violence and abuse committed against people with disability. In particular we draw your attention to recommendations 2, and 14 – 19. The submission calls for the phasing out of group homes, with recommendation 18 in particular identifying the urgent need to close group homes and provide alternative affordable community-based housing:

***“Recommendation 18: That all governments be required to develop and implement a plan to close all boarding houses and rooming houses, and place people with disability currently living in these premises into contemporary, accessible and affordable housing.”***

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<sup>6</sup> People with Disability Australia (2020) *Realising our right to live independently in the community* <https://pwd.org.au/wp-content/uploads/2020/07/PWDA-Sub-DRC-Group-Homes-June-2020.pdf> accessed at 18 September 2020

8 September 2020

#### Submission feedback on Intended effect for a new Housing Diversity SEPP

The Disability Trust wishes to make comment on the intended effect paper for a “New Housing Diversity SEPP”, which we have reviewed in conjunction with the NSW Housing Strategy discussion paper.

The Disability Trust is a not for profit organisation that has supported people with a disability for over 40 years, we cover a large area within NSW and ACT and provide accommodation and personal care services. We are also a registered Tier 3 Community Housing Provider with the National Regulatory System for Community Housing.

We have focused our feedback on the “Diversity to improve housing options for people with a disability”. The Disability Trust agrees with the statement “people with a disability should have housing choice, amenity, affordability and stability as well as independence and dignity”.

The Disability Trust’s Vision is “*Creating an inclusive world ...where people with disability live the life they choose*”. Housing choice is an essential component of inclusion and people with disability should be able to live within our communities and enjoy the same housing choices, peace and privacy as afforded to all.

Therefore we emphasise the inherent problem with the existing ARHSEPP provisions that you have correctly identified in relation to group homes in NSW i.e.:

*“...there is currently no exempt or complying pathway for converting an existing dwelling to a group home.” (p.16, Explanation of Intended Effect for a new Housing Diversity SEPP)*

This ultimately has significant discriminatory effects on people with disability who wish to live together and who require daily ongoing supports in that they are unable to move quickly to secure suitable housing and are effectively at a disadvantage in comparison to others seeking housing.

We strongly support and endorse the intention to amend the provisions of the ARHSEPP to address this problem as stated here:

*“The Government is proposing to introduce a quicker and easier process to allow an existing dwelling to be used as a group home.” (p.16, Explanation of Intended Effect for a new Housing Diversity SEPP)*

In our practical experience in seeking approvals from a significant number of councils throughout NSW. There is a considerable amount of red tape, expense and time involved in changing the use of a dwelling to a group home. We can provide specific details on the challenges we have faced on request.

**We urge action to bring the requirements for group homes under the ARHSEPP in line with community expectations and Australia's commitments under Article 19 of the United Nations Convention on the Rights of People with Disability (UNCRPD).**

We commend the NSW Department of Planning Industry and Environment for your work in this regard and look forward to seeing positive changes in this area.

Kinds regards

Jill Turnbull, Property Manager on behalf of The Disability Trust



**THE HILLS**  
Sydney's Garden Shire

**THE HILLS SHIRE COUNCIL**  
3 Columbia Court, Norwest NSW 2153  
PO Box 7064, Norwest 2153  
ABN 25 034 494 656 | DX 9966 Norwest

28 August 2020

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

Our Ref: FP58

Dear Sir/ Madam

## **SUBMISSION TO EXPLANATION OF INTENDED EFFECTS – HOUSING DIVERSITY SEPP**

This submission is generally supportive of the consolidation of three existing SEPPs into one Housing Diversity SEPP and the key changes that reflect a shift towards place-based planning in which local policy and development standards would be at the forefront of the permissibility and assessment of certain types of developments. The following sections provide further detail on Council's key concerns and recommendations. It is understood that these comments will be considered in the preparation of the new SEPP and amendments to the LEP Standard Instrument.

### **1. NEW LAND USE TERMS**

#### Build-to-rent housing

##### *Permissibility*

Concern is raised with the proposal to mandate the permissibility of the land use. While it may be an appropriate housing type in R4 High Density Residential (as well as the R3 Medium Density Residential zone within the North Kellyville Precinct), there is no clear benefit to mandating the land use, as opposed to allowing Council's to consider its benefits at a local level in order to deliver appropriate place based outcomes.

Inclusion of the land use in the B3 Commercial Core zone is considered inappropriate. This new land use is inconsistent with the B3 Commercial Core zone objectives within the Standard Instrument, which are largely focused around commercial land uses and employment opportunities. The Hills is currently undertaking Precinct Planning of three Strategic Centres and may wish to utilise the B3 Commercial Core zone in areas where commercial outcomes are encouraged. Even though the Explanation of Intended Effects (EIE) proposes to prohibit the subdivision of BTR housing in the B3 Commercial Core zone, their permissibility conflicts with the objectives of the zone.

##### *Development Standards*

The new SEPP would allow Council to determine maximum building height and floor space controls through the Local Environmental Plan (LEP). As the development standards within the R4 High Density Residential and B4 Mixed Use zones would apply, BTR housing would likely present as a residential flat building. The EIE states that future BTR housing would be guided by the design quality principles in the SEPP 65 Design Guide. It is strongly recommended the new SEPP require consistency with Council's Development Control Plans (DCPs), including parking and apartment



size and mix controls, in order to ensure this new form of development is consistent with local character and urban design standards.

The new SEPP proposes to set a minimum car parking rate of 0.5 spaces per dwelling. Whilst BTR Housing would generally be located in areas with access to public transport and services, parking rates need to take into account local context. The Hills has a high car ownership rate when compared to the Greater Sydney average, with residents often requiring cars to access services and facilities (such as playing fields) which may not be readily or conveniently accessible via public transport. The ownership of cars and the provision of adequate parking within a development does not necessarily directly result in increased traffic generation associated with a development during peak period, when residents would still have a high likelihood of utilising public transport to access their place of employment. Rather, it enables for future residents to have adequate choice to own a vehicle, should this suit their lifestyle.

Inadequate parking rates could result in an increased demand for on-street parking having negative impacts on streetscape, local character, amenity and the public domain. Demand for on-street parking can reduce the capacity of roads by narrowing the carriageway which restricts traffic flow, contributing to congestion. Further, on-street parking may reduce sight-lines, impacting on road efficiency, safety and the promotion of a pedestrian-friendly and permeable environment. The proposed parking rate is considered too low in the local context of The Hills and therefore consistency with Council's DCP parking rates should instead be required.

It is important that the new State Policy does not take a 'one size fits all' approach to apartment size and mix. It needs to be recognised that smaller apartments do not necessarily drive down costs, with a mix of sizes needed to prevent a 'race to the bottom' of housing quality with little if any price benefit.

Population modelling undertaken in the preparation of Council's Local Strategic Planning Statement indicates that, whilst there will be an increase in couple and single-person households, couples with children will remain the dominant household type. In order to accommodate more and larger families looking to access apartment living in the future and ensuring the function and amenity of this housing type, a provision to ensure diversity of apartment sizes in BTRs is strongly encouraged. If left to the market there is likely to be a reduced and restricted product offering, forcing families to compromise on their housing requirements and failing to address the full range of needs within the market.

Accordingly, BTR housing needs to focus on the needs of the people who will occupy them, and not become an opportunity for the mass production of under-sized apartments that maximise yield and developer profits. As a high-density housing type, BTR housing should demonstrate best practise in high quality housing outcomes by exhibiting excellent design, supporting local character and providing associated amenity and public domain improvements for the community.

Aligning development standards to those required for a residential flat building will also ensure that the resulting densities of any BTR housing development would be in line with anticipated yield under the applicable Contributions Plans and broader strategic planning.

### *Operation*

The provision of secure, long-term rental options within the private market is generally supported, however the EIE does not provide sufficient detail on the operation of BTR housing. Whilst it is understood that the BTR housing developments would be owned and managed by a single entity, it is unknown how the minimum tenancy term of three years or levels of affordability will be guaranteed.

Requiring a minimum tenancy term of three years would assist in fostering social cohesion and preventing anti-social behaviour generally associated with transient populations, including noise, waste, traffic and parking.

## **Recommendations:**

- Remove *built-to-rent housing* as a mandated permissible use in any zone;
- Parking rates should be determined by the relevant Development Control Plan;
- Proposed new design guidance for build-to-rent housing should require compliance with Council's DCPs including housing mix and size criteria, having regard to the demographics of the community and local character; and
- Provide more operational details including tenancy term and affordability.

## Co-living developments

The demand for this form of housing in The Hills is likely to be limited. Council's Housing Strategy notes that the proportion of single-person households within the Hills is anticipated to increase from 10% in 2016 to 13% in 2036. The demand for these single-person households is likely to be met through the anticipated increase in residential flat building developments.

## *Permissibility*

As with build-to-rent housing, the proposed land use should not be mandated, but rather Councils should be given the discretion to permit the land uses in appropriate zones. Permissibility should align with the outcomes of Local Housing Strategies, taking into consideration local circumstances, including demand, rental vacancy rates, local character and infrastructure capacity.

Further, concern is raised that permitting the new dwelling type within business zones (B2 Local Centre and B4 Mixed Use) has the potential to detract from the core retail and commercial function of our Centres.

## *Development Standards*

The new SEPP proposes a minimum car parking rate of 0.5 spaces per room as a non-discretionary standard. As discussed in the BTR development section, the proposed parking rate is considered inadequate given local conditions relating to high car ownership and movement patterns. Inadequate parking would have negative implications for on-street parking, streetscape, public domain, congestion and safety. The proposed rate is considered too low and a minimum rate of one space per room should be applied in areas such as The Hills Shire.

The minimum room size is proposed to be 30-35m<sup>2</sup>, with the EIE stating this would sit between a boarding house and studio apartment in terms of size. The Council Boarding House Working Group rightfully states that no person should have to live in housing smaller than the minimum size apartment set by the Apartment Design Guide, no matter their financial means. It is recommended 35m<sup>2</sup> minimum room size be applied as a non-discretionary standard, with Council's having discretion to set the minimum size having regard to local circumstances and expectations.

Co-living developments using the abovementioned development standards (specifically floor space ratio and room size) would be capable of producing a higher population density than what is currently permitted for a residential flat building. This would have significant impacts on infrastructure capacity, especially in Station Precincts where the provision of sufficient infrastructure to service the anticipated demand is already difficult. It is recommended that the Department cap the maximum number of bedrooms to what is achievable as a residential flat building development on the same site.

The EIE states that design guidelines for co-living developments may be developed to accompany the new SEPP. Design guidelines would be welcome, subject to Council's input in their development.

## *Operation*

The provision of secure, long-term rental options within the private market is generally supported. Whilst it is understood that the co-living development would be owned and managed by a single entity, it is unknown how the minimum tenancy term of three months, maximum number of tenants per room or level of affordability will be guaranteed.

**Recommendations:**

- Council to set minimum room size having regard to local circumstance and expectations;
- Cap the maximum number of bedrooms for co-living developments to ensure population density does not exceed that envisaged under the applicable planning controls; and
- Provide further detail on how operations will be managed, including minimum tenancy term, maximum number of tenants or affordability.

## **2. CHANGES TO EXISTING PROVISIONS**

The proposal to amend and consolidate three existing State Policies within the new Housing Diversity State Environmental Planning Policy is supported in-principle, subject to the recommended changes proposed below.

### ARHSEPP

#### *In-fill affordable housing*

Concern is raised as to whether the application of the density bonus for manor houses and terrace developments would affect the ability to achieve compliance with Council's Development Control Plan requirements for these typologies. It is expected that developments comply with Council's desired future character for these new typologies, especially in instances where these typologies are to be provided within the Sydney Metro Northwest Corridor, where a clear vision has been established and articulated through extensive precinct planning.

**Recommendations:**

- Consider whether the introduction of the density bonus for manor houses and terrace developments would affect the ability to achieve compliance with Council's Development Control Plan requirements for these typologies; and
- Include a requirement for manor houses and terrace developments to comply with Council's Development Control Plan requirements.

#### *Boarding houses*

Council welcomes the proposal to remove boarding houses as a mandated permissible use within the R2 Low Density Residential zone. This is a change that Council has consistently advocated for given that the scale of built form produced by boarding house developments is more aligned with a medium density product. The scale of development also results in greater demand for on-street parking and increased traffic, amenity impacts on neighbouring properties and increased pressure on local infrastructure. As such, these developments are better suited to the R3 Medium Density Residential and R4 High Density Residential zones where amenity impacts can be better managed.

It is noted that the SEPP would retain the existing minimum rate of 0.5 spaces per boarding house room with a further reduced rate of 0.2 spaces per room for boarding houses by a social housing provider.

Even within an R3 Medium Density Residential or R4 High Density Residential zone, the density of boarding house developments combined with limited on-site parking provision and small frontage widths can result in on-street parking associated with such developments spanning to adjoining frontages and streets. Council has advocated for increased on-site parking rates for boarding house developments, as a key component of mitigating the negative implications associated with

on-street parking including, streetscape, public domain, congestion and safety (as discussed further with respect to build-to-rent housing).

It is reiterated that the provision of adequate parking within a development does not necessarily directly result in increased traffic generation associated with a development during peak period, when residents would still have a high likelihood of utilising public transport to access their place of employment. Rather, it enables for future residents to have adequate choice to own a vehicle and use this to access services and facilities within the Shire (most likely outside of peak traffic periods), should this suit their lifestyle. The proposed parking rate is considered too low in the local context of The Hills and therefore consistency with Council's DCP parking rates should instead be required.

The proposed amendment to the definition of a boarding house to require the building to be managed by a registered not-for-profit community housing provider is supported. However, it is recommended that the Department remove 'adult lodgers' from the proposed definition as it appears to exclude single parents with children from accessing these developments to fulfil their short term housing needs.

In response to the Department's request for feedback on whether boarding houses should be rented at affordable rates for a minimum of 10 years or in perpetuity, it is recommended that the new SEPP require boarding houses to be rented at an affordable rate in perpetuity. Further information is required on whether this amendment to the definition will apply only to the SEPP or whether it will also be applied within the Standard Instrument LEP.

#### **Recommendations:**

- Require on-site parking rates to comply with a Council's applicable DCP in order to ensure locally appropriate provision for car parking associated with boarding house developments;
- Provide further information on whether the amendment to the definition will also be applied within the Standard Instrument LEP;
- Remove 'adult lodgers' from the proposed definition for boarding houses; and
- Require rooms in new boarding houses to be rented at an affordable rate in perpetuity.

#### *Group homes*

The EIE proposes to introduce a quicker and easier process to allow an existing dwelling to be used as a group home. Whilst it is assumed the Department intends to extend complying development provisions for this development outcome, insufficient details have been provided with regard to this process and it is unclear as to whether it refers to a new complying development pathway.

#### **Recommendations:**

- Further detail is required on the proposed quicker and easier process for existing dwellings to be used as a group home.
- It is not recommended that a complying development pathway be provided for group homes as it does not provide sufficient consideration for amenity impacts and the cumulative impacts of increased density.

#### *Secondary dwellings in rural zones*

The EIE acknowledges that the current provisions within the Standard Instrument that set the maximum size of a secondary dwelling do not produce appropriate outcomes in the rural setting. This aligns with Council's recent planning proposal which sought to nominate a maximum square metre size for the secondary dwelling (in rural zones) that is not linked to the size of the principal dwelling, rather than the currently sliding scale percentage. The sliding scale unnecessarily restricts small principal dwellings from achieving a sizeable secondary dwelling, and simultaneously facilitates excessively large secondary dwellings where associated with a large

principal dwellings. The ability for Councils to nominate a maximum square metre size for rural areas would resolve both issues and this change to the control is welcomed.

Clause 5.4(9) of the Standard Instrument LEP is the relevant clause that sets the maximum size of a secondary dwelling. It is noted that the proposed change relates to secondary dwellings on rural land (the Affordable Rental Housing SEPP does not apply to rural land for the purpose of secondary dwellings). Accordingly, clarification is requested to confirm that Councils will be able to set alternative maximum secondary dwelling sizes for rural and urban zoned land through the Standard Instrument LEP.

**Recommendations:**

- Provide a mechanism in the Standard Instrument to allow Council's to set alternative maximum size criteria for secondary dwellings in rural and urban areas.

Seniors SEPP

*Application of SEPP to Metropolitan Rural Area*

While it does not form part of the proposed Housing Diversity SEPP, the exclusion of the Metropolitan Rural Area (MRA) from the application of the Seniors SEPP is warmly welcomed.

Council has experienced a proliferation of seniors housing developments within the MRA, a location specifically identified for protection in the Greater Sydney Region Plan and Central City District Plan. Council has consistently advocated for seniors housing to be appropriately located on urban land within the Shire that is well serviced by infrastructure and other services, more compatible with surrounding land uses and character and where it would not result in land use conflict with land that has agricultural potential.

Council has long advocated for exemption from the Seniors SEPP as it relates to rural land, and a comprehensive review of the SEPP given its clear inconsistency with the broader strategic planning framework and the scale of impact that could continue to occur within The Hills Shire. The prohibition of Site Compatibility Certificates being issued on rural land are a direct response to these concerns and clearly reflect the findings of the detailed investigations undertaken by the Greater Sydney Commission into the impacts of Site Compatibility Certificates on rural land.

*Application of Local Development Standards*

The EIE proposes that 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%. Questions are raised as to the research undertaken to arrive at this 20% variation cap. There is a potential danger that developers will use this cited 20% maximum tolerance to justify any variation within this specified limit. It is advised that a 20% variation could rarely be considered a 'minor variation'.

**Recommendations:**

- Remove the 20% variation cap on Clause 4.6 application assessments.

*Validity period for Site Compatibility Certificates*

The extension of the validity period for Site Compatibility Certificates is inconsequential given that it will only be allowed where a Development Application has been lodged within a year of the issue date. This reduces the number of instances where a new application would need to be lodged for a Site Compatibility Certificate for proposed developments that are already undergoing the Development Application process with an expiring Certificate. This change is supported, subject to the five year validity period being applied only in the instance specified in the EIE, rather than being applied more broadly to all SCCs.

**Recommendation:**

- A five year validity period should only be applied in the instance of senior housing proposals as specified in the EIE, rather than being applied more broadly to all SCCs.

### Social Housing Provisions for NSW Land and Housing Corporation (LAHC)

#### *Self-assessment*

The ARHSEPP currently has provisions which allow for the delivery of small scale redevelopments with up to 20 dwellings and a maximum height of building of 8.5 metres without the need to obtain consent from Council. The EIE proposes to increase the threshold for self-assessed developments to 60 dwellings, retaining the same height limit. This could include the new dwelling typologies listed above, as well as manor houses and terraces.

While the urban design guidelines are proposed to be updated to reflect the increased cap, the increase in density and the associated infrastructure implications are unlikely to be given full consideration under this process. The cumulative ramifications for the properties owned by LAHC within The Hills Shire should be given further consideration in the drafting of the Housing Diversity SEPP.

Further, Council has adopted Development Control Plans for terrace and manor house developments, as well as site specific Development Control Plans for development within the Sydney Metro Northwest Station Precincts. It is unclear how development outcomes will be able to achieve compliance with Council's desired built form outcomes with the increased cap on self-assessments.

#### **Recommendations:**

- Consider cumulative impacts of increased density and associated infrastructure implications that may result from increasing the cap of self-assessed developments from 20 dwellings to 60 dwellings; and
- Require self-assessments to adhere to Council's Development Control Plan requirements.

#### *Parking rates*

The EIE proposes to clarify that reduced parking rates within the Seniors SEPP also apply to development carried out by or on behalf of LAHC on Government-owned land. Concern is raised with respect to the proposed parking rate of 0.5 spaces per dwelling for all dwellings developed by LAHC.

#### **Recommendation:**

- Consider increased parking rates to manage the lack of on-street parking that has been experienced by similar developments within The Hills Shire.

#### *Boarding houses on land zoned R2 Low Density Residential*

Concern is raised with the proposal to allow boarding houses within the R2 Low Density Residential zone on Government land. In removing boarding houses as a mandated use in this zone on non-government land, the EIE has clearly demonstrated the inappropriateness of boarding houses in these locations and the associated impacts. It is considered that the same impacts would occur for boarding house developments on government-owned land. Furthermore, it is important for equity of outcomes and public trust that government not be granted beneficial treatment. It is strongly recommended that boarding houses not be mandated as permissible in the R2 Low Density Residential zone irrespective of land ownership.

#### **Recommendation:**

- Remove the ability for boarding houses to be provided by LAHC on land zoned R2 Low Density Residential.



#### *Lift exemption*

The EIE proposes to exempt LAHC developments from providing lift access for all seniors housing developments. Given the accessibility requirements of seniors, it is considered that this exemption is not appropriate and is not warranted on the basis of cost-saving. It is also unclear as to why this cost-saving measure is proposed to apply only to LAHC developments. Given the market has demonstrated a continued interest in producing this development type, the proposal is not warranted. Further, residents of a Government owned seniors housing development should not have to suffer poorer accessibility and amenity, especially as they are often more vulnerable with lesser financial means.

Seniors developments must be designed to respond to the needs of senior residents and accessibility within a dwelling is a fundamental requirement. The absence of a lift in multi-storey developments would reduce attractiveness of these typologies for seniors and would be counterintuitive to the provision of housing that meets the needs of senior residents. There is also concern that this proposed amendment may contravene federal requirements and access requirements under the National Construction Code.

#### **Recommendation:**

- Retain existing requirements for lift access for all types of seniors housing developments, whether provided by LAHC or another Developer.

#### *Subdivision of Government owned land without consent*

The EIE states that, to support the delivery of the Government's social housing program, it is proposed to allow subdivision of Government-owned land without consent. Further information should be provided to the proposed criteria for development without consent. Council would not support a blanket approach to any subdivision of Government-owned land, particularly within the Station Precincts where a significant amount of land is owned by the Government.

#### **Recommendation:**

- Provide further detail on the proposed criteria for development without consent on Government-owned land.

We would welcome opportunity to discuss any of the matters raised in this submission, and provide input into the drafting of any subsequent legislative amendments following on from this exhibition process. Should you require any further information or to arrange a meeting please contact Piers Hemphill, Acting Principal Coordinator, Forward Planning on (02) 9843 0511.

Yours faithfully



**Nicholas Carlton**  
**MANAGER – FORWARD PLANNING**

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**MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 25 August 2020**

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*Being a planning matter, the Mayor called for a division to record the votes on this matter*

**VOTING FOR THE MOTION**

Mayor Dr M R Byrne  
Clr R Jethi  
Clr R A Preston MP  
Clr Dr P J Gangemi  
Clr A N Haselden  
Clr J Jackson  
Clr M G Thomas  
Clr E M Russo  
Clr F P De Masi  
Clr A J Hay OAM  
Clr S P Uno

**VOTING AGAINST THE MOTION**

None

**ABSENT**

Clr B L Collins OAM  
Clr R M Tracey

9.28pm      *Councillor Preston MP having previously declared a non-pecuniary, less significant conflict of interest left the meeting for Item 4 and returned at 9.48pm during Call of the Agenda.*  
9.38pm      *Councillor Jethi left the meeting and returned at 9.42pm during Item 4*

**ITEM-4**

**PROPOSED HOUSING DIVERSITY STATE  
ENVIRONMENTAL PLANNING POLICY (FP58)**

A MOTION WAS MOVED BY COUNCILLOR DR GANGEMI AND SECONDED BY COUNCILLOR UNO THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

**473 RESOLUTION**

1. The report be received.
2. Council make a submission to the Department of Planning, Industry and Environment in response to the exhibition of the Explanation of Intended Effect for the proposed Housing Diversity SEPP, provided as Attachment 2.

*Being a planning matter, the Mayor called for a division to record the votes on this matter*

**VOTING FOR THE MOTION**

Mayor Dr M R Byrne  
Clr R Jethi  
Clr Dr P J Gangemi  
Clr A N Haselden  
Clr J Jackson  
Clr M G Thomas

---

**MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 25 August 2020**

---

Clr E M Russo  
Clr F P De Masi  
Clr A J Hay OAM  
Clr S P Uno

**VOTING AGAINST THE MOTION**

None

**ABSENT**

Clr B L Collins OAM  
Clr R M Tracey

**ABSENT FROM THE ROOM**

Clr R A Preston MP

**CALL OF THE AGENDA**

A MOTION WAS MOVED BY COUNCILLOR DE MASI AND SECONDED BY COUNCILLOR RUSSO THAT items 6, 8, 9 and 13 be moved by exception and the recommendations contained therein be adopted.

THE MOTION WAS PUT AND CARRIED.

**474 RESOLUTION**

Items 6, 8, 9 and 13 be moved by exception and the recommendations contained therein be adopted.

**ITEM-6**

**CADDIES BOULEVARD, ROUSE HILL - EXTENSION OF TIME FOR TEMPORARY 'WORKS ZONE'**

**475 RESOLUTION**

1. Council approve an eight month extension to the existing 25 metre long 'Works Zone 7am – 5pm Monday – Saturday, No Stopping at Other Times' restrictions at 104 - 106 Caddies Boulevard, Rouse Hill as detailed in Figure 1 in the report.
2. Council's approval be subject to the applicant obtaining a Road Occupancy Licence for the Works Zone from the NSW Transport Management Centre.
3. The General Manager be given delegated authority to approve any future request for an extension to the 'Works Zone' at 104-106 Caddies Boulevard up to a maximum of two months beyond the four month extension of time.

**ITEM-8**

**BUDGET REVIEW AS AT 31 JULY 2020**

**476 RESOLUTION**

The proposed budget variations in Attachment 1, Pages 5 to 11 and the variations detailed in page 12-30 be adopted.

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<b>ITEM-4</b>	<b>PROPOSED HOUSING DIVERSITY STATE ENVIRONMENTAL PLANNING POLICY (FP58)</b>
<b>THEME:</b>	Shaping Growth
<b>OUTCOME:</b>	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
<b>STRATEGY:</b>	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
<b>MEETING DATE:</b>	<b>25 AUGUST 2020</b> COUNCIL MEETING
<b>GROUP:</b>	<b>SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS</b>
<b>AUTHOR:</b>	<b>SENIOR TOWN PLANNER</b> KAYLA ATKINS
<b>RESPONSIBLE OFFICER:</b>	<b>MANAGER – FORWARD PLANNING</b> NICHOLAS CARLTON

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### EXECUTIVE SUMMARY

The Department of Planning, Industry and Environment (DPIE) is currently exhibiting an Explanation of Intended Effect (EIE) for a proposed new State Environmental Planning Policy relating to Housing Diversity (Housing Diversity SEPP). The EIE was released for public comment on 29 July 2020, with a submission deadline of 9 September 2020. A copy of the EIE which is currently on exhibition is provided as Attachment 1.

This report provides an overview of the proposed new Housing Diversity SEPP, outlines key matters for Council's consideration and recommends that Council make a submission to DPIE (draft submission provided as Attachment 2). DPIE will consider the submissions received when drafting the new SEPP.

The proposed new SEPP would update and consolidate three existing State Environmental Planning Policies (SEPPs):

- SEPP (Affordable Rental Housing) 2009;
- SEPP (Housing for Seniors or People with a Disability) 2004; and
- SEPP No 70 – Affordable Rental Housing (Revised Schemes).

The EIE responds positively to key policy issues that Council has advocated for, specifically:

- Removal of 'boarding houses' as a mandated permissible use in the R2 Low Density Residential Zone; and
- Granting of discretion to Councils to set a maximum size for secondary dwellings in rural zones that is not regulated by the size of the principal dwelling.

The EIE also refers to a recent amendment to the Seniors SEPP that came into force on 29 July 2020, which prevents any new Site Compatibility Certificates from being lodged for seniors housing developments on land within the Metropolitan Rural Area. While it is referenced for context within the Housing Diversity SEPP, the matter is not the subject of the Housing Diversity SEPP as this change to the Seniors SEPP was already made on 29 July 2020. The Seniors SEPP continues to apply to the urban areas within The Hills.

Other areas of change proposed in the EIE include the introduction of new land use definitions for *build-to-rent housing*, *student housing* and *co-living developments*, as well as amendments to existing State Policies. Beyond the amendments to boarding house permissibility and secondary dwelling sizes, the proposed amendments to the Affordable Rental Housing SEPP would also introduce affordability requirements for boarding houses and a complying development approval pathway for the conversion of existing dwellings to group homes.

The Department is proposing to amend the Seniors Housing SEPP by extending the validity of Site Compatibility Certificates to five years and ensuring that local development standards within Local Environmental Plans would now prevail to the extent of any inconsistency.

A draft submission has been prepared and is provided as Attachment 2. The submission provides in-principle support for the consolidation of three existing SEPPs into one Housing Diversity SEPP and the key changes relating to boarding houses, secondary dwellings in rural areas and seniors housing developments.

These particular elements of the proposed Housing Diversity SEPP would facilitate outcomes that align with Council's policies and long-standing advocacy for changes to State Government policy. Accordingly, the proposed amendments, while in the form of a State policy, are reflective of a shift towards place-based planning in which local policy and development standards are at the forefront of the permissibility and assessment of certain types of developments.

## REPORT

This report provides an overview of the proposed new Housing Diversity SEPP, outlines key matters for Council's consideration and recommends that Council make a submission to DPIE (Attachment 2). The key components of the proposed Housing Diversity SEPP are discussed further below.

### 1. BOARDING HOUSES

The Department is proposing to amend the definition of boarding houses within the existing Affordable Rental Housing SEPP (ARHSEPP) to require the building to be managed by a registered not-for-profit community housing provider. The Department is seeking feedback on whether boarding house rooms should be rented at affordable rates for a minimum of 10 years, after which they could revert back to market rates.

While the proposed changes to the definition requiring boarding houses to be affordable are supported, boarding house rooms should be rented out at affordable rates in perpetuity. The Department's Housing Strategy states that there will be a shortage of affordable rental housing for low-income households due to redevelopment, gentrification and renovation. Therefore, handing over these dwellings to the private market after 10 years would not fulfil the intent of the ARHSEPP in the longer term.

Currently, the Standard Instrument LEP mandates 'boarding houses' as a land use that is permitted with consent within the R2 Low Density Residential zone. The EIE proposes to remove this requirement, providing Councils discretion to determine whether or not boarding houses are permitted in R2 Low Density Residential zones under their LEPs.

Previously, Council has advocated for this outcome due to concerns regarding lack of on-street parking, increased traffic, scale and impact on neighbouring properties as well as increased pressure on local infrastructure. Boarding houses produce a medium density product and should therefore be restricted to the R3 Medium Density Residential and R4 High Density Residential zones. Council has also previously sought increased on-site parking rates for boarding house development however the proposed SEPP would retain the existing minimum rate of 0.5 spaces per boarding house room (with a further reduced rate of 0.2 spaces per room for boarding houses by a social housing provider).

Ultimately, the proposed removal of boarding houses as a mandated use in the R2 Low Density Residential zone is a positive amendment in recognition of Council's longstanding concerns. The amendment will facilitate the delivery of boarding houses in appropriate locations that are well serviced and better suited to the built form outcomes typically produced by boarding house developments.

The proposed change relating to boarding house permissibility is supported however further consideration should still be given to increased parking rates for boarding houses, to reduce the potential extent of on-street parking.

## **2. SECONDARY DWELLINGS IN RURAL AREAS**

Currently, the Standard Instrument LEP specifies that the maximum size of a secondary dwelling is limited to 60m<sup>2</sup> or a percentage of floor area of the principal dwelling as nominated by Council, whichever is the greater. The Hills LEP 2019 specifies a rate 20% of the floor area of the principal dwelling.

While there is evidence of appropriate outcomes being achieved under this clause in established urban areas, it has proven less effective in controlling the scale of secondary dwellings and the quality of development outcomes in rural areas. Although Council has the discretion to set a maximum percentage, reliance on a "sliding scale" percentage unnecessarily restricts the size of some secondary dwellings (in instances where the size of the primary dwelling is modest), and conversely facilitates inappropriately large scale secondary dwellings.

Given this issue and the impacts on the rural area, Council had submitted a planning proposal to the Department which sought to apply a maximum square metre size for secondary dwellings in rural zones. The removal of the sliding scale percentage would simultaneously resolve the issue of unnecessarily small secondary dwellings on large rural lots and inappropriately large secondary dwellings that resemble a standard family dwelling size.

While a Gateway Determination was not issued for this planning proposal, the Independent Planning Commission's advice to the Department stated that the proposal had demonstrated strategic and site specific merit. The Department has now sought to give effect to these proposed amendments through the new Housing Diversity SEPP.

The EIE acknowledges that the current provisions within the Standard Instrument LEP are not appropriate in rural zones and states that the Housing Diversity SEPP will allow Councils to set a maximum square metre size for secondary dwellings that is not linked to the size of



the principal dwelling. By dissociating the size of the secondary dwelling from the principal dwelling, the proposed amendments reflect the intent of Council's planning proposal to have greater discretion in setting a maximum size for secondary dwellings which reflects superior character and housing diversity outcomes for the rural area. This will ensure that the character of the Shire's rural area is maintained and protected through desirable planning outcomes.

The Department has not provided detail on whether this amendment will be reflected within the new SEPP or within the Standard Instrument LEP. The preferred option would be through an amendment to the Standard Instrument to allow Council's to set alternative maximum size criteria for secondary dwellings in rural and urban areas.

### **3. SENIORS HOUSING**

The EIE for the Housing Diversity SEPP refers to a recent amendment to the Seniors SEPP that came into force on 29 July 2020 to exempt the Metropolitan Rural Area from the application of the SEPP and as a result, prevent Site Compatibility Certificates from being lodged for seniors housing developments on land within the Metropolitan Rural Area. While this change is referenced within the EIE for context, the matter is not the subject of the Housing Diversity SEPP. The provisions of the Seniors SEPP continue to apply in the urban area of The Hills.

The EIE proposes several amendments to the Seniors SEPP for development as it relates to urban land. Most notably, these changes include:

- Increasing the validity period for Site Compatibility Certificates from 2 to 5 years (only in instances where a development application has been lodged within a year of the Certificate being issued); and
- Clarification that development standards within an LEP prevail to the extent of any inconsistency with the SEPP.

The extension of the validity period for Site Compatibility Certificates is inconsequential given that it will only be allowed where a development application has been lodged within a year of the issue date. This reduces the number of instances where a new application would need to be lodged for a Site Compatibility Certificate for proposed developments that are already undergoing the Development Application process with an expiring Certificate.

Ensuring that local development standards take precedence over provisions within the Seniors SEPP is a positive move towards place-based planning where local controls are prioritised. It also allows the opportunity for Council to amend the LEP in future should it be determined that more detailed regulation of built form outcomes is necessary.

### **4. GROUP HOMES**

The Department proposes to introduce a "quicker and easier process" to allow an existing dwelling to be used as a group home. Insufficient details have been provided with regard to this process and it is unclear as to whether it refers to amendments to the existing complying development pathway. Further clarification will be sought on the matter, however concern is raised that the complying development pathway does not enable sufficient consideration of the potential amenity impacts, including parking, demand on local infrastructure and potential anti-social behaviour associated with transient populations.

## 5. PROPOSED NEW LAND USE TERMS

The EIE proposes to introduce three new definitions to the Standard Instrument LEP, to promote diversity within the rental market as follows:

- **Build-to-rent housing** is purpose-built rental housing that is held in single ownership and professionally managed and contains at least 50 self-contained dwellings that are offered for long-term private rent;
- **Student housing** provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods and may include self-contained dwellings; and
- **Co-living developments** are 'new generation' boarding houses that are typically self-contained with private bathroom and kitchenette facilities and are not restricted to low-income tenants.

The following table provides an overview of the new housing types and the proposed development standards:

	<b>Build-to-rent housing</b>	<b>Student housing</b>	<b>Co-living developments</b>
<b>Tenant</b>	No restriction for market rent dwellings	Students	No restriction
<b>Tenancy</b>	3 years or more	No minimum	Minimum 3 months
<b>Permissibility</b> (mandated)	R4 High Density Residential B4 Mixed Use (R3 Medium Density Residential in North Kellyville Precinct only)	Not yet determined	Wherever residential flat buildings are permitted (R1, R4, B2, B4 as well as R3 in North Kellyville Precinct)
<b>Room/ Unit size</b>	New design guidance to be developed by DPIE	10m <sup>2</sup>	30-35m <sup>2</sup>
<b>Min. Parking Rate</b>	0.5 spaces per dwelling	No min. requirement	0.5 spaces per room
<b>Other Standards</b> (Height, FSR)	In accordance with relevant LEP		

**Figure 1**  
Proposed Key Development Standards

Whilst promoting diversity in the rental market is generally supported, Attachment 2 provides further discussion on the proposed new land uses and recommended changes. Some of the key concerns to be raised include:

- Proposed new design guidance for build-to-rent housing should require compliance with Council's housing mix and size criteria, having regard to the demographics of the community;
- Lack of parking for the proposed new uses (ranging from 0 spaces per room to 0.5 space per dwelling) and potential implications for on-street parking, streetscape and public domain;
- Appropriateness of proposed standards for student housing and co-living developments and the ability to promote high amenity and liveability. Concern is also raised with respect to the potential density of such developments and infrastructure levels of service, given these developments could accommodate a population density well in excess of standard residential flat buildings which would have been anticipated in high density areas;

- Further consideration is required with respect to locational requirements for student housing to be permitted (potentially based on a walkable catchment from tertiary institutions); and
- Permissibility of co-living developments in the B2 and B4 zones has potential to detract from the retail/ commercial function of our centres.

## **IMPACTS**

### **Financial**

This matter has no direct financial impact upon Council's adopted budget or forward estimates. The removal of boarding houses from the R2 Low Density Residential zone, as well as the removal of seniors housing from rural land will reduce the pressure on local infrastructure in areas that are not well placed to accommodate intensification of development.

### **Strategic Plan - Hills Future**

The amendments respond to a range of issues raised by Council including amenity impacts, local character and compatibility of certain development. The recommendations contained in Attachment 2 of this Report seek to facilitate Council's longer term goals of supporting growth and promoting housing affordability whilst maintaining the character of the Shire. The formulation of a submission to the new Housing Diversity SEPP will ensure that our community is effectively represented, governed and managed at all levels of government, and that there is input into legislation that affects local issues.

## **RECOMMENDATION**

1. The report be received.
2. Council make a submission to the Department of Planning, Industry and Environment in response to the exhibition of the Explanation of Intended Effect for the proposed Housing Diversity SEPP, provided as Attachment 2.

## **ATTACHMENTS**

1. Explanation of Intended Effect – Housing Diversity SEPP (35 pages)
2. Draft Submission to DPIE (8 pages).

Submitted on Tue, 08/09/2020 - 13:34

Submitted by: Anonymous

Submitted values are:

Submission Type: I am submitting on behalf of my organisation

First Name: [REDACTED]

Last Name: [REDACTED]

Name Withheld: Yes

Email: [REDACTED]

Suburb/Town & Postcode: 2135

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

Submission: Co-living should also be permitted in the R1 zone. R1 areas should also be mandated to have boarding houses as permissible uses. There are several areas with this zoning all over Sydney in close proximity to train stations which are zoned R1. Accessibility to transport infrastructure need to continue to be supported. It seems that the R1 zoning in terms of the density and height is it afforded is equivalent to that of a R4 zoning when comparing LGAs. For example in sutherland shire council within 800m of a train station areas which are zoned R4 have an FSR of 1.2:1 and a height of 16m. In Burwood council areas within 800m of a station have similar controls but are zoned R1. Both areas would be suitable for boarding houses and co-living due to the proximity of transport.

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

## SUBMISSION TO PROPOSED HOUSING DIVERSITY SEPP ON BEHALF OF RETIRE AUSTRALIA

### INTRODUCTION

Tim Shelley Planning ("TSP") has been engaged by Retire Australia Pty Ltd to prepare this submission to the Department of Planning, Industry and Environment (DPIE) in relation to the draft State Environmental Planning Policy (Housing Diversity) 2020 ("the new SEPP").

Retire Australia (RA) own and operate 27 retirement villages across New South Wales, Queensland and South Australia which provide housing for over 5,000 residents and is the largest privately-owned provider of retirement village living in Australia. Of these villages, 13 are located in NSW, primarily in Sydney and the Central Coast, but also at Armidale, Albury, Wagga Wagga and Sawtell. Since 2006, RA have been both redeveloping their existing villages and building new retirement villages in a variety of locations to address the critical undersupply of quality senior housing across the state, including independent living units and more recently assisted care apartments to provide a continuum of care and the ability for residents to age in place at their existing communities.

As such, RA is ideally placed to understand and make comment on the new SEPP, and has done so with a view to ensuring it continues to provide the ability for seniors housing to adapt and respond to the ever-changing needs of an ageing population and to provide cost-effective and high-quality villages to the market.

To this end and following a review of the paper titled "Explanation of Intended Effect for a new Housing Diversity SEPP ("the EIE") by DPIE, the following comments and issues are raised:

#### 1. Registered Clubs

The EIE indicates a Site Compatibility Certificate (SCC) cannot be made (assumed to mean "lodged") on a site where the club is no longer registered.

At present, the existing Seniors SEPP requires (under clause 23) that seniors housing can be carried out on land that is used for the purposes of an existing registered club and that management protocols are to be put in place to manage conflict between the club and the seniors housing, which implies the club should be being used and registered at the time the SCC is lodged and further, remain operational and registered once the seniors housing is commenced. However, the EIE doesn't mention whether the club still needs to be registered and operational at the time the SCC is determined or when the DA lodged or the use is actually commenced.

**As such, this issue needs to be clarified by DPIE.**

#### 2. Application of Local Development Standards

From the EIE, it is understood this change has two components as follows:

- a) 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.
- b) 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%.

Comments on each of these two changes are provided separately as follows:

a) LEP provisions prevailing over the SEPP

This change has potential implications in relation to Clauses 48(b) and 49(b) of the existing Seniors SEPP, which indicate that Council cannot refuse a DA for a RACF or hostel respectively where the FSR is 1:1 or less.

In this regard, what happens if the FSR on a site under the relevant LEP is less than 1:1, such as a standard R2-zoned site with an FSR of 0.5:1? Does this mean that there is an inconsistency in this instance and as such, the lower FSR under the LEP – in this case, half the FSR – applies? If so, this could have very large implications on any development for a hostel on a site zoned R2 with a standard FSR of 0.5: 1 (or any FSR figure less than 1:1) if this interpretation is correct This would in fact mean that this clause is redundant and should be removed.

The alternative interpretation is that this is in fact an “enabling” provision – that is, a clause which enables certain types of development rather than putting a restriction on them – which operates exclusively from the provisions of the LEP, such that there is no inconsistency with the LEP provisions and hence is not overridden by the lower FSR rates in the LEP. This appears a more common-sense interpretation, especially given the opposite interpretation above seems to be at odds with the spirit or interpretation of the SEPP, which is to generally foster seniors housing and provide consistency across all local government areas.

**As such, this issue needs to be clarified by DPIE.**

b) Maximum variation to standards via Clause 4.6 of 20%

As it is written in the EIE, this change seems to clearly to say that the 20% maximum variation allowable via clause 4.6 relates only to standards in the Seniors SEPP. By default, this would mean it doesn't relate to standards in an LEP, such as the height limit or the FSR. Rather, it would only limit an applicant to varying the standards provided in the new SEPP, particularly the height limit of 8.0 metres in zones where RFBs aren't permissible, meaning any development in such a zone could only go to a maximum height of 9.6m.

Conversely, if the intention of the change is in fact design to restrict the application of a 20% maximum variation to LEP standards such as height and FSR, RA raise strenuous objection to this clause as a blanket maximum variation of 20% is inappropriate for the following reasons:

- It would thwart, or be detrimental to, the delivery of seniors housing to the market on sites where a variation of a larger numerical departure may be completely appropriate and justified i.e. due to topography, land shape, site constraints (such as flooding);
- It precludes the delivery of seniors housing to the market in a cost-effective manner to enable it to remain competitive with other residential products; and
- Such a restriction is contrary to the intention of Clause 4.6, which is to provide for flexibility in the application of development standards.

**As such and in the interest of providing absolute surety, it is requested that clarification be provided from DPIE if this 20% maximum is applicable to only those development standards contained within the new SEPP and not development standards in an LEP (such as height or FSR) when being applied to seniors housing development.**

**If not, strenuous objection is raised to the introduction of this new restriction.**



## ACTIONS/REQUESTS

**That DPIE provide clarification in relation to the following issues/clauses within the new SEPP:**

### **1. What is the implication on Clauses 48(b) and 49(b) of the Seniors SEPP?**

- These clauses indicate that Council cannot refuse a DA for a RACF or hostel respectively where the FSR is 1:1 or less, despite the fact the FSR under the applicable LEP might be lower. Is this affected by the proposed change stating that LEPs will override the SEPP in the case of inconsistencies or this is an enabling clause which operates exclusively from the provisions of the LEP, such that there is no inconsistency with the LEP provisions and hence and not overridden by potentially lower FSR rates in the LEP.

### **2. What is the implication of the change to the provision requiring a club to be registered at the time a SCC is made?**

- By default, does this mean that the club doesn't need to be registered and operational at the time the SCC is determined or when the DA lodged or when the use is actually commenced or operational?

### **3. What is the interpretation of the proposed 20% maximum restriction on variations to development standards via Clause 4.6?**

- Is this maximum applicable to only those development standards contained within the new SEPP or do they relate to development standards in an LEP (such as height or FSR) when being applied to seniors housing developments? If the latter, Retire Australia strenuously objects to the imposition of this new restriction.

## **SUMMARY**

I trust this submission is of assistance with DPIE's drafting of the new SEPP and that these issues will be considered and addressed as part of same to provide improved surety to all stakeholders in the seniors housing industry. To this end, RA welcomes the opportunity of continuing to be involved in the ongoing amendment of this critically important SEPP to ensure it continues to foster and facilitate the development of a diverse range high-quality seniors housing products that are well located, fit for purpose and cost-effective and which continue to provide for the safety, amenity and overall well-being of their residents.

Should you require clarification of any issue raised in the foregoing submission any information in relation to any of Retire Australia's villages, please don't hesitate to contact me on 0409 306186 or via email on [tim@tsplanning.com.au](mailto:tim@tsplanning.com.au)

Yours faithfully,



Tim Shelley  
**Director – Tim Shelley Planning**

Council Reference:  
Your Reference:



Customer Service | 1300 292 872 | (02) 6670 2400

4 September 2020

tso@tweed.nsw.gov.au  
www.tweed.nsw.gov.au



PO Box 816  
Murwillumbah NSW 2484

Please address all communications  
to the General Manager

ABN 90 178 732 496

Sir / Madam  
Department of Planning, Industry and Environmental  
NSW Housing Policy  
Locked Bag 5022  
**Parramatta NSW 2124**

housingpolicy@planning.nsw.gov.au

Dear Sir/Madam

**RE: Submission to the Explanation of Intended Effects for the proposed Housing Diversity SEPP**

Tweed Shire Council welcomes the opportunity to provide feedback on the *Explanation of Intended Effect (EIE)* for the proposed *Housing Diversity State Environmental Planning Policy (SEPP)*.

Overall, Tweed supports the review of the three *Housing Policies (SEPP (Affordable Rental Housing) 2009 (ARHSEPP); SEPP (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP); and SEPP70 - Affordable Rental Housing (SEPP 70)*. However, Council would like to see the review go further to also incorporate *SEPP 21 Caravan Parks* and *SEPP 36 Manufactured Home Estates* to truly encapsulate all forms of housing diversity and can genuinely be described as one that addresses Housing Diversity, in a proper and fuller context.

The issue of housing affordability, accessibility, well located and appropriate diversity and density is of significant interest to the Tweed.

By way of introduction, the Tweed Shire has a population of approximately 97,000, which is expected to grow to 115,000 by 2036 (North Coast Regional Plan), making it a city by the Department of Planning Industry and Environment's guideline ranking.

In addition, the Tweed is integrally linked with the Gold Coast City, with a population 620,000 (expected to grow to 768,000 by 2030).

Tweed Shire was the 8<sup>th</sup> least affordable shire in NSW (13<sup>th</sup> Annual Demographia International Housing Affordability Survey, January 2017). At this time, the cost of a median house price of \$490,000 was 9.7 times the median income of \$50,300. In June 2018 the median house price was \$659,000 (<https://economy.id.com.au/tweed/housing-values>) and housing costs are continuing to rise more rapidly than incomes.

Tweed Shire (based on the 2016 census) has a higher proportion of persons aged over 60 (32%) than Regional NSW (27%) and NSW (22%) (<https://profile.id.com.au/tweed/service-age-groups>). Tweed Shire has a higher proportion of lone person households (26%) than regional NSW (25%) and NSW (22%). Additionally, Tweed Shire has a similar percentage of single parent households (11%) to regional NSW (11%) and higher than NSW (10%).

Housing affordability is a key concern for Tweed and these people comprise some of the more vulnerable amongst the resident population. Affordable rental is a necessity for people employed in the hospitality and tourism sector. This cohort is dependent on unreliable part time and casual income and are essential to the viability of this sector. The Tweed Shire cannot afford to lose this workforce.

In parallel with the recognition that Tweed is one of the most unaffordable locations to live in NSW is the widely accepted and prevailing situation of also being substantially underserved with social and affordable housing. The cost of the shortfall in affordable housing is a significant burden on the public purse. Rental stress leads to poverty, family disruption and community alienation. This generates demand for additional health services, and extra police resources. It causes disruption to education for all students by those impacted by family poverty.

### **Timing of NSW Housing Strategy**

Tweed recently provided a submission to the Department on the NSW Government's *Housing Strategy for NSW* discussion paper. It is understood *the NSW Housing Strategy*, once finalised, will set a 20-year vision for housing in NSW and outline key priorities and actions the NSW Government will take to achieve this vision. In particular, a key objective of the Housing Strategy is to coordinate the investment and delivery of more diverse housing through legible and strategically responsive policy.

Although Tweed recognises the important role the planning system plays in helping the NSW economy recover from the current COVID-19 pandemic, the timing of *Explanation of Intended Effect (EIE)* for the proposed *Housing Diversity State Environmental Planning Policy (SEPP)* is open to being questioned, given the *Housing Strategy* has yet to be finalised and submissions are currently under review.

To achieve successful consolidation and provide certainty for all stakeholders in the planning system the hierarchy of documents must be clear, and alignment of measures, aims, objectives and actions ensured. This is particularly the case with being clear about the real purpose as it may be seen as being somewhat misguided to embark on ambitious new housing policy to address economic concerns when the community and housing industry has been calling for much need assistance with increasing the types of housing now under consideration to address a very long standing social issue. Tweed acknowledges the importance of a healthy economy however, cautions against accelerated generous housing policy under the cover of housing affordability when the real aim is somewhat parallel and overarching; and a proper planning response to address the affordable housing shortage would be more encompassing of social objectives matched to the full range of housing options.

### **Recommendation:**

1. Finalise the Housing Strategy for NSW, addressing the submissions received, prior to the introduction of a new Housing Diversity SEPP to ensure proper alignment and effective delivery of the Housing Strategy.

### **Scope of the new Housing Diversity SEPP**

The Explanation of Intended Effects indicates the government's intent to review and incorporate existing SEPPs geared towards facilitating the delivery of diverse housing types into a new Housing Diversity SEPP, specifically *SEPP (Affordable Rental Housing) 2009 (ARHSEPP)*; *SEPP (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)*; and *SEPP70 - Affordable Rental Housing (SEPP 70)*.

Two additional SEPPs are currently in place to help facilitate the delivery of diverse housing types in NSW, being *SEPP No 21 – Caravan Parks* and *SEPP No 36 – Manufactured Home Estates*, with aims including ‘promoting the social and economic welfare of the community’ and ‘encourage the provision of affordable housing in well-designed estates’.

In 2015, the Department with the Office of Local Government prepared a Discussion Paper to seek feedback on proposed improvements to improve the planning and approval process for manufactured homes and estates, caravan parks, and camping grounds. Following exhibition of the Discussion Paper in late 2015 the review has yet to be completed.

Given caravan parks and manufactured home estates have a role to play in the delivery of diverse housing types and contribute to housing affordability the new Housing Diversity SEPP provides an opportunity for the Department to finalise the review and incorporate all SEPPs related to housing diversity into a single policy.

The *Explanation of Intended Effects* outlines the government’s commitment to ensuring an adequate supply of new dwellings that are ‘affordable, well-designed and located in places that people want to live’, however not considering SEPP 21 and SEPP 36 as part of this process is leaving out a key component of housing diversity and affordability.

The SEPP has an appearance of being focussed on affordability more than housing diversity; it seems the relationship between the two has not been sufficiently or adequately understood or made clear and is somewhat obvious in the policy’s title; overall the policy is an eclectic mix of existing provisions merged with new ones, the relationship and legibility of which should have been delivered through and by the *NSW Housing Strategy*.

The title of the proposed new SEPP is a misnomer and does not align with the stated “aim”. The policy, as described in the Government’s *Explanation of Intended Effect for a new Housing Diversity SEPP* will not, contrary to the intention, provide greater clarity and certainty for the residential development sector whether in the current “context of the post-pandemic recovery” or otherwise.

### **Recommendation**

2. Expand the scope of the new Housing Diversity SEPP to consolidate all SEPPs currently in place to facilitate the delivery of diverse housing types, including State Environmental Planning Policy No 21 – Caravan Parks and State Environmental Planning Policy No 36 – Manufactured Home Estates, or
3. Consider renaming the proposed new SEPP to something that is more representative of its stated aims and ensure that the content is reflective of these; this may include a qualified reference to both “affordability” and “diversity” with more emphasis being on “post pandemic expanded housing types for accelerated economic stimulus of the NSW housing construction sector”.

### **General Comments**

Tweed Shire Council supports the initiative to provide greater housing diversity, new and innovative housing types to attract investment and provide a broader more stable rental sector, as well as aligning this policy with the provision of affordable housing. However, if real gains are to be made there needs to be a mix of factors, including government investment in affordable housing and changes to the tax system (e.g., land tax, capital gains tax; stamp duty) which encourages more small-scale private investment. This is an important component of the market; however, greater efficiency would be gained through a larger sector of government investment in housing for high risk / vulnerable populations.

However, tying the housing affordability issues to the current COVID situation, as the EIE does, is somewhat vexed. This approach downplays the significant housing affordability and accessibility crisis/issues that have persisted and continued to increase over decades. Housing affordability and accessibility have been declining for years, if not decades (see figures above by way of example) and loss of affordable housing is not attributed to the COVID situation, nor should it be a reason for this response as the issues are far greater.

Fundamentally Seniors Housing should not be isolated into big profit driven organisations. Recent examples of combining intergenerational child-care and aged care together has demonstrated benefits for all demographics.

One clear example arising from the current COVID situation is the inadequacy of current aged care models and the vulnerability of seniors being grouped together and isolated from the broader populations and community.

The current model and delivery of seniors care is not about providing appropriate aged care but rather about maximising urban/residential yields where other urban uses may not be permitted (i.e. adjoining a residential zone).

### **Metro and regional distinction in provisions**

Many of the provisions outlined in the EIE are metro focussed towards development with high accessibility to infrastructure, public transport options and population demands.

Regionally there are concerns regarding the impacts of the SEPP on car parking, water and waste-water servicing and the implications of density bonuses which are likely to exacerbate these concerns, as detailed in the following sections.

Broadly, the government has not demonstrated that there is a correlation between affordable housing tenants and a reduced rate of vehicle ownership, particularly in rural/regional areas with limited or no public transport options, in order to justify a reduction in minimum parking requirements.

Whilst parking rate reductions around student housing and boarding houses are seemingly more acceptable, provided they are located in proximity to services, inadequate onsite parking provision in medium to high density developments can have significant impacts on local traffic and amenity.

The car parking rate is a standard that cannot be used to refuse consent under the proposed SEPP, despite the above concerns that may be raised through the development assessment process.

### ***Recommendation:***

4. The SEPP consider encouraging intergenerational child and seniors care integrated with the broader community.
5. The SEPP should be refined to ensure there are appropriate distinctions addressing the different requirements of the metropolitan areas and regional NSW to ensure development does not adversely impact on traffic and parking and infrastructure servicing.

### **New definitions and intent**

Three new definitions: *build to rent housing*; *purpose-built student housing*; and *co-living* are generally supported as emerging housing trends and markets.

### *Build to rent*

It is considered that the minimum 50 dwellings in the build to rent model may be too high for the regional context. 50 dwellings would be a substantial building, either a large footprint given the lower building heights regionally or a taller building, potentially out of character with essentially 3 storey maximum development in regional areas. Potentially this would be appropriate at half the metro rate.

The mandatory application of built to rent in the *B4 Mixed use*, *R4 High density residential*, *B3 Commercial core* and *R3 Medium density residential* are generally supported. However, the purpose of the commercial core is for an active street frontage and this should be built into the definition if this type of housing is to be delivered in what is essential commercial streetscapes.

As the proposed SEPP is geared towards housing diversity it would be appropriate that the provisions encourage a mix of dwelling sizes. Integration of housing sizes and family types is to be encouraged in order to avoid an “enclave” situation. This is especially important if the build-to-rent housing would be permitted to strata subdivided in the future. Ideally councils should have the flexibility to guide the dwelling mix based on local need and demographics.

Car parking rates are also problematic for regional NSW. Tweed has already acknowledged that in the CBD areas reduced car parking rates are acceptable and made reduced provision through its DCP and locality plans.

Additionally the provisions should clearly prohibit the use of the build-to-rent housing for short term rental accommodation as this use would significantly impact on the intent and success of delivery of “true” housing affordability and diversity for those who need it most.

Strata subdivision of this form of housing is not supported to ensure the intent, stability and longer-term availability of the rental sector. Selling off units individually results in short term gains for developers and long term costs for the community through the conversion of the affordable housing, potential loss of amenity, increased parking problems and potential loss of employment through lack of car ownership. Notwithstanding, should the Department continue to consider future sale of these dwellings (strata subdivision) then it is considered 10 years is considered insufficient for the tenure and timeframe to plan and deliver replacement affordable housing.

Caution is advised for making the new definitions too specific as this can often result in a less flexible planning framework.

### ***Recommendations:***

6. The Build-to-rent definition provide a lower dwelling minimum and a high car parking rate for regional NSW reflecting the regional context and needs.
7. The build-to-rent definition acknowledge and include the need for an active ground floor level in mixed use or commercial/retail zones.
8. The build-to-rent make provision for local councils to encourage a mix of dwelling sizes appropriate to their local needs and demographics.
9. The build-to-rent housing clearly prohibit the use for short term rental accommodation.
10. The strata subdivision of the build-to-rent housing after a ten-year period is not supported as this is contradictory to providing longer term secure and affordable rental housing.



### *Purpose built student housing*

Clarity is required as to what constitutes a student.

Not applying mandatory zones for the permissibility of purpose-built student housing is supported as this allows flexibility for councils to permit the use as appropriate within their local context.

Car parking rate reductions around student housing are seemingly acceptable, provided the housing is located in proximity to services, through objectives and criteria in the proposed SEPP.

### **Recommendations:**

11. Clarity is to be provided on what constitutes “student”.

### *Co-living*

The introduction of co-living is supported, though again the minimum size of 10 bedroom is out of step with the regional areas. This form of housing would integrate better with a minimum of 4-5 bedrooms. This form of living needs to ensure there is lockable storage for each bedroom component (ie for each of outdoor equipment, linen and kitchen).

Mandatory permitted use within the *R4 High density residential* is supported and *B4 Mixed use* zone, however, as with build to rent, ground floor retail /commercial uses should be provided. Regionally there is significant opportunity for smaller scale co-living housing to integrate into the *R3 Medium density* zone.

Car parking requirements are likely to be problematic in regional areas where access to public transport is not equal to the metro area. In most regional areas public transport is limited, and car usage is higher.

### **Boarding house changes /provisions**

The amendments to clarify that boarding houses are to remain as affordable housing are supported. This form of housing already requires management by not-for-profit community housing.

Removing the mandatory use of boarding houses in the *R2 Low Density Residential* zone and allowing councils to choose the permissibility of the use in this zone is supported. Notwithstanding, allowing up to 12 bedrooms is out of scale with the low-density character of the residential zones.

The permissibility of boarding houses on government owned land, regardless of the LEP permissibility will allow flexibility for the provision of more affordable housing, however the integration with the surrounding local character is a key consideration to ensuring a good fit within the local context. Local character and design objectives and provisions should be included in the proposed SEPP.

The reduction in the floor space density bonus is supported, however the density bonus has the ability to be out of character with regional areas and is more suited to the metropolitan context. There should be a distinction provided between metropolitan and regional use of density bonuses.

Boarding houses are frequently converted larger houses or, when specifically built, are a form of smaller scale housing often with lower amenity options. The combined provisions often result in:

- Greater density

- Smaller rooms and lower amenity
- Low car parking provision

This form of housing is purpose designed for short-term tenure of a more temporary nature. As such the allowing strata subdivision after a fixed term period (currently 10 years) results in the multiple private ownership of housing which will not likely meet appropriate standards for strata subdivision, and therefore longer-term tenancy.

Removal of the reference to 28 January 2000 and replacing this with a five-year period to establish if there is a loss of low-cost rental accommodation is supported.

Car parking rate reductions around boarding houses are seemingly acceptable, provided boarding houses are located in proximity to services and do not have the ability to strata subdivided or sold off in the future.

#### **Recommendation:**

12. The consideration and integration with the surrounding local character, such as the principles of “*Better Placed*” should be required for boarding house development.
13. Boarding houses should not have the ability to be strata subdivided as this form of housing is purpose built to short term tenure.

#### **Secondary dwellings changes/provisions in rural zones**

Secondary dwellings are intended to provide diversity through a smaller, more affordable form of housing. This is different to a dual occupancy which may be larger. Increasing the size of secondary dwellings removes the point of difference between a secondary dwelling and a dual occupancy.

Tweed Shire currently does not permit secondary dwellings or detached dual occupancy in the rural zones. We do permit attached dual occupancy in rural areas. Council is considering allowing secondary dwellings in rural areas, based on this housing being smaller with a point of difference to attached dual occupancy, therefore with less impact. Increasing the size of secondary dwellings in rural zones seems to be stepping away from the intent of this form of housing which was small granny flat type structures.

Whilst the increased size may be suitable as an option, i.e. not mandated, this then puts pressure on regional Councils to conform with “the norm” should adjoining councils allow the larger size.

#### **Recommendation:**

14. Support the size of secondary dwellings remaining as is and that they remain optional (not mandated) for rural zones.

#### **Seniors housing changes/provisions**

Updating the seniors housing provisions in line with the standard instrument LEP is supported. However, the intended definition of *Environmentally Sensitive Area* is not articulated.

The interpretation/definition of *Environmentally Sensitive Land* is found in a range of SEPPs, including the *SEPP (Exempt and Complying Development)* and the Standard Instrument LEP and called *Environmentally sensitive area*. This definition should be consistent through all policy documents and it is recommended this be consistent with the SI LEP and *the SEPP (Exempt and Complying Development)*.



Amending the validity of site compatibility certificates to 5 years (from 2 years) in line with validity of development applications is supported.

Amending the application of local development standards to allow an LEP to prevail to the extent of any consistency is supported.

The proposal to remove the requirement for lifts to be provided to seniors housing above a second floor seems to be counterproductive to providing appropriate and accessible housing for this demographic. The EIE states that there “are a diverse range of pathways to provide access for people with varying degrees of mobility”, though this is not detailed. Seniors and people in social housing, often with varying degrees of mobility issues, should be supported by clear and suitable access, including lifts.

Sustain Northern Rivers Energy Working Group (EWG) have some quantified economics on the halving social housing tenants’ electricity bills, and cutting their carbon footprint by a third, through 2 or 3kW rooftop solar installs. For the upfront cost of \$4500, the equivalent of \$3 per week across the life of the solar equipment, a very vulnerable cohort of our community on fixed incomes could get well needed bill relief. It is encouraged that that the senior housing make provision for these actions and benefits.

### **Recommendation:**

15. The definition of *Environmentally Sensitive Land* be amended to *Environmentally Sensitive Area* and be consistent with the definition within the SI LEP and the SEPP (Exempt and Complying Development).
16. Removal of the requirement for lifts in senior housing above the second floor is counterproductive to accessibility and appropriate housing and is not supported.
17. The Seniors housing include requirements for energy and water savings through sustainability measures.

### **Social housing changes/provisions**

See discussion above regarding the relationship and timing with the Draft Housing Strategy.

Whilst there is merit in the Land and Housing Corporation partnering with the private sector and community housing, there is an abundant need and clear role for the State in the provision of social housing. Removal of “legacy” public housing estates or redevelopment to provide more modern and accessible housing is supported, as long as there is no net loss of housing. There should in fact be a greater number of social housing options and quantum provided.

Notwithstanding, increasing the number and range of the self-assessment allowed by the Land and Housing Corporation is not supported. Good planning relies on transparency, checks and balances. Allowing one entity to plan, approve and deliver raises concern, diminishes consideration of local planning policy and principles and erodes the transparency and community engagement as part of development.

Allowing an increase in self-assessable developments from the current 20 to a proposed 60 is a significant increase. Similarly, allowing LAHC to self-assess a mix of private and social housing is also concerning as this generally occurs outside of the local planning policy, character and standards.

Expanding the range of affordable dwelling types that attract a density bonus to include manor houses, terraces and the like under the Low Rise Medium Density Housing Code (LRMDH) is not appropriate for the regional context. These forms of development, now

complying, are much denser than the local character of regional areas and have the potential to significantly change established regional town and village character. Most councils have accepted a degree of low rise medium density development as it does allow housing diversity, however, generally it is preferred that density and diversity is planned in an holistic manner rather than permitted adhoc where lot sizes just happen to be large enough. Allowing a density bonus on top of the low-rise medium density housing will exacerbate these impacts.

More significantly of concern is the ability of regional areas to service these established areas with water and waste-water. Many regional towns and villages are at capacity and future development needs to be carefully planned with the longer-term planning for expansion of water and waste-water servicing. The current LRMDH can result in a single dwelling on a larger parcel of land becoming 3-4 dwellings. In many localities there is not a lot of room for take up of this form of housing before there is substantial pressure on servicing. These developments are approved as complying development and then come to Council for sewer or waste-water connections where there is no capacity. This is a disingenuous planning framework and has the potential to be a far greater issue if density bonuses are permitted as well.

It is noted the *accessible area* definition used to apply the density bonus is not particularly relevant to the regional areas, as most do not have light rail or ferry wharfs.

***Recommendation:***

18. The proposed self-assessable development increase is not supported.
19. Expanding the density bonus outside of the metropolitan areas for other forms of housing included in the LRMDH is not supported.

Tweed encourages the Department to be transparent with the details and content of the proposed SEPP and to place a draft on public exhibition prior to finalising the proposed SEPP. We thank you for the opportunity to make a submission and look forward to reviewing the draft SEPP.

Yours faithfully

**Vincent Connell**

Director Planning and Regulation

## **UDIA NSW Housing Diversity SEPP EIE Submission**

The Urban Development Institute of Australia (UDIA) NSW is the peak body representing the interests of the urban development industry in New South Wales. We represent over 500 member companies that are directly involved in the industry including developers, strata and community managers, planners and lawyers.

UDIA makes this submission to the Department of Planning, Industry and Environment's (DPIE) Explanation of Intended Effect (EIE) for a new Housing Diversity SEPP (July 2020) and many of our members will make direct submissions in relation to the EIE.

The UDIA supports the NSW State Government's proposal to prepare a new Housing SEPP to consolidate and update housing-related policies. The UDIA is highly supportive of any new mechanisms which seek to streamline statutory processes that contribute to housing supply and amendments which more closely reflect the typologies the property industry is delivering.

The proposed amendments are a good first step, however UDIA contends that more can and needs to be done to facilitate housing to meet the needs of the people of NSW. This submission sets out the additional considerations that would further support supply and delivery of a truly diverse range of housing that caters to the needs of all household types. We also contend that the modernisation of housing related planning controls will also better reflect the housing continuum and the changing housing needs of the population. It is important that the provisions to enable affordable and market rental housing do not set up barriers to their acceptance by the community and approval by relevant authorities.

The imposition of limits or controls on tenure and or preventing the future subdivision of BTR products may make the asset difficult to value.

Our detailed comments are set out below and are structured as follows:

- Summary of recommendations;
- General commentary about housing policy;
- Overarching discussion on the need to reconsider all housing terms and definitions;
- An overview of some of the unintended consequences of the EIE with specific consideration of the proposed land use terms and land use characterisation;
- Specific feedback on each of the proposed typologies discussed in the EIE and the proposed amendments.

UDIA has also prepared an additional letter that details our concerns with the Seniors Housing SEPP amendments, noting the critical importance of Seniors Housing as part of responding.

UDIA understands that the draft SEPP is not intended to be placed on public exhibition. We believe it is essential that any draft be placed on public exhibition for consultation and feedback given the breadth of concerns outlined in our submission and the potential impacts of the draft SEPP on the housing development industry. Public consultation of the draft SEPP would provide greater transparency, facilitate review and feedback on the actual provisions (which are yet to be sighted) and is consistent with the State Government's policy to increase consultation and public engagement.

UDIA would welcome the opportunity to discuss a range of amendments with the NSW Government, drawing on our members' frontline experience, before the release of the draft Housing Diversity SEPP for public consultation and certainly before its finalisation.

### **Summary of Recommendations:**

- 1. The NSW Housing Strategy should be resolved ahead of the Housing Diversity SEPP to avoid an inverted process and misalignment.**
- 2. Providing for housing diversity is a matter of State and regional planning significance and should be driven and supported by the NSW Government in the form of a new SEPP that facilitates and incentivises a much wider range of housing typologies.**
- 3. Create a clear definition of "affordable housing".**
- 4. Housing developed under affordable housing provisions is to be maintained as affordable housing rather than being capped at 10 years.**
- 5. Clearly outline what evidence would be sufficient for applicants to prove "low rental" dwellings.**
- 6. The new Housing Diversity SEPP should include development standards set by the State Government, not councils, for new typologies such as BTR and co-living. Development standards should be typology specific and not seek to simply expand the application of SEPP 65 and the ADG.**
- 7. Development standards should be typology specific and not seek to simply expand the application of SEPP 65 and the ADG.**
- 8. Undertake a complete overhaul of terms, definitions and development controls to move away from the negative perceptions that are now embedded in the planning process and hinder delivery of a truly diverse housing market.**
- 9. Revise existing and proposed definitions to distinguish between 'co-living' and 'apartments' as separate housing product types.**
- 10. Introduce new definitions for:**
  - a. 'market' and 'affordable' as separate rental and operating models**
  - b. communal living area**
  - c. Room/apartment size.**
- 11. Remove the minimum 50 unit requirement proposed for the BTR definition.**
- 12. Extend the land tax discount announced by the New South Wales Treasurer in late July 2020 to all BTR, with no minimum unit requirement.**

- 13. Develop and implement a suite of incentives to stimulate the construction of a truly diverse range of housing typologies that addresses the feedback provided throughout UDIA's submission for each of the specific typologies.**
- 14. Existing land use zones for the main university campuses should be identified as a prescribed zone in the SEPP, and the SEPP should permit student housing in a prescribed zone. Alternatively, student housing should be identified as permissible with consent in the same prescribed zones as universities under the Educational Establishments SEPP.**
- 15. Onsite management of BTR schemes should be project and site specific as appropriate to each scheme.**
- 16. Provide clear guidance on design expectations in the absence of design guidelines. Any design guidelines should promote flexibility and a range of innovative design solutions within each scheme.**

## **Visionary and Aspirational Policy**

### **1.1 The Introduction to the EIE states:**

*'The proposed Housing Diversity SEPP is an example of government-led action to address housing diversity and affordability, in line with the proposed NSW Housing Strategy'.*

It would be instructive to have the NSW Housing Strategy resolved ahead of the Housing Diversity SEPP to avoid an inverted process. In the absence of this occurring, UDIA seeks clarification on how the Housing Diversity SEPP will achieve the objectives described in the NSW Housing Strategy, more specifically Theme 2 – Diverse Housing for Diverse Needs, particularly as the Housing Diversity SEPP appears to be contrary to the objectives and demographic data presented in the NSW Housing Strategy.

### **1.2 The Introduction to the EIE also states:**

*... the housing needs and preferences of the community have changed over time and will continue to change. It is important to ensure that planning policies facilitate housing types in response to these changes.*

The UDIA wholly agrees with this statement. However, while the Housing Diversity SEPP will play an important part in consolidating and rationalising the various State Policies currently regulating various classes of housing, its principal effect will be to remove existing incentives presently afforded to traditional boarding houses. This does not achieve the stated objective of facilitating diversity and affordability in line with the Housing Strategy.

### **1.3 Although three existing housing related SEPPs will be consolidated into the new SEPP, and new definitions will be introduced via the new SEPP into the Standard Instrument LEP, it appears from the EIE that the new SEPP itself will not include any provisions or incentives to provide for the new forms of housing such as BTR, student housing and co-living development. The UDIA reiterates the need for flexibility and incentives to promote new types of development and achieve the objective of diversity.**

- 1.4 The proposed imposition of additional, and in many cases unnecessary, regulation is likely to preclude emerging housing types designed to respond to future changes in housing needs and preferences. Neither the removal of incentives, nor the imposition of additional standards, will have the intended effect of facilitating the provision of more diversity in affordable housing types. This is very disappointing and importantly, a missed opportunity.
- 1.5 As the Department acknowledges in the EIE, the aging population, the growing demand for smaller and more accessible homes, housing affordability and housing insecurity due to the COVID-19 health and economic crisis, are challenges that the State must address.
- 1.6 As such, providing for housing diversity is a matter of State and regional planning significance and should be driven and supported by the NSW Government in the form of a new SEPP that facilitates and incentivises a much wider range of housing typologies including next generation boarding houses, medium density, and a range of housing tenures.
- 1.7 It is noted that the ARH SEPP includes the following as part of its aims:
- to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning, permissibility, floor space ratio bonuses and non-discretionary development standards;
  - to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.
- 1.8 Similarly, one of the aims of the Seniors Housing SEPP is to encourage the provision of housing that will increase the supply and diversity of residences that meet the needs of seniors of people with a disability.
- 1.9 History has demonstrated the need for the NSW Government to take the lead:
- 1991: SEPP 32 - Urban Consolidation (Redevelopment of Urban Land),
  - 1998: SEPP 5 - Housing for Older People and People with a Disability,
  - 1997: SEPP 53 - Metropolitan Residential Development
  - 2004: Seniors Living SEPP
  - 2009: AHR SEPP
- 1.10 In the course of reforming the housing-related SEPPs, UDIA recommends a clear definition of “affordable housing” and recommends that housing developed under affordable housing provisions be maintained as affordable housing rather than being capped at 10 years. Community Housing Providers (CHPs) need longer leasing terms to meet lending requirements in order for the sector to be able to grow affordable housing stock in pace with projected demand.
- 1.11 The SEPP should also clearly outline what evidence would be sufficient for applicants to prove “low rental” dwellings. It is problematic to set a minimum tenancy periods as this gives less flexibility to tenants.

- 1.12 The introduction of Build-to-Rent (BTR) and Co-living as new land use terms is wholly supported. UDIA would, however, question the intention to defer the identification of planning controls to local councils. BTR is being led by a small number of developers who have an in-depth understanding of the design, asset management, and planning framework that is required to support this typology and asset class. As a new concept for Australia, it is generally not well understood across the industry and particularly by consent authorities. UDIA would strongly encourage the Government to identify key development controls in the SEPP to ensure BTR is successful from the outset. By definition, BTR developments will be large if they are to accommodate a minimum of 50 self-contained dwellings. Viable built form controls need to be set at the outset to ensure they support delivery of this new typology and deliver good design outcomes. Without Government leading the way, UDIA believes local councils will seek to assess BTR as quasi-residential flat building controls and will require compliance with SEPP 65 and ADG controls, which may not be fit-for-purpose.
- 1.13 Similarly, some guidance regarding the height and density controls and other minimum acceptable requirements should be provided for co-living. The EIE suggests that building envelope controls for residential flat buildings will need to comply with relevant DCPs and we believe this is risky and is likely to lead to onerous compliance with SEPP 65 and the ADG for a typology that clearly has bespoke spatial layout and design specifications. Clarity regarding when and who will prepare the design guidelines suggested in the EIE is also required.
- 1.14 Development standards should be typology specific and not seek to simply expand the application of SEPP 65 and the ADG.
- 1.15 Development controls such as height and density for BTR and co-living could be identified in the SEPP for an initial 24-month period as a trial to enable the Government to retain control over any refinements / amendments that may be required as part of the SEPP's first review. Following the 24-month trial period, the controls could be transferred into local environmental plans once they had been tried, tested and proven to deliver the desired outcomes.
- 1.16 The new Housing Diversity SEPP should take a similar lead and include development standards set by the State Government, not councils. Leaving the height and FSR controls to current LEP controls or to councils to determine in the future negates the important objectives referred to above.
- 1.17 The State Government could over time exempt a council from the application of the whole or parts of the Housing Diversity SEPP where the council has demonstrated that its LEP has provided appropriate and adequate development controls for these new housing types. It is noted that SEPP 53 was amended from time to time to exclude its application to local councils where the Minister for Planning agreed with the council's residential strategy and its plans to implement that strategy.

**Recommendations:**

1. The NSW Housing Strategy should be resolved ahead of the Housing Diversity SEPP to avoid an inverted process and miss-alignment.
2. Providing for housing diversity is a matter of State and regional planning significance and should be driven and supported by the NSW Government in the form of a new SEPP that facilitates and incentivises a much wider range of housing typologies.
3. Create of a clear definition of “affordable housing”.
4. Housing developed under affordable housing provisions is to be maintained as affordable housing rather than being capped at 10 years.
5. Clearly outline what evidence would be sufficient for applicants to prove “low rental” dwellings.
6. The new Housing Diversity SEPP should include development standards set by the State Government, not councils, for new typologies such as BTR and co-living. Development standards should be typology specific and not seek to simply expand the application of SEPP 65 and the ADG.
7. Development standards should be typology specific and not seek to simply expand the application of SEPP 65 and the ADG.

**Housing Terms, Definitions and Land Use Characterisation**

- 1.18 The COVID pandemic has highlighted more than ever before the importance of ensuring that everyone has a safe and comfortable place to shelter, irrespective of their household composition, size, income or tenure preferences. One of the key underlying issues with the housing planning framework in NSW is the distinction between the ‘haves and have nots’. While this may not have been deliberate, over time certain housing typologies have gained an undesirable reputation, some which can be attributed to the terms and definitions used across various environmental planning instruments. Boarding houses and affordable rental housing schemes, for example, are burdened with a particularly poor stigma, which manifests in longer assessment timeframes, hostile objectors and, in many cases, DA refusal. Similarly, social housing attracts negative connotations and is often perceived by the community as development that seeks to build the largest number of dwellings with cheap materials, and little-to-no concern for the quality of life of its residents.
- 1.19 What we today define as boarding houses, affordable rental housing and social housing are principal elements of a democratic city such as Sydney. These housing structures need to be recognised as valid housing options that provide shelter and connect residents to their community, place of employment and the rest of the city and its services.
- 1.20 UDIA contends that a complete overhaul of terms, definitions and development controls is required to move away from the negative perceptions that are now embedded in the planning process and hinder delivery of a truly diverse housing market. For instance, the terms “boarding house” and “lodger” are proposed to be retained. The terms are antiquated (used since the ARHSEPP commenced in 2009) and have negative



connotations. Furthermore, consideration should be given to abandoning the term 'affordable housing' as a land use.

- 1.21 The UDIA suggests that it may be more appropriate to distinguish between 'co-living' and 'apartments' as separate housing product types, and 'market' and 'affordable' as separate rental and operating models (the latter being run by a CHP). Appropriately drafted definitions could be prepared in those categories, and ideally implemented across relevant NSW legislation including the *Environmental Planning and Assessment Act, 1979* and the *Boarding Houses Act, 2012*.
- 1.22 To reduce confusion, all terms should be clearly defined, including:
- Affordable
  - Communal living area
  - Room/apartment size (it's assumed this is referring to internal area measured to the internal faces of external and party walls, but it is not clearly stated).
- 1.23 Whether a proposed form of development is permissible or not in a particular zone is fundamental. Answering that question is more problematic, as planning law turns on the characterisation of the purpose of development of land<sup>1</sup>. This task can be one of the most difficult and challenging aspects of planning law.
- 1.24 In the experience of our members, definitions that include numerical requirements can be fraught and often lead to a debate on whether the numerical requirement is a development standard or results in the development being prohibited. The number of cases in the Land and Environment Court on the application of clauses 29 and 30 of the ARHSEPP and the Seniors Housing SEPP are testament to this.
- 1.25 In relation to the EIE specifically, we question the need for the 50-apartment minimum for BTR proposed to be included in the definition for BTR. While we understand that the BTR model is most successful when delivered with a minimum critical mass, we would caution against an arbitrary threshold being defined that has unintended consequences. For example, if a BTR type of development proposes less than 50 self-contained units, would it be defined as co-living or would it be characterised and assessed as a residential flat building? Land use characterisation will be problematic as residential flat buildings are a compulsory permissible use in some zones where it is not proposed to make BTR and co-living compulsory permissible uses. Conversely, BTR is proposed to be a compulsory permitted use in the commercial zones such as B3, B4 and B8. However, residential flat buildings are not currently a compulsory permitted use in those zones.
- 1.26 Clarity is also sought regarding instances where during the course of the assessment of a BTR development, the applicant and the council agree that a better planning outcome would be a 49 unit development and not a 50 unit development? Will the development be characterised as a residential flat building? What if residential flat buildings are prohibited in that zone? It is noted that residential flat buildings are ordinarily prohibited in the B3 zone in most councils' LEPs (e.g. prohibited in the B3 zone under Parramatta LEP 2011, Sydney LEP 2012 and North Sydney LEP 2013).
- 1.27 Conversely, we can foreshadow instances where councils will require DAs for RFBs of 50-units or more to include information and details as to future strata subdivision and future sale to distinguish the proposed use from a BTR. This could occur prior to lodgement, creating unnecessary red tape and preventing otherwise valid DAs from being submitted for assessment.

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<sup>1</sup> *Botany Bay City Council v Pet Carriers International Pty Limited* [2013] NSWLEC 147 at [24].

- 1.28 These are not hypothetical questions. Our members frequently have to address these kinds of questions from councils when undertaking development under the ARHSEPP and the Seniors Housing SEPP. For the reasons outlined above, the minimum 50-unit requirement proposed for the BTR definition should be removed. Similarly, the land tax discount announced by the New South Wales Treasurer in late July 2020 should extend to all BTR, with no minimum unit requirement.

**Recommendations:**

8. Undertake a complete overhaul of terms, definitions and development controls to move away from the negative perceptions that are now embedded in the planning process and hinder delivery of a truly diverse housing market.
9. Revise existing and proposed definitions to distinguish between 'co-living' and 'apartments' as separate housing product types.
10. Introduce new definitions for:
  - a) 'market' and 'affordable' as separate rental and operating models
  - b) communal living area
  - c) Room/apartment size.
11. Remove the minimum 50 unit requirement proposed for the BTR definition.
12. Extend the land tax discount announced by the New South Wales Treasurer in late July 2020 to all BTR, with no minimum unit requirement.

**Build-to-Rent**

- 1.29 A large proportion of new housing is already developed for the purpose of being rented. However, current taxation settings advantage individual 'mum and dad' investors relative to institutional investors. This in turn creates significant uncertainty of tenure for renters because if the dwelling owner chooses to sell, the new owner need only provide 30 days' notice for the tenant to vacate the property. While the ability to have long term leases may also be an issue for some tenants, the larger concern is potential eviction with only 30 days' notice. This is not addressed in the proposed changes.
- 1.30 The recently announced 50% discount to Land Tax for BTR projects will remove this principal impediment and is a first step to clear the way for institutional investment in rental accommodation, as is common in many comparable international economies. Rather than facilitating or incentivising such development, the draft provisions add a layer of additional regulation, including:
- 15-Year Prohibition on Subdivision – The purpose of this provision is unclear. The tax relief to be available to BTR is paid annually. If the land use changes, the tax relief will cease. With an emerging asset class, it is important to provide for unsuccessful models to be repurposed. The 15-year strata prohibition serves no apparent planning purpose;
  - 3-Year Minimum Tenancy – While this is generally acceptable, it fails to address the greater issue of lease termination arrangements. What happens at the end of the 3-year lease? Can it then be terminated with 90 days' notice?

- Minimum 0.5 Car Parking Spaces – This should be a ‘cannot be refused’ standard. The provision of car parking is often a major component of the cost of housing and removal of car parking is a key opportunity to improve affordability, particularly in highly accessible locations. The UDIA Roy Sheargold Scholarship Research Report, *Build to Rent in Sydney NSW: Financial Feasibility*, shows that a 10% reduction in carparking can improve the internal rate of return by 1-2%;
- Minimum 50 Dwellings – It is understood that emerging business models currently favour schemes of 50 to 100 apartments. However, there is no planning reason to enshrine this model. Why should a future model that works at 20 dwellings be precluded? Furthermore, what about incremental expansion, where existing schemes are expanded by adding (say) 20 additional dwellings to an existing facility on an adjacent site, with both to be operated as a single facility?
- Additional On-site Facilities – If the objective is to increase affordability, why mandate the provision of supplementary facilities that the market may not seek. This could end up like past examples where residential flat buildings were required to provide and maintain private gyms and pools of little real amenity, only to become redundant recurrent costs when superior commercial or public facilities open nearby (see Zetland for example);
- On-site Management – While access to building management is important for tenants who have limited authority and resources to repair and maintain their dwelling and communal facilities, it is not clear what benefit is provided by that management being required to be located on site.

1.31 The only apparent incentive proposed is the intended permissibility in the B3 Commercial Core zone. While this appears to be a significant incentive, the incentive value is limited as relatively little land has actually been zoned B3, and most of what has is substantially developed or identified for other development purposes. Furthermore, from a planning perspective it is difficult to see how BTR differs from other residential accommodation in terms of the reasons for residential accommodation being prohibited in B3 zones.

1.32 The EIE’s proposed definition of BTR includes reference to ‘*long term private rent*’. While it would be common for BTR tenancies to be long-term, this shouldn’t necessarily be prescribed as it restricts tenants’ flexibility. If the rationale is to protect tenants from arbitrary and frequent rent increases, it is noted that the *Residential Tenancies Act, 2010* provides that there cannot be more than one rent increase in any 12-month period. This could be amended to extend the period for BTR within the Residential Tenancies Act. The SEPP should also clarify whether the terms of rent are to be regulated, and if so, how. Our preference is that Residential Tenancies Act is used to regulate tenancy obligations, land-use planning should not regulate particular terms of tenancy agreements.

1.33 The definition references ‘*includes on-site management*’. While this would be common for institutional BTR, it would need to be clarified if on-site managers could be shared between developments (e.g. one manager for 3 adjacent buildings under 3 separate DAs). The need for management to be located on site will unnecessarily add operational costs to BTR schemes, especially impacting smaller schemes. These management costs would logically flow through to the tenant in the form of higher rents or make proposals less feasible in the long term. UDIA recommends that management is provided as appropriate to each scheme.

- 1.34 In Table 1 of the EIE, it is unclear what is meant by 'local provisions apply' for BTR Housing with respect to "Affordable", we recommend further discussions to help the industry understand what is meant and provide feedback.
- 1.35 Any design guidelines developed for BTR should promote flexibility and a range of innovative design solutions within each scheme.

### **Purpose-Built Student Housing**

- 1.36 In principle, the UDIA supports the proposed amendments to purpose-built student housing. Recognition of purpose-built student housing as a distinct category of development is clearly warranted and its categorisation as a type of Boarding House was misleading.
- 1.37 UDIA would, however, question the realistic take-up of this typology in the short to medium term given the challenges the university sector is facing in a post-COVID economy. The slashing of university jobs, constrained funding, and impacts of limited international students suggests there will be little to no demand to prioritise funding of student accommodation ahead of other initiatives.
- 1.38 The UDIA notes the EIE indicates Purpose-Built Student Housing is not proposed to be made a compulsory use in any of the land use zones under the Standard LEP Instrument. UDIA contends that this will compromise the delivery of Student Housing as councils will need to first amend their LEPs (at their own leisure) to introduce the new land use term before it could be utilised. This means that student housing would need to continue to be assessed as a Boarding House in the interim, which may be challenging with the proposed amendments to the boarding house controls also mooted in the EIE.
- 1.39 Noting there are only 11 universities across NSW, a more pragmatic interim solution might be for the existing land use zones for the main campuses to be identified as a prescribed zone in the SEPP, and for the SEPP to permit Student Housing in a prescribed zone. Alternatively, Student Housing should be identified as permissible with consent in the same prescribed zones as universities under the Educational Establishments SEPP. If it is considered that SP1 Special Activities and SP2 Infrastructure zones generally are not appropriate, Student Housing could be limited in these zones where the identified purpose is "educational establishments".
- 1.40 The timing of the suggested design guidelines needs to be clarified. The UDIA is aware of examples where local councils apply SEPP 65 and ADG requirements on Student Accommodation DAs which is unreasonable. Clear guidance on design expectations in the absence of design guidelines is required.
- 1.41 UDIA also questions the removal of the (generally) 20% FSR bonus available to Student Housing as a type of Boarding House. This proposed amendment will actively de-incentivise this important class of housing.
- 1.42 The rationale for Student Housing benefitting from no minimum parking provision (as opposed to any other proposed typology) is unclear.

### **Co-Living**

- 1.43 To effectively achieve the aims of housing diversity it is unclear why Co-Living, which is currently permissible (as new generation boarding houses) in seven zones, is proposed to be reduced to two zones (R4 and B4) but potentially three (maybe R3). This will not facilitate this form of development.

- 1.44 The EIE acknowledges that Co-Living developments are essentially privately developed and operated Boarding Houses. The principal effect of the EIE is to remove the (generally) 20% FSR incentive that currently applies to such development proposed as a Boarding House. This will actively de-incentivise this category of housing.
- 1.45 The EIE acknowledges that many private Boarding Houses are being delivered as 'new generation' Boarding Houses with small self-contained dwellings, including private bathroom and kitchenette facilities. This is a good thing, however, the fact that some parts of the market are choosing to fill the gap between Boarding Houses and ADG compliant studio apartments does not provide a rational basis to require all privately developed Boarding Houses to do so. There is currently no constraint to larger self-contained dwellings being provided, so presumably this model will continue to be delivered. Specifically, there is no need to mandate a minimum 30-35sqm room size. If the objective is to optimise housing diversity and affordability the private market should be able to provide conventional boarding house models, 'New generation' Boarding House models and combinations or variations on these models.
- 1.46 It is not clear why the inclusion of self-contained 'new generation' boarding house rooms should necessarily require a 4sqm balcony. A co-living model relies on shared facilities, and a large shared balcony may be preferable than many small balconies, which may compromise the urban design outcome.
- 1.47 The 0.5 Car Parking Spaces standard should be a 'cannot be refused' standard. A mandated minimum provision of car parking could significantly reduce the affordability of Co-Living and will often be excessive, particularly in highly accessible locations.

## **Boarding Houses**

- 1.48 The EIE notes that council and community concerns about existing Boarding House provisions include
- 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;
  - the clustering of Boarding House development in certain areas.
- 1.49 The principal effect of the EIE is to exclude the private market from the management of Boarding Houses, by redefining boarding houses to only include those managed by a registered not for profit CHP. Private Boarding Houses will be limited to 'new generation' co-living facilities with minimum room sizes of 30-35sqm, with no FSR bonus to incentivise them. It is not clear how this will address any of the above concerns. The exclusion of the private sector from the Boarding House market is likely to have significant negative implications for the supply of affordable accommodation.

- 1.50 Community concerns about Boarding Houses may more effectively be addressed by regulating the maximum size of such developments in specified sensitive zones (e.g. R2 Low Density Residential).
- 1.51 UDIA would be interested in better understanding how financially viable the proposed flat 20% FSR bonus on land with an FSR of 2.5:1 or less. A large number of our members are community housing providers and could be available to assist the NSW Government verify the implications of introducing the proposed control to real case studies.
- 1.52 It is noted in the EIE that Boarding Houses will be excluded from residential R2 zones. UDIA does not support this.

### **Seniors Housing**

- 1.53 Many development proposals pursued under the Seniors Housing SEPP significantly exceed the underlying height and FSR standards of the applicable LEP. This has been the principle incentive that has led to the significant supply of Seniors Housing, for which there is a continually growing demand as our population ages. Replacement of this incentive with an allowance for Clause 4.6 variations (capped at 20%) will significantly reduce the ongoing supply of this important category of housing.
- 1.54 The policy implications of introducing an anomalous 20% cap should be carefully considered, given the degree of Clause 4.6 variation is not mandated in any other environmental planning instrument to our knowledge. The introduction of a 20% variation could also inadvertently pre-empt the assessment process and would be contradictory to the objectives of Clause 4.6 variations to provide an appropriate degree of flexibility and to achieve better outcomes for and from development by allowing that flexibility in particular circumstances.
- 1.55 While the proposed reconciliation of the SEPP Seniors definition of height with that of the Standard Instrument appears to be logical housekeeping, the Standard Instrument definition is measured to the highest point of the building, while the current SEPP Seniors definition is measured to the ceiling of the top most floor. This change therefore effectively reduces the height standard by the difference between the top most ceiling and the top most point of the roof. In many cases this can be the equivalent of one storey. The general height standard for senior's development at Clause 40(3) of the SEPP is eight metres. For a pitched roof development, the proposed change could therefore reduce the effective height standard from eight to five metres, potentially halving the development potential of some schemes, particularly those of sloping sites, and rendering the development unfeasible.
- 1.56 Should point-to-point transport such as taxis, ride share services and the like be explicitly excluded from the location and access to facilities given they are increasingly used as a form of transport? Perhaps there needs to be some recognition that these are valid transport options but cannot be the only means of transport to satisfy the location and access to facilities test.
- 1.57 It is unclear what the explicit intention is for registered clubs. Is the purpose of the proposed amendment to clarify that a SCC can only be made in respect of land that is operational as a registered club at the time of the DA lodgement? We request further consultation with the industry on these terms.

## **Social Housing Provisions**

- 1.58 UDIA seeks to better understand how the range of affordable dwelling types will be expanded when many councils have sought an exemption from the Low-Rise Medium Density Housing Code.
- 1.59 If there is to be a genuine incentive for more social and affordable housing supply then CHPs need access to similar approval pathways to LAHC, as not all CHP housing projects are developed on LAHC land or in conjunction with LAHC.

### **Recommendations:**

13. Develop and implement a suite of incentives to stimulate the construction of a truly diverse range of housing typologies that addresses the feedback provided throughout UDIA's submission for each of the specific typologies.
14. Existing land use zones for the main university campuses should be identified as a prescribed zone in the SEPP, and the SEPP should permit student housing in a prescribed zone. Alternatively, student housing should be identified as permissible with consent in the same prescribed zones as universities under the Educational Establishments SEPP.
15. Onsite management of BTR schemes should be project and site specific as appropriate to each scheme.
16. Provide clear guidance on design expectations in the absence of design guidelines. Any design guidelines should promote flexibility and a range of innovative design solutions within each scheme.

## **Conclusion**

Housing is a fundamental component of the NSW economy. We are supportive of measures to improve access to housing needs for all members of the community across the entire housing continuum.

We are keen to discuss how we can collaborate. Please contact Sam Stone, Manager, State Policy and Government Relations on 0401 213 899 or [ssstone@udiansw.com.au](mailto:ssstone@udiansw.com.au) to arrange a meeting.

Luke Walton  
Executive Director, Planning Policy  
Department of Planning, Industry and Environment  
12 Darcy St  
Parramatta NSW 2150

Dear Mr Walton,

**RE: Housing Diversity SEPP – Explanation of Intended Effect – Seniors Housing Issues**

The Urban Development Institute of Australia (UDIA) NSW is the peak body representing the interests of the urban development industry in New South Wales. We represent over 500 member companies that are directly involved in the industry including developers, housing providers, architects, planners and lawyers.

UDIA believes that Seniors Housing is critical to the future of the State. Therefore, we have taken the unusual step of providing an additional submission focussed on Senior's Housing issues.

UDIA is pleased to make this submission on the Housing Diversity SEPP - Explanation of Intended Effect (EIE). UDIA 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, UDIA remains gravely concerned that the EIE as currently drafted will generate significant obstacles to obtain approval for these forms of residential accommodation and that the intended outcome will not be achieved.

This submission focusses 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%.
- The missed opportunities to update the controls and design guidelines within the current Seniors SEPP which are 30 years old and do not reflect modern design standards.
- The lack of recognition of social and affordable housing providers other than the Land and Housing Corporation.

Urban Development  
Institute of Australia  
NEW SOUTH WALES

PO Box Q402,  
QVB Post Office NSW 1230  
Level 5, 56 Clarence Street  
Sydney NSW 2000  
e [udia@udiansw.com.au](mailto:udia@udiansw.com.au)  
t 02 9262 1214  
w [www.udiansw.com.au](http://www.udiansw.com.au)  
abn 43 001 172 363



Our key recommendations are:

1. The SEPP continue to override LEP controls and continue to provide consistency and certainty in respect of controls applying to seniors developments.
2. The incentives be retained and expanded to apply where shop top housing is permitted.
3. Incentives be provided for the renewal of ageing retirement villages.
4. Exemptions from the Seniors SEPP should only be granted where it has been demonstrated that the local provisions will deliver seniors housing to meet the demand within the relevant Local Government Area. Otherwise, the SEPP should override the LEP.
5. A new overarching seniors specific design guide should still apply, with an updated version of the 2004 Seniors Living Policy Urban Design Guidelines for infill development, if an exclusion is applied to ensure consistency is maintained and that local onerous controls are not implemented.
6. Given the significant impact of these proposed changes and uncertainty of their implications on the development, construction and operation of seniors housing, that it is critical that any new SEPP be exhibited for further comment.

### **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 be stay within their community or move to higher services areas with urban and rural settings. In terms of Residential Aged Care Facilities (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 has moved closer to Palliative Care in many cases, but not all.

Our investigations of development approvals over the last 10 years suggest that near to 100% of Seniors Living projects are delivered via the Seniors SEPP. It is fundamental to the delivery of Seniors Housing and most Councils do not have suitable controls in place or understand some of the key considerations. For example the Inner West Council has tried to prescribe that for Aged Care buildings 70% of resident rooms achieve solar access similar to the ADG, this is not viable in RACF models but further it does not match care models where the mental health and well-being of residents needs to see them encouraged to spend time in communal living spaces, but with choice. Their bedrooms are not their primary living space. Local Councils are often not sufficiently informed to determine the needs of people living in Seniors Housing.

Further to the above it has long been the practice for controls and issues covered by SEPPs to be taken out of LEPs so as to not duplicate controls and as such, many LEPs do not cater for seniors housing and do not make it a permissible use within their residential zones as this was not seen as necessary given the permissibility granted by the SEPP. This approach has also allowed for consistency in the seniors housing directions and controls and while the controls are now due to be updated, the state-wide approach, as opposed to taking on an ad hoc approach that is applied on a council by council basis, has been acknowledged nationally as industry leading. The directions in the EIE would appear to set NSW back 30 years and would, if enacted as appear to be proposed, to reduce rather than encourage housing choice and diversity across NSW. Particularly, if Councils have not updated their LEP.

## **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 LGA.

The consequence of this is likely to make the provision of seniors housing more challenging than it is already. Seniors housing (both ILUs and RACFs) is typically larger than standard residential development due to mobility spatial requirements, and often require provision of onsite services required for elements of communal living and in the case of RACFs a sub-acute environment. As such seniors developments typically generate lower yields when compared to standard residential apartments and are thus less financially competitive in the market. The Seniors SEPP currently compensates for this by offering the floorspace incentives for vertical villages and Residential Aged Care Facilities to make a level playing field, and prior to the MRA exclusion zone being implemented last month into the Seniors SEPP, it allowed seniors housing on non-urban zoned land that wasn't available to residential developers.

The Seniors SEPP was introduced in recognition of our ageing population 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 own 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 to incentivise seniors housing by making it more competitive in the residential market. The ongoing relevance and necessity of the Seniors SEPP is evidenced by the fact that almost all of the development applications proposing seniors housing rely on the provisions of the Seniors SEPP for both permissibility and/or viability reasons. To change this now when we are on the precipice of the baby boomer demographic explosion in terms of need for these forms of housing could have massive impacts adequate provision of available aged services and accommodation offerings.

However, if DPIE's intent is to move the controls back to the local level then it is suggested that the Seniors SEPP should be structured such that it applies to all of NSW but each Council has the option to apply for an exemption from the SEPP. Exemptions should only be granted if it can be demonstrated that the relevant council has suitable provisions within their LEP that will accommodate for the expected demand for seniors housing within their Local Government Area. Specific criteria could be developed to ensure applications for exclusion from the SEPP are considered on a consistent basis and that there is genuine provision for this form of accommodation within the local controls that are not onerous. The UDIA would be willing to work with DPIE to assist with developing these criteria.

The UDIA would also be willing to work with DPIE to prepare updated design guidelines that could be implemented by each Council so as to ensure there is still some consistency in respect of the design and servicing of seniors developments. This would give greater certainty to the seniors housing providers and would ensure that controls implemented by Councils are not onerous or unreasonable.

Local councils should be required to demonstrate as part of the five year review of the LEP and LSPS that the targeted housing for seniors has actually been delivered. If the controls have not yielded the required level of seniors accommodation then the exclusion would be repealed and the Seniors SEPP would once again apply until such time as amendments are made to the local controls to increase the amount of seniors housing delivered within the LGA.

## **Implications of Specific Changes**

### Definition of height, parking and people with a disability

The EIE indicates definitions will be updated and this is potentially appropriate, but no detail is provided and it is concerning that this could occur without a correct understanding of the implications of delivery as indicated in some of the other amendments proposed. There needs to be clear consultation with the industry to allow considered feedback on proposed changes. If the desired outcome is improved delivery then this needs to be done in a transparent manner.

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

### Floor space

It appears that the proposal suggests that floor space will be determined by the LEP, as most low density residential zones have an FSR of 0.5:1 or lower this will mean a reduction in the permissible FSR of seniors development and in particular RACFs which will see a reduction in floorspace down from 1:1 to 0.5:1. The impacts of this are enormous on services already struggling with the removal of significant federal funding 3 years ago and now dealing with COVID. If the intention is to improve delivery, this will do the opposite. Most providers operate with models of 96 residents or 144 residents, but essentially on average a RACF building in a Residential zoned R2 or R3 for 96 residents will require a site area of 5,000-5,500sqm and 7,000-8,000sqm for 144 residents. The changes as proposed could double the required site area, this will significantly impact the cost of future RACF projects and also cripple the feasibility of sites already purchased by providers. The suggested CI4.6 path to a potential maximum 20% increase is both uncertain and will fall significantly short of the required outcome to facilitate the delivery of Seniors Living projects

### Limit of Clause 4.6 variations

Development standards within the Seniors SEPP have always been able to be varied via clause 4.6 or SEPP No. 1. This has been an important function of the Seniors SEPP and has allowed for site specific responses to be provided where appropriate and of merit. DPIE has provided no rationale for proposing an arbitrary maximum possible 20% variation, which

appears to be moving away from recent case law on Clause 4.6 variations that have reinforced the premise of merit.

Further explanation is required as to how a 20% maximum variation is measured for a development standard such as Clause 26 of the Seniors SEPP, where there are various services, distances and also gradients that need to be achieved to ensure compliance. The application of the arbitrary control could potentially have unintended effects on non-numerical standards, such as preventing a private bus service for a residential care facility being provided in lieu of a public bus service via a Clause 4.6 variation? This has been an alternative for residential care facilities, supported by councils, planning panels and the Court where appropriate.

## **Missed opportunities**

### Outdated development standards and design guidelines

Being essentially a near 40 year old instrument (commencing with SEPP No. 5 in 1982), the Seniors SEPP is now outdated and does not reflect the modern forms of seniors accommodation that the market demands. The provisions in the SEPP tend to cater for a retirement village low density style of accommodation, rather than middle ring and inner city medium and high density housing. For example, the open space requirements for social housing providers – being a minimum of 35 square metres of landscaped area per dwelling. In inner city areas compliance with this control is not feasible or reasonable. Revised provisions should be implemented which cater for a range of dwelling types – i.e. low, medium and high density areas.

### Incentives for renewal of ageing villages

The ageing of retirement villages is a significant problem for the industry. Much of the accommodation provided in this format is outdated, is not accessible and is in need of significant renovation work which is not feasible due to the fact that most sites are built to their full development potential. This not only impacts operators but also existing residents that see the value of units decline due to lack of 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 new provision could be implemented for the renewal of ageing villages that works in a similar way to the vertical villages provision. Such a clause could apply to villages and care facilities that were mostly (i.e. minimum 50%) constructed prior to, say, 1992 and meet the site requirements of clause 40 of SEPP Seniors. Should a site meet these criteria, then it would be eligible for a 0.5:1 FSR bonus and a similar building height bonus, provided a Site Compatibility Certificate (SCC) is issued. Specific provisions could be introduced into the SEPP, such as design excellence and amenity provisions, to ensure that the additional density is appropriate in the context of the site. Having the level of scrutiny applied by way of a SCC would help ensure the utilisation of the above incentives results in an appropriate built form outcome.

### Application of Vertical Villages Provision to Shoptop Housing

The vertical villages provision (Clause 45) that provides a 0.5:1 FSR bonus should be expanded to include land that permits shop-top housing. This would mean that the 0.5:1 FSR bonus could apply to mixed use zones and therefore within local centres when a SCC is issued. An additional height bonus could also be included with this provision to accommodate the FSR bonus.

The above incentive to develop seniors in accessible locations such as mixed use centres could offset the substantial loss of land at the rural fringe of Sydney were Seniors Housing is no longer permissible on account of the recent amendment to the Seniors SEPP that has applied an exclusion zone to the MRA.

#### Recognition that many seniors housing providers are social housing providers

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

Nor is there any discussion on any amendments in respect of housing for people with a disability. The National Disability Strategy, that was adopted by all levels of government in 2011, had the objective of creating inclusive and accessible communities. The strategy is based on the belief that all Australian's should have fair and equal access to the full range of mainstream programs and services available; including housing. Further to this, the NSW Disability Inclusion Act 2014, which was launched in 2015, highlighted four priority areas including creating liveable communities. The updated planning framework needs to address and support those issues highlighted in other disability policies to allow the sector to respond to the housing requirements of those living with a disability.

We propose that the ARHSEPP recognise housing for people with a disability as an affordable rental housing solution and the expansion of the range of housing types that attract a density bonus under the social housing umbrella be expanded to include Specialist Disability Accommodation. This proposal is supported by the findings and recommendations that were reported in May 2016 during an inquiry into accommodation for people with disabilities. The Federal Government Joint Standing Committee on the NDIS recommended that accommodation for people with disability be integral in the development of affordable and social housing proposals.

#### **Conclusion**

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

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

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

If it is to be delivered, consistent development standards need to be applied and incentives given to ensure that the market will cater for the demand.

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

### **Specific Comments on the Seniors SEPP**

Clause	Comment
3	The suggested change to the Height definition is addressed in the body of the letter, and was also discussed at a briefing meeting between the DPIE and UDIA at 11:30am on the 28 <sup>th</sup> August, the height needs to be understood in the context noted above.
Clause 4	Clarity should be given as to what zones are considered to be 'primarily zoned for urban purposes'.
Clause 5(3)	Must remain - If this Policy is inconsistent with any other environmental planning instrument, made before or after this Policy, this Policy prevails to the extent of the inconsistency.
Clause 10	Include Multi-generational housing as a typology, following lead of European Models, particularly if we are looking for diversity. New forms of housing such as assisted living should also be included.
Clause 19	The opportunity for mixed use ground floors to provide better community connection can sometimes be a big obstacle when seeking approval. A café or hairdresser that serves both the community and residents facilitates better community connection. The clause should allow for ancillary uses such as these even if they are prohibited in the zone.
Clause 26	SEPP should recognise L&E Court decisions to accept mini bus service for RACFs, further the reality of the frailty of most residents in residential aged care needs to be acknowledge, they are not physically able to use public transport. This clause should not be used to prevent Seniors Living, where residents in retirement villages often prefer a village provided bus as it is more convenient and closer than local public transport, with drop-offs to their door, which assists to enable people to age in place
Clause 40 (4)(c)	The requirement for single storey in the rear 25% of a lot is no longer consistent with the development of most adjoining residential development. The setbacks are often 3-5m to 2 storey dwellings. This clause is 30 years old and needs to be removed or significantly reduced, ie a rear setback consistent with adjoining neighbours, or 25% more than the prevailing local rear setback ie a 4m setback would mean 5m on the seniors site. Further, the proposed 20% CI4.6 limit will potentially prevent many suitable developments given the limitations of this clause.

Clause 45	<p>0.5:1 (or additional) bonus should apply where RFBs and shop top are permissible. RFBs not mandated as being permissible within B1, B2 or B4 zones, however these would be a highly suitable location for a vertical village.</p> <p>A new incentive clause could also be added in respect of renewal of ageing retirement villages. A height incentive needs to also be considered in this clause to enable it to work.</p>
Clause 45 (6)	Needs to be reviewed, in actual fact this clause means that there are very few organisations capable of using the Vertical Villages bonus, you essentially have to be a community housing provider and it prevents standard Aged Care providers from utilising this bonus and therefore limits the provision of Aged Care in some circumstances.
Clause 48(c)	Given the reduced mobility of residents in Aged Care, the landscaping needs to be understood in terms of access to terraces up the upper levels also. If 25sqm is retained, then it should be that up to 30% of this requirement can be provided as upper level terraces.
Clause 49(c)	Hostel landscape areas, similar to clause 48(c) this should be modified as noted.
Clause 49(d)	Reduce resident parking requirements if a share car is provided.
Clause 50(b)	Floor space should be increased to 0.75:1 to account for the larger sized apartments and shared facilities.
Clause 50(d)	Landscape should be decreased to 7% consistent with ADG
Clause 50(e)	Solar access, if Council's are going to insist on compliance with the ADG, for ILUs, then solar access should only be 2 hours in Urban Areas.
Clause 50(h)(ii)	Parking requirements which also require the use of accessible spaces for all units mean that most Urban Seniors developments build basements way larger than adjoining residential developments and this significantly impacts viability. Parking reductions for share cars should be provided. Eg Reduction of up to 10 spaces for every share car provided.
Schedule 1	Support clarifying what environmentally sensitive land means. These changes have significant implications for the ability to use the SEPP and should be publicly exhibited.
Schedule 3	It should be clear that an Access Report accompanying a Development Application is sufficient to meet this requirement and Council's should not need to request detailed documentation to address this item at the Development Application stage.



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## UKO Response To Proposed NSW Housing Diversity SEPP

### Introduction to UKO

UKO Co living is the leading operator of Co living in Australia - successfully bringing an accommodation concept familiar in major cities around the world to Sydney. As an operator and manager of Co living facilities, UKO partners with developers and investors to deliver a quality rental accommodation product that meets the needs of the modern renter.

UKO is currently operating or nearing completion on the following sites in Sydney developed under the Boarding House SEPP

- Stanmore
- West Ryde
- Paddington
- Newtown
- Marrickville
- Paddington Village

The current sites are typically between 30-50 units which enables the delivery of architecturally designed micro apartments, quality onsite management and indoor/outdoor communal spaces.

### The current UKO model of Co living

- Inclusive Rents between \$330 and \$525 p/w (depending on unit size, location and length of stay)
- Rental agreements from 3 months to 24 months with variable rent depending on length of stay
- Units 18-28m<sup>2</sup> with a mix of smaller to medium unit modules in prime locations and a greater proportion of larger unit modules in suburban locations
- Utilities (included in rent)
- Unlimited high speed WIFI (included in rent)
- Fully Furnished with bespoke joinery and Smart TV's with up to \$10,000 per unit
- Communal areas – including communal dining, open outdoor and co working
- Onsite community manager facilitating regular community events, inspections and building management

- Fortnightly community meals (included in rent)
- Free bicycle rental (included in rent)
- Provisions for meal basics in communal areas - tea, coffee, cereal, rice, pasta (included in rent)
- Access to car sharing
- UKO sites under review range from 25 -160 self-contained micro apartments with larger sites broken into sub communities of 50 apartments

It must be understood that rents in Co living are *inclusive* which makes it an affordable product. It is affordable because there are numerous inclusions (utilities, WIFI, bikes, basic food items, onsite management and community meals) and it is affordable because it is furnished which *lowers up front capital costs to renters and allows more flexibility*.

### **Co living VS Traditional Residential Rental Accommodation**

Whilst we initially expected Co Living to mainly appeal to the millennial demographic around the city fringe we have been pleased to see significant demand from a broader demographic of renters. These renters have engaged with the UKO product and embraced it in areas beyond the city fringe such as West Ryde.

UKO Co living is currently occupied by the following market mix of renters:

- Young professionals (25-40 age category)
- Key workers including nurses, doctors and teachers
- Couples
- Singles with a greater ratio females to males
- First time renters
- Post graduate students
- International & domestic students
- Extended stay corporate renters
- Divorcees
- Crisis accommodation

It is essential to note that a majority of these renters would not qualify for rental controlled housing. By creating the revised Boarding House SEPP where Boarding Houses are exclusively operated by 'not for profits' under a system of capped rental arrangements there will be a large market of renters *who do not qualify for Boarding House accommodation who will simply be displaced.*

This broad demographic is currently accommodated in either share-houses or private rentals which are not meeting their accommodation needs. UKO is particularly concerned around rentals which are leased usually to a head tenant who sublets to the occupants. These arrangements have no controls and the occupants have little recourse for tenancy or occupancy related issues:

- There is no requirement for a manager
- There are no communal spaces required to be maintained
- Minimal requirements controls apply to fire safety or management of the premises

It appears that the above mentioned section of renters *distinctly prefer* the Co living model of rental accommodation in comparison to traditional rental accommodation for the following reasons:

- **Fully furnished** with up to \$10,000 of goods per unit (reducing the significant upfront capital cost of purchasing furniture/electricals and being more environmentally friendly due to less repeated end of tenancy disposal)
- **Flexible** (unsure of future plans in relation to work and education)
- **Secure** (onsite management meaning occupants feel safe)
- **Private** (as an alternative to shared accommodation)
- **Affordable** (inclusive rents and fully furnished)
- **Lower risk** (less financial penalty for lease break)
- **Location** (close to work meaning public transport can be used rather than buying and maintaining a motor vehicle which is costly)
- **Community** (regular events to provide personal and professional social connections and combat loneliness)
- **Maintained** (by onsite management)

## Co living design

UKO have developed a 63 page *developers brief* detailing the recommended requirements around design to ensure the product is comfortable, functional and aesthetically pleasing. Included in this *developers brief* are a number of apartment modules including:

- 17m2 (micro)
- 23m2 (standard)
- 27m2 (accessible)
- 28m2 (king)

The *developers brief* also has recommendations around the positioning and design of communal areas

The focus is on providing a space which balances the key elements of affordability, liveability, safety and community. UKO has taken feedback from existing residents who are extremely content with the delivery of accommodation in accordance with the UKO *developers brief*. The feedback is clear from the residents - *that well designed micro apartments with the above module sizes can perform in the same way as a larger studio apartment whilst maintaining affordability for renters and supporting feasibility for development which is critical to the ongoing success of the Co living sector.*

*Annexure 1* provides the floorplans of a recently completed UKO managed project at 36 Wilson Street Newtown. It has been developed in accordance with the Boarding House SEPP. It contains 33 self contained apartments (average 23m2) communal areas, bicycle storage and no parking. This product has been extremely well received by a diverse mix of renters. The design montage demonstrates the level of detail and design UKO delivers in a successful micro apartment Co living site. UKO looks to create a sense of separation between *sleeping space, living space and cooking space* so that the apartment functions like a much larger space whilst remaining affordable. These apartments are currently renting from \$380 - \$450 p/w with inclusive rents and onsite management as detailed above.

## Co Living locations

The development of Co living should be encouraged in inner city areas and suburban areas - especially in close proximity to places of work, hospitals, airports, universities and public transport. Any increase in density should support affordability (due to increasing supply) and should work 'hand in hand' with the increased utility of public transport and use of public open spaces.

## Unit Numbers

In order to justify the cost of providing proper onsite management UKO has calculated that sites need to have a *minimum of 25 units*. UKO Community Managers perform a range of tasks from rental management, resident induction, facilities management and most importantly facilitating community events. UKO is concerned that Co Living sites with less than 25 units will be mismanaged by local real state agents or smaller private operators.

## **Current Investor/Developer Demand to deliver Co Living**

UKO is currently in advanced discussions with a number of developers and institutional investors to continue delivering Co living sites around Australia to meet the growing need for this form of rental accommodation. There is significant interest from property developers and institutional investors to deliver Co living as it is viewed as a defensive investment model which supports an investment thesis around social infrastructure.

Whilst there is a high level of interest from developers and institutional investors there are significant challenges using the existing Boarding House SEPP to make the development of Co living sites achieve competitive financial returns relative to other real estate alternatives such as residential, office, hotel and industrial. To acquire and develop an existing site in the city fringe or Greater Sydney (developed as Co living) under the current Boarding House SEPP most feasibility modelling suggests a yield on cost of approximately 5% and an IRR of 13-15% which is simply not attractive to investors and developers. In comparison to alternative real estate assets - the typical IRR will be in the order of 20-25% to justify the various risks associated with development.

It should clearly be noted that many of the current completed Co living developments under the Boarding House SEPP have been unsuccessful in delivering satisfactory returns (even relative to the initial feasibility modelling) due to the following:

- excessive delays around planning approval
- opposition from local residents
- reductions in unit numbers
- costly court processes for approval
- increasing construction costs
- ongoing delays in certification

The UKO management team would be available to do a more detailed review of site existing site feasibility if required. UKO develops 5 year cashflows for developers detailing forecast revenue and operating expenses and management fees. Developers use these cashflows to assess land acquisition and construction costs to develop an IRR model which is then compared to alternative uses. UKO will clearly demonstrate the challenges associated with generating satisfactory returns using the existing Boarding House SEPP and the associated bonuses.

**UKO commentary on proposed SEPP changes:**

UKO is particularly concerned with a number of items in the proposed development standards for Co Living. If these standards are implemented they will unquestionably inhibit any development of Co living as it will simply be uneconomical to develop an asset which is already difficult to justify under the existing (more friendly) Boarding House framework. This will result in the failure of the Co Living SEPP.

UKO has discussed the proposed changes with a number of developers who have immediately dismissed any development of Co living if they are adopted due to alternative forms of development representing a higher and better use.

The following proposed limitations to Co living development will undermine any attempts to create supply and will ultimately penalise affordability:

**30m2 as minimum units size** *Whilst the idea of Co living units sitting between boarding rooms and studio apartments appears to be logical it does not acknowledge the impossible challenge in delivering this product from a feasibility perspective. UKO have proven that well designed micro apartments from 18-28m2 are appropriate for both Boarding House and Co Living development. Setting 30-35m2 unit sizes will also increase rents due to a greater floor space being occupied by the resident which places a further burden on affordability. A fully furnished 35m2 unit with utilities included and onsite management will most likely be priced at a premium to a one bedroom unfurnished residential unit.*

**Removing the FSR bonus** *will completely destroy the financial viability of development and will immediately result in developers pursuing alternative models such as 'build to sell' in order to generate better returns.*

**Increasing private open space to 4m2 per room** *this will further challenge feasibility. UKO notes that a number of current - very well delivered projects - developed under the Boarding House SEPP would not have been feasible if this is a requirement. Please refer to Annexure 1 where the Newtown development has not met this requirement but it certainly meets the needs of the rental market and has created critical rental supply in an area of high demand.*

**Car Parking will be .5 spaces per room** *this will significantly increase construction costs and penalise feasibility. UKO surveyed its existing residents and found a distinct preference towards car sharing and public transport especially in inner city areas. UKO acknowledges that parking requirements may increase in more suburban areas however .5 spaces per room is excessive and will penalise supply.*

An ongoing issue has also been community attitude towards the term 'boarding house' which has connotations around undesirable occupants. UKO recommends and supports the change in terminology to 'Co Living' and potentially including the term 'micro apartment'

## UKO recommendations on proposed SEPP changes

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

	<ul style="list-style-type: none"> <li>○ It provides internal common space in excess of the minimum requirements;</li> <li>○ it provides private open space for many of the apartments; or</li> <li>○ it demonstrates good proximity to public open space and facilities and/or provides contributions to public open space.</li> </ul>
Building envelope controls	Merit-based concessions to be considered to accommodate the FSR bonus where appropriate
Minimum Room Numbers	25 rooms to ensure management efficiency
Minimum stay	20% of rooms in a building permitted to be 1- 3 months and 80% being greater than or equal to 3 months.

## Closing Comment

The intended effect for the SEPP states:

*“With a growing and ageing population, the housing needs and preferences of the community have changed over time and will continue to change. The Government is committed to ensuring that there is an adequate supply of new dwellings that are affordable, well-designed and located in places that people want to live. To deliver on this commitment we need to provide more certainty for all stakeholders in the planning system and ensure that there is a strong social housing sector to provide for the State’s most vulnerable residents.”*

*“Housing affordability is another major issue across NSW, but particularly in the Sydney metropolitan area. Home ownership rates in NSW are falling and there is a widening gap between dwelling prices and incomes. In the rental sector, households are needing to spend a greater proportion of their income on housing.” (EIE proposed housing diversity SEPP)*

UKO understands the need to develop more affordable housing. However by creating the revised Boarding House SEPP where Boarding Houses are exclusively operated by ‘not for profits’ under a system of capped rental arrangements there will be a large market of renters *who do not qualify for Boarding House accommodation who will simply be displaced*. The correct solution is the introduction of a Co living SEPP however we must clearly emphasise that the introduction of the Co Living SEPP within the current proposed guidelines will fail leaving Sydney behind other global leaders in developing planning controls that support this asset class. Sydney will fall back to the current forms of housing with the addition of larger format ‘build to rent’ and therefore simply fail to the needs of the modern renter. A failure of the Co Living SEPP will therefore create more issues around supply shortfalls, affordability and loneliness which is to the ultimate detriment of an already vulnerable rental market.

***UKO would like to personally invite any key decision makers to inspect one of our sites and attend a community dinner to meet the existing occupants and hear their story.***



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# What is UKO?

*UKO is an operating platform partnering with developers to deliver rental accommodation to the next generation of renters.*







## Macroeconomic Trends



Housing  
Unaffordability



Technology &  
the Sharing Culture



Social Mobility



Loneliness



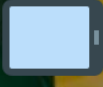
Rise in Single  
Person & Couple  
Households



## Co-Living: The Solution



All-inclusive  
affordable rents



Digitalised  
Management



Flexible  
Leases



Community Belonging  
in Inner City Locations



Fully Furnished  
Studios

# UKO SOLVES PROBLEMS

## Move-in Ready.

UKO apartments are fully furnished and offer high-speed WiFi, HDTV, linen, utilities, washing powder and more, taking the hassle out of setting up from scratch.



## Active And Engaging Community.

Thriving social spaces to connect, kick back or get down to business. Our social spaces serve as a launchpad for inspiration, imagination and conversation.



## Better Affordability And Value.

Fixed, long-term agreements can often overcomplicate living situations and be a deterrent to potential renters. At UKO, residents have access to high quality rental product and can choose to stay for as long (or as little) as they want. The longer they choose to stay, the less they'll pay.



## Adaptable Design.

Wind down, work out or entertain friends; each apartment is designed to be adaptable and interchangeable.

UKO®





# IT'S ABOUT COMMUNITY

Each UKO property is appointed with a specialist Community Host to focus on building community and enhancing resident life.

We pride ourselves on creating personal and professional connections for our residents.

We love 'incidental interactions' in our communal spaces.



# Our Community



Gigi Davidge

Sales Executive



Alex Gorbunov

Cyber Security Specialist



Kelly Smith

Healthcare Professional


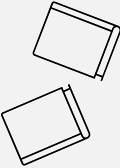
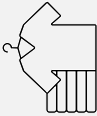











Sayem Rahman

Fintech Compliance Officer

It's a mindset  
not a life stage

# A MONTH IN THE LIFE OF A UKO RESIDENT.

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3 Community Dinner 	4	5 Book Swap 	6 Linen Day 	7 Vinyasa Yoga 
8	9 Boot Camp 	10	11	12 Networking Night 	13	14 Pilates for Beginners 
15	16	17 Community Dinner & UKO Resident Spotlight 	18	19	20 Linen Day 	21 Vinyasa Yoga 
22	23	24	25	26 Guest Speaker Night 	27	28 Pilates for Beginners 



# UKO DESIGN

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- Paddington
- Paddington Village
- Newtown
- West Ryde



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DARLINGHURST  
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(OPENING 2021)

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Let's connect...



**Greg Robinson**

Chief University Infrastructure Officer, University Infrastructure

31<sup>st</sup> August 2020

Jim Betts

Secretary, Department of Planning, Industry and Environment  
Locked Bag 5022,  
PARRAMATTA NSW 2124  
Westmead NSW 2145

Dear Mr Betts,

**Re: new Housing Diversity SEPP – Explanation of Intended Effects**

The University of Sydney (the University) thanks the Department of Planning Industry and Environment (DPIE) for the opportunity of addressing and responding to DPIE's *Explanation of Intended Effect* dated July 2020 which relates to the proposed new *State Environmental Planning Policy (Housing Diversity) 2020* (the Housing Diversity SEPP). We look forward to reviewing and commenting on the draft Housing Diversity SEPP when it is available.

The University welcomes this important State Government initiative and the intended introduction of bespoke definition and planning controls for student accommodation. The University is a significant contributor to the provision of student accommodation in New South Wales. On our Camperdown-Darlington Campus alone, the University has since 2015 committed to the delivery of 4,000 affordable student accommodation beds, which achieve rents at least 25% below local market rates. Affordability is the number one criteria for students and with Sydney being one of the most expensive real estate markets in the world, planning legislation assistance is therefore needed to keep development costs and rents as affordable as possible in order to attract students.

There is a current shortage of University affordable student accommodation across Sydney and NSW, which places significant pressure on the local private rental market. This also creates issues relating to student welfare and access to accommodation and barriers for Australian universities to further develop in the international student market. The University is committed to providing quality student housing and as a landowner is well placed to develop and manage this accommodation.

The University has long sought from DPIE a definition for "student accommodation" in planning instruments and controls. Our student accommodation developments have had to rely upon definitions and controls contained within the *State Environmental Planning Policy (Affordable Rental Housing) 2009* and those specifically created for Boarding Houses. Student accommodation premises are very different to Boarding Houses and contribute significantly to the development of student community and shared facilities that are often found within a university campus. The draft Housing Diversity SEPP presents an important opportunity of introducing a bespoke definition, planning controls and planning pathways applicable to the development of student accommodation.

Attached to this letter are several recommendations in response to DPIE's *Explanation of Intended Effect* report. The University, in association with the New South Wales Vice Chancellor's Committee (representing the 12 principal universities in NSW), requests that it be included in further discussion with DPIE, in particular in relation to the development of design guidelines accompanying the draft Housing Diversity SEPP. The University also welcomes the opportunity of showcasing our student accommodation shared facilities, and their operational management, to assist DPIE to understand the nature of student accommodation and the development of the draft Housing Diversity SEPP.



The University's officers dealing with this matter are:

- Christian Watts, Director – Property & Development, University Infrastructure, who can be contacted at [chris.watts@sydney.edu.au](mailto:chris.watts@sydney.edu.au) or by mobile 0423294771.
- Stephane Kerr, Town Planner, University Infrastructure, who can be contacted at [stephane.kerr@sydney.edu.au](mailto:stephane.kerr@sydney.edu.au) or by mobile 0412661742.

Sincerely,

DocuSigned by:

*Greg Robinson*

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Greg Robinson

**Chief University Infrastructure Officer**

**CC:** Kirstie Allen, Deputy Secretary, Strategy and Reform  
Alison Frame, Deputy Secretary, Housing and Property



## Submission

### 1. Intention

Relevantly for the University, DPIE's *Explanation of Intended Effect* report explains that the new Housing Diversity SEPP intends to:

- A. consolidate three housing related State Environmental Planning Policies, incorporating the *State Environmental Planning Policy (Affordable Rental Housing) 2009*, the *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*, and the *State Environmental Planning Policy No 70 - Affordable Housing (Revised Schemes)*;
- B. introduce new definitions into the Standard Instrument – Principal Local Environmental Plan (Standard LEP Instrument) by incorporating definition for “student housing”; and
- C. incorporate student housing and associated controls into the new Housing Diversity SEPP. The University understands that DPIE intends to include a section within the Housing Diversity SEPP that is solely dedicated to student accommodation developments.

The University welcomes and supports DPIE's recognition that “*well-located and purpose-built student housing is critical in supporting the higher education sector in NSW*”. DPIE's statement confirms and clarifies that student accommodation is instrumental to university activity and recognises that student housing can assist in alleviating the demand for other affordable housing types in proximity to universities.

Universities principally rely upon the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (the Education SEPP) in utilising relevant planning pathways for a variety of small to medium scale university developments. However, clause 44 of the Education SEPP clearly excludes “*development for the purpose of residential accommodation for students that is associated with a university*” from being “*development for the purpose of a university*”. The University also understands from DPIE that it is not DPIE's intention to accommodate student accommodation provisions within the Education SEPP but, instead, to deal with student accommodation with a raft of other housing typologies in the new draft Housing Diversity SEPP.

**Recommendation 1:** That DPIE include a new note in clause 44 of the existing Education SEPP to reference and link the new Housing Diversity SEPP where appropriate definitions, planning pathways and planning controls can be sourced.

### 2. Defining University Student Accommodation:

The *Explanation of Intended Effect* report proposes a definition for student housing, which refers to a building that:

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

The University's references to *student accommodation* in this submission means those facilities that are owned and managed by the University. University student accommodation is very much part of a modern “educational establishment” and is often physically integrated with teaching and learning, wellbeing and/or retail facilities/services. This mixed-use approach contributes to the important student experience. University funded, developed, and managed student accommodation is typically provided on-campus (i.e. within the boundaries of the University) as well as off-campus in close proximity to the University.

There is a fundamental difference between student accommodation provided by not-for-profit universities solely for their own students, and private student accommodation providers that are profit-driven and who may provide accommodation for a variety of students, not necessarily enrolled at a university. One such significant difference is that private student accommodation (also known as PBSA) is typically not

affordable. The University's arguments relating to student accommodation in this submission are not intended to apply to private/commercial student accommodation.

**Inclusion of Residential Colleges:** Residential colleges affiliated with the University are predominantly located on land zoned for educational purposes, being *Zone SP2 Infrastructure (Educational Establishment)*. The Standard LEP Instrument specifies development that is permissible with consent within Zone SP2 Infrastructure as follows:

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

Residential colleges affiliated with a University are not limited to the provision of student residential accommodation and also provide educational services incorporating teaching, learning, tutorials, meetings, student support facilities, libraries, sports facilities, and the like. Consequently, the University considers that development by residential colleges affiliated with universities is ordinarily incidental or ancillary to an educational establishment land use and therefore should be recognised in the definition of "student housing" under the Standard LEP Instrument and the draft Housing Diversity SEPP.

**Recommendation 2:** That the definition for University student accommodation premises that are managed by universities incorporate a definition that student accommodation:

- are facilities that are owned and managed by universities;
- include residential colleges affiliated with universities;
- include mixed-use facilities dedicated to educational experience; and
- excludes private sector and commercial operators.

### 3. Differentiation from Boarding Houses

The *Explanation of Intended Effect* report acknowledges that, under the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (the Affordable Housing SEPP), there is no definition for "student accommodation" or "student housing". Student accommodation currently relies on the Affordable Housing SEPP for relevant planning controls, in particular *Division 3 Boarding Houses*.

The University has often objected to the comparison of student accommodation with boarding houses. For boarding houses, there is a requirement for the provision of individual accommodation requirements with certain shared facilities. By contrast, university student accommodation is specifically designed to create a shared community that exists not only within a building but also the surrounding campus. The University encourages our students not to rely upon the bedroom in the same manner as a self-contained apartment, but to rely upon the breadth of shared community facilities within the building, with adjoining University buildings and equally with all of the outdoor, open and recreational facilities that a university campus provides. Such facilities are not found within a boarding house.

**Recommendation 3:** The University supports a standalone definition of student accommodation that is not linked to the definition and associated controls for Boarding Houses.

### 4. Relationship to the Education SEPP

The DPIE's *Explanation of Intended Effect* report states on Page 10 that:

It is noted that under the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (Education SEPP), development for the purpose of residential accommodation for students associated with a school or university may be carried out within the boundaries of an existing school or university respectively.

The University notes that clause 44 of the Education SEPP states (our highlighted emphasis):

**44 Development for the purpose of student accommodation**

In this Part, development for the purpose of a university does not include development for the purpose of residential accommodation for students that is associated with a university, regardless of whether, or the extent to which, the university is involved in, or exercises control over, the activities and life of the students living in the accommodation.

Clause 45(7) then goes on to add that development for student accommodation is limited to requiring a development application as follows (our highlighted emphasis):

“Development for the purpose of residential accommodation for students that is associated with a university may be carried out by any person with development consent on land within the boundaries of an existing university”.

**Recommendation 4:** That the DPIE *Explanation of Intended Effect* be amended to recognise the exclusion of “development” for student accommodation from being “*development for the purpose of a university*” under clause 44 of the Education SEPP, and to clarify that those relevant definitions and controls intended for student accommodation will be incorporated within the new Housing Diversity SEPP.

## 5. Recognition of Affordable Student Accommodation

DPIE’s *Explanation of Intended Effect* report states on Page 9 that:

“Having an adequate supply of well-located and purpose-built student housing is critical in supporting the higher education sector in NSW. It can also assist in alleviating demand on other affordable housing types in proximity of major universities.”

The University welcomes and supports this assertion but strongly recommends that the word “affordable” be inserted before “purpose-built student housing” in this critical policy statement. Some local councils have refused to acknowledge student accommodation as being affordable for reasons pertaining to affordability under the Affordable Housing SEPP having a direct link to the inhabitant’s low or medium income status which would require the University to income-test students.

On our Camperdown-Darlington Campus alone, the University has since 2015 committed to the delivery of 4,000 affordable student accommodation beds, which achieve rents at least 25% below local market rates. There is a current shortage of affordable student accommodation across Sydney and NSW, which places significant pressure on the local private rental market. This also creates issues relating to student welfare and access to accommodation and barriers for Australian universities to further develop in the international student market. The University is committed to providing quality and affordable student housing and as a landowner is well placed to develop and manage this accommodation.

The DPIE’s statement now confirms and clarifies that student accommodation is instrumental to university activity and recognises that student housing can assist in alleviating the demand for other affordable housing types in proximity to universities.

**Recommendation 5:** That the draft Housing Diversity SEPP recognise University student accommodation as a type of affordable housing.

## 6. Planning Pathways under the Housing Diversity SEPP



Universities are obliged to carry out regular minor alterations, maintenance, and refurbishment to their existing student accommodation – whether it be located on, or off-campus. However, there are currently no provisions within the Education SEPP for *Exempt Development*, *Complying Development* or *Development Permitted Without Consent* as valid planning approval pathways for these types of minor works to student accommodation.

**Provisions under other SEPPs:** There exists only limited provisions to deal with student accommodation under the *State Environmental Planning Policy (Exempt Development and Complying Development Codes) 2008* (the Codes SEPP). Under Part 2, subdivisions 26 and 27, minor building alterations (both internal and external) may be carried out as Exempt Development subject to specified development standards.

Part 3 Housing Code and Part 3A Rural Housing Code of the Codes SEPP are limited to residential land use zones and the development standards for complying development. They therefore do not apply to university student accommodation that is typically located on *SP2 Infrastructure (Educational Establishment)* land.

Part 4 Housing Alterations Code has limited provisions that enable internal and external alterations to be carried out to existing residential accommodation as complying development subject to specified development standards.

Consequently, universities are having to submit full development applications for minor additions and alterations to existing university-owned student accommodation premises, whereas minor additions and alterations to all other university uses can benefit from an exempt, complying or development permitted without consent planning pathway under the Education SEPP.

**Recommendation 6:** The University recommends that the proposed Housing Diversity SEPP introduce a raft of planning pathways for student accommodation as *Exempt Development*, *Complying Development* or *Development Permitted Without Consent*, in a similar manner that is provided for all other university forms of development under the Education SEPP.

## 7. Land Use Zone Provisions

The *Explanation of Intended Effect* report states that DPIE does not propose to make student housing a compulsory permitted use in any of the land use zones recognised under the Standard LEP Instrument.

The University requests that DPIE reconsider this, as student accommodation would fit well within the *SP2 Infrastructure (Education Establishment)* land use zone as a permissible use. Such an inclusion will therefore serve to qualify the intrinsic importance of student accommodation within a university campus.

**Recommendation 7:** That student accommodation be recognised as a permissible use within the *SP2 Infrastructure (Education Establishment)* land use zone provisions.

## 8. Proposed Development Standards accompanying the draft Housing Diversity SEPP

The *Explanation of Intended Effect* report proposes several key development standards for student housing to which the University responds as follows:

- Height of buildings will rely upon the provisions within the relevant LEP.  
**University response** – The standard is supported.
- Floorspace ratio will rely upon the provisions contained within the relevant LEP.  
**University response** – The standard is supported. Further, the University recommends that the draft SEPP provides an FSR bonus for University student accommodation that can demonstrate affordability, for example by achieving rents at least 25% below local market rates.
- Car parking – No minimum spaces are required.  
**University response** – The standard is supported. It is the University's experience is that there is little student demand for car parking spaces.

- Bicycle parking is set at 1 space minimum per three bedrooms.  
**University response** – The standard is supported only where the student accommodation is located off-campus. It is the University's policy to provide bicycle parking throughout a campus including internal and external bicycle parking locations. Consequently, a student accommodation premises within a campus should not be treated as a silo building, but instead as a student accommodation within a broad campus environment with all associated University facilities including bicycle parking facilities located throughout the campus domain areas within and other buildings.
- Motorcycle parking is set at a standard of one space minimum per five bedrooms.  
**University response** – The standard is supported only where the student accommodation is located off-campus, and for the same reasons of exclusion within a campus as stated for bicycle parking above. It is the University's experience is that there is little student demand for motorcycle parking spaces.
- Room size is set at a minimum of 10 m<sup>2</sup> per room and is based on similar standard contained within other SEPPs. The DPIE intends this criterion to be a **discretionary standard** in order to allow developers to demonstrate that a small area has adequate internal amenity in that shared facilities are available to compensate for smaller room size.  
**University response** – The University agrees with the discretionary standard. In particular, where student accommodation occupies existing terraced style dwellings, or buildings subject to heritage provisions that do not encourage internal alterations.
- Communal areas are set at a standard of 15 m<sup>2</sup> per 12 students. Communal areas are regarded as spaces that incorporate study, social, and religious needs of students. Communal outdoor areas are allowed to consider and incorporate open space that is provided within a university campus, so long as the student accommodation is within 400 m of a university campus. Otherwise, a 2.5 m<sup>2</sup> of outdoor open space per student will be required.  
**University response** – The standard is supported only where the student accommodation is located off-campus, and for the same reasons of exclusion within a campus as stated. The University encourages its student accommodation occupants to develop community skills and links by association with other surrounding University buildings and campus domain facilities. For example, the intended occupants of the University's Darlington Terraces Student Accommodation development (a State Significant Development proposal currently under assessment from DPIE) will be able to access a broad selection of University community facilities not only within surrounding other University Darlington campus student accommodation buildings which are in very close proximity (e.g. Regiment and Abercrombie student accommodation buildings) but also surrounding University libraries, sports facilities, tutorial and learning rooms, and other such facilities all within a maximum 2 minute walk. Consequently, a numerical standard for community facilities on-campus would only serve to treat a student accommodation premises as a silo building without benefiting from the vast surrounding University community facilities.

**Recommendation 8:** The University encourages DPIE staff to visit our student accommodation buildings and surrounding University community facilities to fully appreciate the manner in which our University affordable student accommodation facilities operate within a shared campus environment.

- Development guidelines – The DPIE intends to develop design guidelines for student housing to accompany the new Housing Diversity SEPP.  
**University response** – The University requests that it be included in workshop sessions with DPIE to develop these guidelines. This may incorporate a whole-of-universities forum including member representatives of the New South Wales Vice Chancellors Committee – Planning Reform Committee.

**Recommendation 9:** The University requests that the proposed draft SEPP standards relating to parking/motorbike/bicycle parking spaces, minimum room sizes and minimum community area sizes



be excluded where the University student accommodation premises is located within a campus. The intention here is to recognise the vast provision of various shared community and parking facilities available throughout a campus for which all students and staff are encouraged to utilise. This request also recognises that such provisions are located strategically throughout a campus and not on an individual building-by-building basis.

**Recommendation 10:** The University requests that it be included in workshop sessions with DPIE to develop design guidelines for student housing to accompany the new Housing Diversity SEPP. These workshops should incorporate DPIE staff visits to various University campii and student accommodation buildings to comprehend University operational facilities and management.

NSW Department of Planning, Industry and Environment  
GPO Box 39  
SYDNEY NSW 2000

Re: Proposed new Housing Diversity SEPP – Call for submissions

Thank you for the opportunity to provide feedback on the proposed Housing Diversity SEPP in NSW. As urban planning and housing researchers, we have been examining the impact and effect of associated SEPPs (particularly the Affordable Rental Housing SEPP and SEPP 70), and the implications of the current policy framework for delivering affordable housing over a number of years.

In preparing this submission, we draw on research evidence from a number of recent studies by ourselves and colleagues including:

- [Research](#) by Gurrán, Gilbert and others, published in 2018, investigating the outcomes of planning policies designed to support affordable housing supply, including SEPP 70, the ARHSEPP and voluntary planning provisions in NSW.
- Forthcoming research by Gilbert, Liu and Gurrán examining take-up of the infill affordable rental housing and boarding house provisions under the ARHSEPP in select jurisdictions, including the extent to which they have been used by private and non-profit housing providers and in what locations.
- [Forthcoming research](#) by Gilbert, Rowley and others on how the planning system, financing requirements and other aspects of regulation impact the feasibility of diverse housing types and tenures, particularly those that deliver lower cost and affordable housing.
- Research by Troy, van den Nouwelant and Randolph, commissioned by Southern Sydney Regional Organisation of Councils (SSROC) examining broad [outcomes of the ARHSEPP](#), and specifically looking at occupant outcomes of [Boarding Houses](#) and [Secondary Dwellings](#).

The proposed Housing Diversity SEPP has clear benefits by defining and differentiating housing typologies intended to meet a range of needs and market segments. Our research has found that naming diverse housing types within planning policy frameworks and clarifying their potential permissibility and applicable development standards is an important strategy for diversifying housing supply (Gilbert, Rowley et al forthcoming).

However, we emphasise that diversity is not analogous to affordability. Research over the past two decades points to a growing, nationwide shortage of rental housing that is both affordable and available to low income groups<sup>1</sup>. This work shows that it is not sufficient to enable more diverse, higher density, or potentially lower cost market units, but that mechanisms are also needed to ensure that this accommodation is able to be accessed by target groups.

### **Greater emphasis on affordability**

Overall, we are surprised that the proposed framework does not include an explicit aim to increase affordable housing supply. This is concerning, as the affordable housing crisis in NSW which warranted the planning intervention of the ARHSEPP is ongoing, and is likely to have been exacerbated by the pandemic. Particular concerns in this context include the lack of appropriate and affordable accommodation for lower income groups due to a long-term decline in the rate of new social housing supply, as well as inadequate protections for tenants in the private rental sector. Addressing these issues by supporting new affordable housing development, including projects developed by the private sector, will contribute to post-pandemic economic recovery, not least through employment in the construction sector.

However, recognising that public, non-profit, and affordable housing projects play a critical counter cyclical role during market downturns we emphasise the need to focus policy efforts on strengthening this sector of the housing system. For that reason, we are of the view that increasing supply of housing that is affordable to low and moderate income households should be the primary intended effect of changes to the existing planning framework.

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<sup>1</sup> Hulse, K., Reynolds, M., Parkinson, S., Nygaard, A., & Yates, J. (2019 ). The supply of affordable private rental housing in Australian cities: short and longer term changes. *AHURI Final Report Series, AHURI Melbourne*.

The ARHSEPP was originally intended to enable variation to a range of minimum standards and development controls on the basis that it was supporting the delivery of housing that would meet the widespread need for affordable housing. Recent research on the outcomes of the SEPP (Troy et al 2018; 2019; 2020) has clearly demonstrated that there is a very weak link between dwellings delivered and improved affordability outcomes, with most new supply not actually delivering housing that is either affordable to the occupants, or serving priority cohorts, such as those on the social housing wait list. Whilst we recognise that diversity is an important aspect of a more affordable housing system, there ought to be a stronger framework for ensuring that where planning concessions are given in the name of affordable housing, that this housing should provide a genuine affordable outcome to those in need.

To this end we support the proposal that boarding house developments meet affordability requirements and we would urge the extension of any such requirements to all of the categories of diverse housing permitted by the SEPP with the exception of secondary dwellings.

*Recommendations:*

- Make the delivery of affordable housing an aim of the SEPP.
- Change the title of this SEPP to reflect this aim, such as the “Diverse and Affordable Housing SEPP”
- Ensure that all residential development projects address affordability objectives and requirements, with higher obligations in return for higher planning ‘bonuses’ or ‘incentives’

**Additional planning incentives for delivering affordable housing**

Our research has found that one of the ways governments can support more diverse and affordable housing supply is through expedited and de-politicised determination processes and planning bonuses and concessions for projects that deliver affordable housing for low and moderate income groups. We endorse the extended density bonus, car parking concessions and self-assessment provisions proposed for LAHC developments under the SEPP.

The policy should be clarified to show that these provisions are being extended to CHP developers as well. Currently CHPs developing infill affordable rental housing and boarding houses are eligible for essentially the same incentives as private developers, even when they are developing 100 per cent affordable schemes which remain affordable well beyond the ten-year timeframe of the policy. Even in situations where market housing is incorporated in schemes produced by CHP developers, their non-profit composition means that development surpluses are reinvested in the social housing sector.

The proposed changes to the boarding house provisions effectively reduce the density bonus for boarding house developments in medium density zones and on sites with lower FSRs while at the same time introducing an affordability requirement. Generally, the introduction of affordability (and eligibility) requirements for boarding houses is welcome, as our research has demonstrated that almost all of what is being built using these provisions has not delivered affordable housing and does not deliver supply to those most in need (Troy et al 2018; 2019; 2020). However, it is important to ensure that changes to the density bonus in low FSR areas does not impact the feasibility of these projects and therefore the ability of not-for-profit Community Housing Providers to undertake such developments.

One possibility would be for a proportion of boarding house developments – say 50% - to be managed according to affordability and eligibility requirements.

Similar requirements should apply to ‘co-living’, student housing, and build-to-rent projects.

*Recommendations:*

- We suggest that larger incentives including an additional density bonus and or concessions on development standards be offered to CHPs and not-for-profit developers who are delivering 100% affordable schemes and retaining these dwellings in the affordable sector over a longer term.
- Where a FSR bonus is given for affordable housing inclusion, it is important to enable some flexibility on LEP height limits, where a modest height exceedance would not unduly impact neighbouring properties (e.g. in terms of solar or privacy considerations), so that the bonus can be fully utilised. Signalling this flexibility in relation to affordable housing development would provide greater certainty for these projects as well.

## **Feasibility of the SEPP**

We have noticed some commentary from the development sector about the feasibility of some of the proposed changes in the SEPP. It is our experience over many years that developers often use the “feasibility card” as a way of resisting changes that might reduce some of their opportunities. Nevertheless, in addition to our specific comment about boarding houses, we would strongly suggest that some feasibility analysis should be undertaken to ensure that the measures you suggest do not have unintended outcomes on the economic feasibility of particular built forms.

## **Monitoring and compliance**

We welcome the proposal to review the SEPP two years following implementation. Currently, publicly available data on the outcomes of current housing SEPPs is lacking. This is a missed opportunity and reflects the wider lack of differentiated data on housing development in NSW. An initial positive step would be to expand the range of development types currently reported in the Local Development Performance Monitor, for example, to include infill affordable rental housing units (as a proportion of total dwellings in multi-unit projects) as well as boarding house projects. Bedroom configurations as an indicator of dwelling size should also be recorded, while secondary dwellings need to be distinguished from dual occupancy developments. With the increasing use of electronic lodgements, much of this information could be captured electronically which would increase both the timeliness and the accuracy of the monitoring data.

Other diverse dwelling types such as co-living, student housing and built-to-rent projects should also be monitored if and when provisions are implemented. There is a need to capture approvals as well as determinations within each of these categories, as well as to record units which are lost through demolition/redevelopment. Dwellings in manufactured home estates and or residential parks must also be monitored.

As discussed above, it will be important to ensure that the infill affordable rental housing projects and boarding houses (if an affordability requirement is introduced); comply with affordability requirements under the SEPP, particularly where they are not developed by an affordable housing provider. We suggest maintaining a database of approved projects so that compliance can be more easily monitored. Standard conditions of consent requiring any changes to the designated community housing provider responsible for managing the affordable housing units to be notified to the consent authority or to a centrally maintained electronic register should be operationalised.

Finally, we observe the ongoing debates in Australia and internationally, over the impacts of Airbnb style short term rental markets on the availability of long-term rental supply. We urge the state governments to take steps to preserve permanent housing for permanent residents by limiting Airbnb style ‘home-sharing’ to permanent residences only (e.g. guest rentals for a maximum of 45 nights total in a calendar year and up to 4 separate bookings).

We have attached relevant research references and would be pleased to provide additional information or further advice, if required.

Yours sincerely,

Dr Laurence Troy

Dr Catherine Gilbert

Dr Caitlin Buckle

Professor Nicole Gurran

Professor Peter Phibbs

9 September 2020

**References to some of our relevant research – please contact us if you are unable to access this material.**

Gurran, N., Gilbert, C., Gibb, K., van den Nouwelant, R., James, A. and Phibbs, P. (2018) *Supporting affordable housing supply: inclusionary planning in new and renewing communities*, AHURI Final Report No. 297, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/final-reports/297>, doi:10.18408/ahuri-7313201.

Gurran, N., Phibbs, P., Gilbert, C., Bramley, G. and Austin, T. (2012) *Quantifying planning system performance and Australia's housing reform agenda: an Investigative Panel*, AHURI Final Report No. 191, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/final-reports/191>.

Troy, L., Van den Nouwelant, R., Randolph, B. (2018) *State Environmental Planning Policy (Affordable Rental Housing) 2009 and affordable housing in Central and Southern Sydney*, City Futures Research Centre, UNSW Sydney.

Troy, L., Van den Nouwelant, R., Randolph, B. (2019) *Occupant Survey of Recent Boarding House Developments in Central and Southern Sydney*, City Futures Research Centre, UNSW Sydney.

Troy, L., van den Nouwelant, R., Randolph, B. (2020) *Secondary Dwellings in Central and Southern Sydney*, City Futures Research Centre, UNSW Sydney.

17<sup>th</sup> August 2020

Title: **Explanation of Intended Effect for new Housing diversity SEPP**  
Department Reference: **IRD20/19482**

To whom it may concern

I write this letter in response to the release of the Explanation of Intended Effect for new Housing Diversity SEPP in July 2020 and the Planning for Boarding House Development Working Group Report.

I commend the Government for the initiative as a step in the right direction to allow opportunities for innovation in housing to create diversity that suits our evolving demographics. I am especially buoyed with the inclusion of Definitions for 'Student Housing', 'Build to Rent' (BtR) and 'Co-Living' and believe that streamlining and consolidating the existing SEPP's is a great idea.

There are however some deeply concerning elements of the document that in my opinion will almost certainly and possibly unintentionally stifle both current and future BtR and Co-Living developments in NSW if the Policy is not altered from the intended Effects set out in the report. It is also my opinion that Government may not be aware of the negative implications of elements of the proposed Bill.

The intent of this correspondence is to assist Government by highlighting the areas of concern and in the process seek consideration from Government for practical and logical improvements to the proposed Bill prior to its submission to parliament to ensure that the Policy instigates positive change and outcomes rather than stagnate or even destroy these new housing sectors.

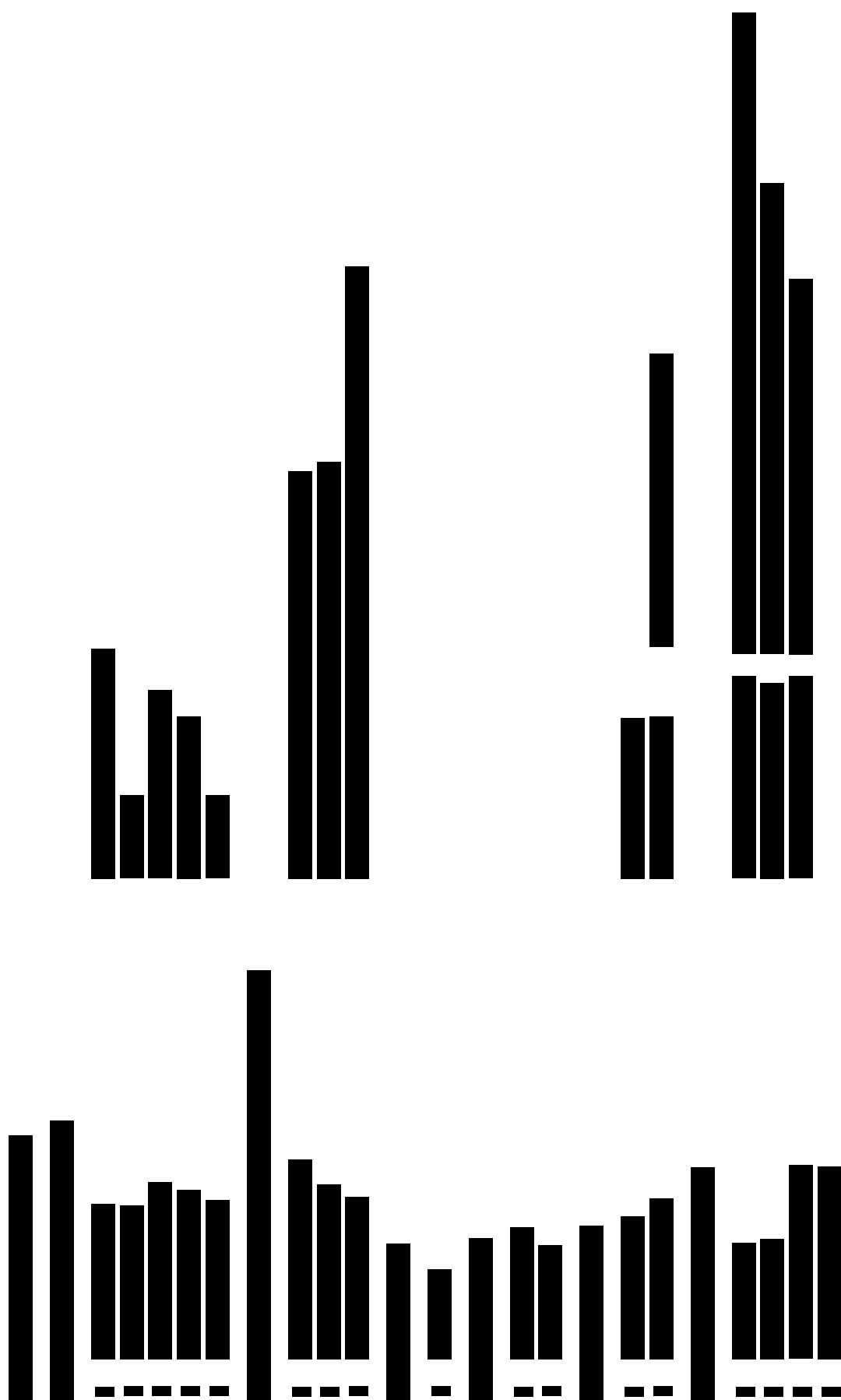
### **Experience to Comment**

The author of this document has the following relevant experience in the BtR & Co-Living space.

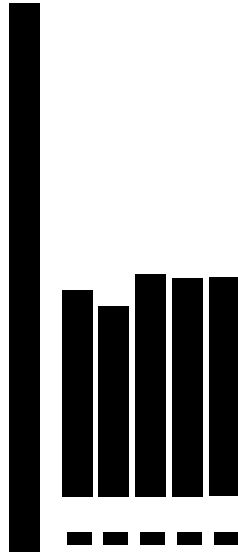
- Has been involved within Build to Rent market since 1995, having developed over 700 rental properties in the Greater Sydney area.
- Is a developer within the ARHSEPP (Boarding Houses) since 2013 and has experienced firsthand the approach of Local Government to stifle development in this space.
- Successfully appealed a Planning Refusal in the Land & Environmental Court in 2016.
- Has developed a pipeline of \$1.5 billion worth of affordable, mixed use, Build to Rent and Co-Living developments across Sydney, attracting the attention of the largest Master-planned land holders in the Greater Sydney Basin.
- Urban Revolutions holds the Support of several Key Worker Associations for our housing initiatives including the Police, Nurses & Mid Wives, Public Service and Health Services and providing priority access for essential workers.
- Has extensively lobbied all levels of Government specifically on Build to Rent and Co Living (see list below).
- Holds a 'Private Tax Ruling' that unlocks BtR and Co-Living for large scale investment.
- We have \$1.5 billion of BtR and Co-Living development in the pipeline.



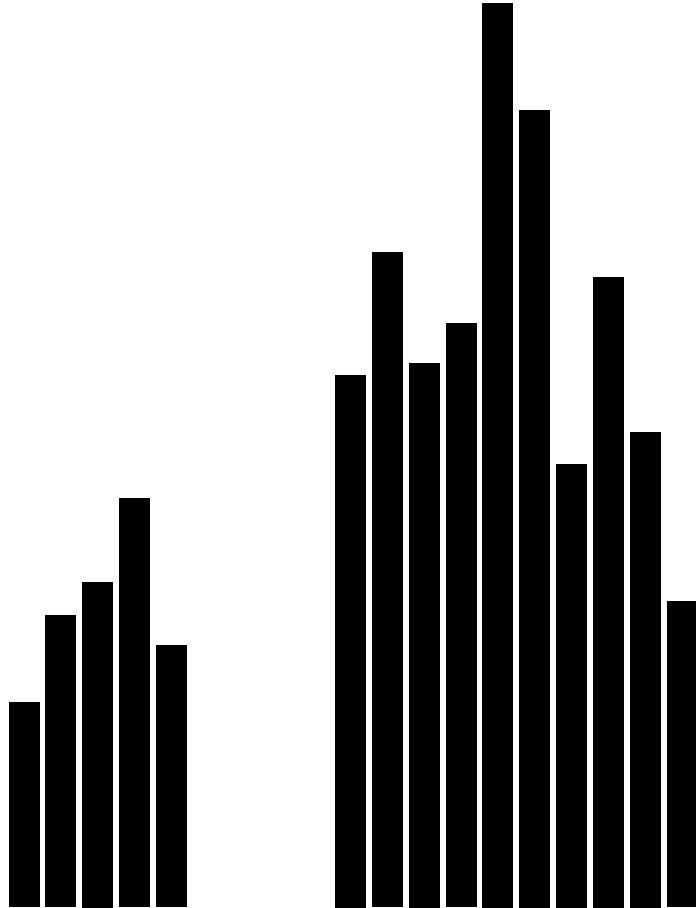
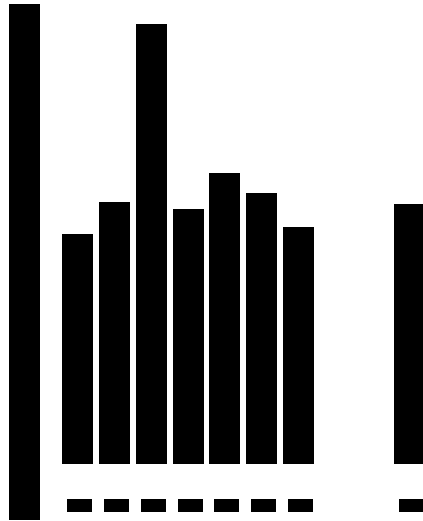
GOVERNMENT & AGENCY ENGAGEMENT



FEDERAL GOVERNMENT



LOCAL GOVERNMENT



## Affordable Housing Definition and How Affordability is Calculated?

It is my opinion that you cannot begin to fix the affordable housing issues, without fixing the definition of what affordable is.

The current definition does not distinguish between 'Affordable Housing' and 'Housing that is Affordable'. The result of this is that you can have housing that technically meets the definition of Affordable Housing' but it is not affordable to Low or Moderately Low-income households.

Government needs to acknowledge within the SEPP that whilst there is a difference between 'Affordable Housing' and 'Housing that is Affordable', if the desired outcome of increased supply of improved affordability, then it should be included to satisfy the definition and any associated incentives should apply.

The current definition for Affordable Housing fails to consider housing typology such as Lone Person, Couple or Single Parent Households. Government cannot expect to create diversity in housing to satisfy a range of demographics, without a range of affordability definitions.

To repair the current failings of the definition, it is my belief that there should be multiple definitions for Housing Affordability that assists both Council and a Proponent for a Development to determine the Demographic group that their intended Development will serve.

The current definition of Affordable Housing is:

*Affordable housing is housing that is appropriate for the needs of a range of very low to moderate income households and priced so that these households are also able to meet other basic living costs such as food, clothing, transport, medical care and education. As a rule of thumb, housing is usually considered affordable if it costs less than 30% of gross household income <sup>[1]</sup>.*  
<https://www.facs.nsw.gov.au/providers/housing/affordable/about/chapters/what-is-affordable-housing>

People described as being on a very low income are those earning less than 50% of the NSW or Sydney median income, depending on where they live <sup>[1]</sup>. They include workers in a range of lower paid occupations, particularly in areas such as retail or manufacturing, as well as people earning the minimum wage <sup>[2]</sup> or who are on an aged or disability pension or other government benefit. People earning more than 50% but less than 80% of the NSW or Sydney median income are described as earning a low income. They include many people working in jobs such as a childcare worker, secretary or cleaner.

People described as being on a moderate income are those earning between 80-120% of the NSW or Sydney median income. They may include people working in occupations such as teaching, policing or nursing, particularly if they are in earlier stages of their careers <sup>[3]</sup>.

<https://www.facs.nsw.gov.au/providers/housing/affordable/about/chapters/who-are-very-low-to-moderate-income-earners>

2020-21 NRAS Year		
Household Composition	Initial Income Limit	Existing Tenant Income Limit*
One adult	\$52,324	\$65,405
Two adults	\$72,341	\$90,427
Three adults	\$92,358	\$115,448
Four adults	\$112,375	\$140,469
Sole parent with one child	\$72,391	\$90,489
Sole parent with two children	\$89,748	\$112,185
Sole parent with three children	\$107,105	\$133,882
Couple with one child	\$89,698	\$112,123
Couple with two children	\$107,055	\$133,819
Couple with three children	\$124,412	\$155,515

Rents for affordable housing are set in one of two ways.

**Option 1:**

The first is to set the rent as a discount of the current market rent, this means the rent is usually between 20% and 25% below the market rent. Where rent is set this way, the amount you pay will depend on the market rent for a similar property in the same area.

**Option 2:**

The second is to set the rent as a proportion of a household's before tax income. Where rent is set this way, households may be charged between 25% and 30% of their 'before tax income' for rent. Different affordable housing managers set the rent differently and sometimes they use both methods across the properties they manage. It usually depends on how the property was funded and the circumstances of the tenant.

The main problem with the current definitions in relation to the proposed outcomes of the new SEPP is that if there is no existing 'equivalent' stock available as a comparable, there is no way to apply the discount rate of 20%. This method also fails to acknowledge that most BTR product is fully furnished and serviced as part of the rental price. Accordingly, Local Government officials disregard these costs in their deliberations of what Affordable is.

The problem with the second pricing option is that Local Government does not accept this method when assessing a development application as they have no way to monitor what may eventuate in the future.

It is our opinion that the solution lies in a third option, in defining the value (or rental price) that aligns with the NRAS calculations for any given year to set the benchmark for affordability. Whilst this appears at face value as the same as Option 2, setting the price to a government created document such as the NRAS Year chart, the definition of affordable becomes more definitive. Below is a recommendation of how this is best achieved.

**Recommendations:**

A third definition for Affordable Housing should be added to benchmark off the NRAS Year Chart. These figures can be updated annually in accordance with CPI/Inflation and other factors as Government deems necessary.

The table below has extracted the salary ranges as set by the annual NRAS year Chart 2020/21 above and determines an affordable rental price for particular salary ranges. The key difference between ‘option 2’ of the current definition and this recommendation is that Council does not have to rely on monitoring whether the occupants salary ranges meet the rental price agreement and the operator can be audited annually to ensure that their rental price/s sit within the dollar values prescribed below and as calculated by 30% of total before tax income per week.

The proposed option 3 definition satisfies the intent of the Affordable Housing Definition and is easily monitored on an annual basis. The definition will align stakeholders to the asset class including Policy Makers, Consent Authorities, Developers, Valuers and Financiers, providing certainty across the board.

	SINGLE ADULT	TWO ADULTS	SINGLE PARENT	COUPLE WITH CHILD
Annual Salary	\$52,234	\$72,341	\$72,391	\$89,698
Weekly Income	\$1006	\$1391	\$1392	\$1725
30% of total income (per week)	\$302	\$417	\$417	\$517

Price protections could be easily mandated to protect against unscrupulous developers/operators by the following processes:

1. The Developer must provide indicative prices for the proposal as part of the DA submission.
2. An annual Audit of the rental prices for each lodging is to be prepared and certified by a CPA or similar and is provided to the project PCA to demonstrate the efficacy of operations when compared against the intended outcomes of the DA and alignment with the annual NRAS chart.
3. We propose that for registration of a boarding house to be renewed, a 'minimum' of 80% of the annual weekly rental prices of the proposed housing product must be provided at a weekly rental price that equates to the intended outcome of the annual NRAS chart.
4. The proposed protections are not onerous on the operator or PCA and a nominal fee may be required for filing by the PCA similar. This simple administrative compliance process is consistent with safety requirements such as an Annual Fire Safety Statement and therefore would not be deemed onerous by the operator.

Option 3 above will place greater certainty on the implementation of SEPP70 to development applications. Based upon discussions had with numerous Local Governments, it is their intent to apply SEPP70 as a tax on all proposed housing developments, primarily as a way to make affordable housing projects unviable. This proposed revised definition will stop Local Government from applying the tax to affordable housing development proposals.

The intended outcomes of the recommendation would:

- o Set a clearer and more useable guideline for what housing affordability is and how a proposed development may satisfy the definition of 'Affordable'.
- o Provide flexibility within the definition to encourage housing diversity whilst achieving the same outcome.
- o Increase the supply of housing that is 'fit for purpose' for various demographics, especially those not currently served including lone person, couples' and single parents.
- o Supercharge development investment and employment post COVID.
- o Create responsibility on the developer/operator to ensure that they have considered Demographic demand as part of their development application.
- o Place greater accountability on the developer to maintain rental prices that are defined as affordable by implementing annual certification. Penalties of deregistration of the operation may apply for non-complying operations.
- o Council cannot unnecessarily or unreasonably increase taxes including such as S.7.11 and SEPP 70 on projects that propose affordable housing.

# Build to Rent Definition

We are pleased that State Government has considered our previous recommendations to establish a definition for BtR which is similar to the UK (RICS) definition. The proposed definition is clear, concise and unambiguous and provides the necessary flexibility to encourage innovative solutions.

## Build to Rent - Proposed Planning Provisions

### *Location Requirements (pg. 8)*

Recommendation: Whilst we support the proposed compulsory permitted use in zones R4, B3, B4, B8 and R3 where RFB's, we also recommend that this is extended to B1 and B2 zonings where RFB's are permitted.

### *Design Guidance (pg. 8)*

Recommendation: One of the biggest risks to the success of BTR and Co-living is SEPP 65. Put simply, the principles of SEPP 65 will destroy most innovation in this space as it completely fails to consider alternate living opportunities.

Our recommendation is to completely disregard SEPP 65 for all BTR and Co-living projects and highlight below the cause and effect of this policy on innovation.

SEPP 65 was developed to create a Residential Flat Building (RFB) design guide that was supposed to improve building design and useability. It is our opinion that to a large extent, this policy does not work on RFB's and has an even greater negative and stifling impact on BTR and Co-living innovation. It does not provide any tangible improvement to design and has eroded the liveability and functionality of apartment buildings.

To this end, we believe that the success of Co-living in particular requires flexibility that SEPP 65 does not allow for, does not consider how the physical building should be designed to significantly improve design aesthetic, functionality, liveability, connectivity, collaboration and improved affordability.

Mandating SEPP 65 for BtR and Co-living will destroy more than \$1.5 billion dollars in projects in the next 10 years.



There are **SEVEN** 'Active Measures' that attributes to a building efficiency philosophy for BtR and Co-living includes:

1. Eliminate or greatly reduce mandated private balconies.
2. Eliminate or substantially reduce private laundries.
3. Eliminate or substantially reduce private hallways.
4. Reduce the allocation of mandated private car parking spaces.
5. Eliminate or substantially reduce personal private open space (P.P.O.S.)
6. Substantial reduction of internal walls.
7. Increase flexibility in apartment design size to cater for more demographic useability and to improve environmental outcomes. This will create more units per level (due to a reduction in size) of independent space.

# BALCONIES

## SEPP 65

Requires that every apartment must have a minimum of 4m<sup>2</sup> of private balcony space.

- Developers have taken the opportunity to locate unattractive air conditioning units in this space, limiting their use and functionality.
- The resident uses the balcony to sit a BBQ that may be used at limited times throughout the year and hang out their washing.
- All three prominent uses make the building unattractive from the streetscape

## Micro Villa Philosophy

- Private Balconies are a waste of space
- They are under-utilised space
- Private balconies embrace an isolation mindset and provides limited opportunity for connection and collaboration.
- There are better ways to improve the external aesthetic and articulation of a building
- Space savings can be repurposed back into communal space to make more functional, useable and sociable
- Cost savings can be achieved which lowers rental prices

## Calculated Savings based upon Micro Village concept

- Re-purpose private space at an agreeable ratio and converted into communal decks/balconies.

# PRIVATE LAUNDRY

## SEPP 65

SEPP 65 does not mandate the size of a laundry; however, it does require each apartment to have a private laundry for compliance

- Some developers have re-interpreted the requirement and provided laundry facilities in a cupboard or extension to the kitchen, instead of a dedicated laundry space.

- For the user, there are two outcomes achieved

1. paying for wasted space with a dedicated laundry
2. having a washing machine and dryer within the kitchen or bathroom space, with a sink doubling up as the laundry tub

## Micro Villa Philosophy

- Private laundries are unnecessary
- They are a waste space
- The laundry spaces are often crammed in making them unusable
- Lack of space makes the laundry a dumping ground for dirty clothes
- Nobody likes doing laundry in isolation
- Doing the laundry can become a social experience
- Capital costs of 1 for 1 washing machines and dryers is economically unviable and environmentally unsustainable
- Space savings can be repurposed back into communal laundries to make more functional, useable and sociable spaces
- Cost savings can be achieved to lower the cost of rent

## Calculated Savings based upon Micro Village concept

- Re-purpose private laundry space at an agreed ratio and provide sufficient communal laundry facilities and dedicated drying spaces for sharing and community engagement.

# PRIVATE HALLWAYS

## SEPP 65

SEPP 65 does not mandate that an apartment requires hallways. The SEPP and some council DCP's require minimum apartment sizes which makes the flow of the apartment space impossible without a hallway being introduced.

## Micro Villa Philosophy

- Private hallways are a waste of space
- They are under-utilised space
- Flow and access can be achieved by eliminating or significantly reducing hallways by reducing the number of rooms within an apartment. i.e. unwanted bedrooms, extra living spaces and laundries
- Space savings can be repurposed back into communal space to make more functional, useable and sociable environments
- Cost savings can be achieved to lower the cost of rent

## Calculated Savings based upon Micro Village concept

Re-purpose private hallway space at an agreeable ratio to communal rooms such as:

- IT & learning spaces
- Pool house cabanas
- Communal workspace
- Communal lounging spaces

# CAR PARKING PROVISIONS

## SEPP 65

SEPP 65 is part of the problem for parking, however the greater obstacle for reduced parking is local councils. Typically, a single parking space is required for 1 & 2 bed apartments and it is common for a penalty of 0.5 of a space or more for any apartment with 3 bed or more.

- Councils argue that additional parking reduces traffic congestion by getting cars off the street. How does more parking reduce for more cars reduce traffic congestion?

## Micro Villa Philosophy

- You cannot fix traffic congestion by housing cars; you fix it by reducing the number of cars being used and the time that they are being used
- There are many ways in which private car use can be reduced, car sharing, car-pooling, public transport, walking, bicycle, bringing amenity 'in-house' so you do not have to travel, bring affordable housing closer to employment, creating transit-oriented developments
- Car parking space are wasted space for 75% of the day
- It is irrational to require a roof over a car
- They are an unnecessary expense – approximately \$50-60k per space or 15-20% of the cost of an affordable housing lodging
- They create massive land fill issues
- They create soil salination issues
- They create water related issues in buildings
- They consume unnecessary energy – as ventilation and artificial lighting costs are required
- They are under-utilised space
- They make construction slower – making building cost more
- Space savings can be repurposed back into communal space to make more functional, useable and sociable
- Cost savings can be achieved
- In years to come they will be a redundant hole in the ground

## Calculated Savings based upon Micro Village concept

Offset parking demand by offering transportation initiatives such as:

- Mobility as a Service: Sharing, pooling, Go Get, Uber vouchers, Car next door
- Prime location of project: Reduction in use of vehicles for rat running
- Planning for Deliveries: Drone pad, allocated locker storage for online order deliveries

# PERSONAL PRIVATE OPEN SPACE (P.P.O.S.)

## SEPP 65

SEPP 65 requires that 10m<sup>2</sup> of PPOS is required for every unit

## Micro Villa Philosophy

- Placing fences around spaces is creating unusable and unfunctional outdoor spaces
- Fencing off private spaces encourages everyone to require a private BBQ, a private outdoor dining table, lounging, a lawn mower and edging machine etc
- Fencing creates excessive and undesirable overshadowing
- Fencing costs money
- Fencing makes it harder to maintain property by creating obstacles and greater edging
- Fencing off spaces makes all areas look smaller
- Fencing is exclusionary, we want to embrace sharing, community and collaboration and create enough spaces to ensure that you can escape to a private space without having to fence it off
- If all outdoor spaces are communal, they can save time and cost for the tenant in maintenance
- If clients wish to undertake some private gardening, this can take place in the dedicated community garden

## Calculated Savings based upon Micro Village concept

Fewer fences:

- reduces the cost of construction
- reduces exclusion zones and segregation
- improves operational efficiencies by reducing maintenance costs
- improves effectiveness, functionality and overall usage of the space

# INTERNAL WALLS

## SEPP 65

SEPP 65 does not have any requirement on the amount of internal walls within an independent unit. However, as the space of an apartment grows, spaces are typically delineated by erecting walls.

## Micro Villa Philosophy

- Whilst walls delineate spaces and the use of spaces, erecting walls makes a space look smaller
- The bigger the apartment, the more floor space is required to create walls and associated hallways that are created by the walls.
- Walls create dead space that adds little to no value to the occupier
- Walls cost money to erect
- Walls are typically an ongoing maintenance burden with patching and painting
- Walls make it more difficult to control the climate within space, costing more in initial capital outlay and ongoing running costs
- Flexible design using innovative, modular and relocatable joinery can transform space to allow for a variety of functions as the occupier requires it
- In the future, retrofitting and renovating units will be easier by requiring less demolition

## Calculated Savings based upon Micro Village concept

Fewer walls:

- reduces the cost of construction
- improves operational efficiencies by reducing maintenance costs of painting and wall repair
- improves operational efficiencies by reducing climate management costs

# UNITS PER FLOOR

## **SEPP 65**

SEPP 65 proposes a limit on the number of units per floor. Whilst this is just a guide, it will be one of the key elements that Local Government will target to try and demonstrate over densification.

## **Micro Villa Philosophy**

- Smaller units will inherently create more units per level i.e. If the units are half the size, their will likely be double the number of units in the same amount of space.
- There should be no limit on the number of units per level provided that fire, Section J and acoustics are all compliant.



## *Development Standards (pg. 9)*

### Maximum Building Height

It is agreed that Local government should mandate maximum building heights.

### FSR

We do not support Local Government determining FSR controls and we believe that FSR is an archaic standard to measure bulk and scale.

**Recommendation:** FSR standards should be removed.

### Car Parking

Many BtR developments around the world have coworking or even hybrid hotel models intertwined as a true mixed-use development.

**Recommendation:** Any mandated parking should consider hours of use. for example, most parking for commercial is between 9am-5pm and generally most parking for co living is between 6pm – 8am. Accordingly, there should be an acknowledgement that parking should not require to be duplicated to have dual use for parking.

Parking should be de-coupled from the tenancy agreement and offered as an optional extra for an added fee. When people must pay extra for something, they are less likely to use it.

There should be mandated discounts off minimum parking requirements for BtR and Co-living developments that offer other modes of transport such as organised car sharing, car-pooling, ebikes, buses on demand or high walkability.

There should be mandated parking discounts for true mixed-use developments that reduce car running by offering facilities onsite, negating the need for external travel.

## Minimum lease terms (pg. 9) and pg. 7 Table 1 Comparison chart

We agree as a general rule that BtR should have minimum lease periods, there should be some flexibility to provide a temporary housing solution.

We cannot agree that tenancy should be mandated at 3 years or more. This is a dangerous policy and is likely to have tenants and operators in court. For one moment consider someone who has signed a 3-year lease, 1 month later they either lose their job or conversely are relocated or they accept another job overseas. In every example, the resident is now locked into a tenancy agreement for three years. This is madness. We believe that the proposal of a 3-year tenure is endeavouring to fix a problem that does not exist. It is estimated that approximately 30% of all households are rented across the country. This totals in the millions of homes but this issues with security of tenure are miniscule in the grand scheme of things. The vast majority of landlords appreciate long tenure periods and the vast majority of tenants are able to have the tenure they wish.

**Recommendation:** BtR should maintain minimum 6-month tenure, but if the customer service is good, the operator would hope that the customer would stay for a longer period.

We believe that a minimum 80% of the BtR developments should have permanent residents of minimum 6 months rental, however BtR has the opportunity to provide flexibility for those vulnerable people who are going through a period of misfortune, for example a death of a partner, separation or divorce, loss of a job or even loss of other rental accommodation. Providing a 20% opportunity for BtR to offer short term accommodation from 14 – 60 days provides that flexibility to cater for those in a period of need and provide some stability. 14 days or more is a sufficient time to limit corporate travel or holiday makers in most instances.

The policy should consider that future tenancy models for the best BtR projects may provide even greater convenience to the customer as a subscription or membership model where the customer may be able to move from location to location and not have the risk of breaking a lease.

## Other flexibility

There should be ample flexibility for BtR to offer other initiatives such as rent to buy over a period.

**Recommendation:** Provide a cap to provision for some 'Rent to Buy' opportunities within each BtR development, say up to 20% in the first 5 years, up to 40% in the first 10 years and after 15 years a BtR may be fully strata subdivided.

## Co-living Definition

We are pleased that our February 2020 recommendation to have specific guidelines and controls for Co-Living is being considered. We see great benefit in the addition of a new section to the ARHSEPP that exclusively deals with Co-Living, providing controls that specifically relate to 'micro-villa' typologies, amenity and facility requirements, parking and facility management. The proposed definition is clear, concise and unambiguous and provides the necessary flexibility to encourage innovative solutions.

### *Development Standards (pg. 12)*

#### Maximum Building Height

It is agreed that Local government should mandate maximum building heights.

#### FSR

We do not support Local Government determining FSR controls and we believe that FSR is an archaic standard to measure bulk and scale.

**Recommendation:** FSR standards should be removed.

#### Car Parking

0.5 car parking spaces per dwelling effectively makes a co-living development the highest ratio of parking per square metre (GFA) of any form of development. Considering that we are endeavouring to make housing more affordable, setting the highest ratio on Co-living is backwards.

Many BtR and Co-living developments around the world are mixed use developments with coworking or even hybrid hotel models intertwined.

#### **Recommendation:**

Any mandated parking should consider hours of use. for example, most parking for commercial is between 9am-5pm and generally most parking for co living is between 6pm – 8am. Accordingly, there should be an acknowledgement that parking should not require to be duplicated to have dual use for parking.

Parking should be de-coupled from the tenancy agreement and offered as an optional extra for an added fee. When people must pay extra for something, they are less likely to use it.

There should be mandated discounts off minimum parking requirements for BtR and Co-living developments that offer other modes of transport such as organised car sharing, car-pooling, ebikes, buses on demand or high walkability. Must not refuse clauses should be provided for these discounts.

There should be mandated parking discounts for true mixed-use developments that reduce rat running by offering facilities onsite, negating the need for external travel.

If an operator can demonstrate that they are providing a minimum of 80% of housing that satisfies one of the 3 definitions of affordable housing above, they should be provided a mandated discount in line with a social housing provider and a 'must not refuse clause applied'.

#### Room Sizes (pg. 13)

The proposed indicative room size of 30-35m<sup>2</sup> will stifle innovation and is the wrong standard to be mandating. The best examples of Co-living globally can be anything from a room in a hotel such as Selina's, or Outside who convert houses into share housing arrangements, or Ollie, Common or Quarters who split apartments in Co-living spaces. If this proposed mandating of room size were passed, I would estimate that 90% of the current global Co Living brands would not comply.

**Recommendation:** Remove the minimum room sizes and allow the market to provide a range of living typologies.

#### Communal Living Space (pg. 13)

The minimum 20m<sup>2</sup> + 2m<sup>2</sup> per room above 10 rooms are a good starting point for the calculation of communal space.

#### Private Open Space

The proposal of 4m<sup>2</sup> per room is a mandate that should be avoided at all costs at it is completely against what Co-living is offering to be which are places of community, social and collaboration. This 4m<sup>2</sup> of P.P.O.S. will also effectively destroy the financial modelling of most Co-living spaces.

**Recommendation:** Have no minimum requirement for private open space and allow Co-living designers to provide ample communal living spaces so that you can either collaborate or find a private space when you require it.

#### Design Guidelines

We generally support the idea of design guidelines to accompany the SEPP for built form, amenity, storage, solar access, natural ventilation, visual and acoustic privacy.

**Recommendation:** We believe that the formation of a Plan of Management and House Rules, like that required by Boarding Houses is a good idea to maintain for Co-Living.

## Updating Existing Provisions

Proposed Boarding House Definition (pg. 14)

We cannot support the addition of definition '(b) is managed by a registered CHP' and see no valid reason for this implementation. There are many Retail 'mum and dad' investors that have Registered Boarding Houses who provide a valuable service to their community. There is no evidence that I am aware of that suggests that a CHP provides better service or a cheaper price on a 'like for like' bases to that of a retail investor. This definition completely disregards the most important stakeholder, the customer. I am yet to meet a resident of a CHP operated Boarding House that says that the customer experience is high. On the flip side, companies like UKO, Treehouse, Urbico and Vuvale have boarding house operations that provide affordable accommodation in great locations and offer high levels of customer experience. Accordingly, if government cares about the customer, they cannot proceed with this definition.

This definition will only remove investment, perhaps that is the desired outcome of Government.

Is this proposal retrospective whereby existing investors must sell to CHP's, or just new projects?

**Recommendation:** definition '(b) is managed by a registered CHP' from the proposed definition.

Proposed Boarding House Definition (pg. 15)

We do not agree that a Boarding House is a type of residential accommodation. A definition such as this only confuses the investment type by dis-aligning with Tax law.

**Recommendation:** Boarding Houses are defined as 'Commercial Residential Premises'.

*As see more information on Tax related issues below.*

Minimum lease terms

We agree as a general rule that Co-living developments should have minimum lease periods, there should be some flexibility to provide a temporary housing solution.

**Recommendation:**

We believe that a minimum 80% of the Co-living developments should have permanent residents of minimum 3 month rental, however Co-living has the opportunity to provide flexibility for those vulnerable people who are going through a period of misfortune, for example a death of a partner, separation or divorce, loss of a job or even loss of other rental accommodation. Providing a 20% opportunity for BtR to offer short term accommodation from 14 – 90 days provides that flexibility to cater for those in a period of need and provide some stability. 14 days or more is a sufficient time to limit corporate travel or holiday makers in most instances.

The policy should consider that future tenancy models for the best BtR projects may provide even greater convenience to the customer as a subscription or membership model where the customer may be able to move from location to location and not have the risk of breaking a lease.

## **Planning and Tax Law**

Planning and Tax law are extremely intertwined and for this reason, any new Planning or Tax Policy should be carefully considered in relation to the intended and unintended impacts. Based upon the information provided to date in the Explanation of Intended Effect document, it is my fear that this has not been part of the consideration and therefore is likely to be the cause of the failure of this proposed Policy.

I highlight the following issues for consideration:

- Residential Premises vs Commercial Residential Premises
- Impact of Stamp Duty
- Impact of Land Tax
- Impact of GST

We note that the NSW Government has introduced a Bill which, if enacted with provide new duty and land tax incentives for certain build-to-rent projects. As set out further below, for qualifying projects these incentives include:

- a 50% reduction in the taxable value of the land (reducing the land tax otherwise payable at general rates)
- an exemption from "surcharge land tax" (the foreign investor land tax surcharge on residential land)
- an exemption from "surcharge purchaser duty" (the foreign investor duty surcharge on residential related property).

These concessions may be later clawed back if certain conditions are not satisfied for a period of 15 years.

Whilst this is a promising development, it remains less than the incentives that are otherwise already afforded to a Boarding House Development. The table below summarises the current Tax protocols for comparison.

PROPOSED 'BUILD TO RENT' TAX CHANGES

29th July 2020

Item	Proposed Changes	Current Boarding House Incentives	Urban Revolutions - Private Tax Ruling	IMPACT
Generally	<div>1 50% reduction in the taxable value of the land (reducing the land tax otherwise payable at general rates)</div> <div>2 An exemption from 'surcharge land tax' (the foreign investor land tax surcharge on residential land)</div> <div>3 An exemption from 'surcharge purchaser duty' (the foreign investor duty surcharge on residential related property).</div> <div>4 GST - Nil (BTR remains to be defined as Residential Premises'</div> <div>5 These concessions may be later clawed back / certain conditions are not satisfied for a period of 15 years.</div> <div>This Bill is congruent and the timing for it being enacted is TBC</div>	<div>Exempt from Land Tax already</div> <div>This exemption already exists as a boarding house is a 'Commercial Residential premises'</div> <div>This exemption already exists as a boarding house is a 'Commercial Residential premises'</div> <div>Defined as Commercial Residential Premises</div> <div>Can use the margin scheme and be related GST liability during development phase</div> <div>Remains current</div>	<div>We already have 100% exemption as long as we are defined as a boarding house</div> <div>We already have this exemption as long as we maintain our definition under the ruling as a 'Commercial Residential premises'</div> <div>We already have this exemption as long as we maintain our definition under the ruling as a 'Commercial Residential premises'</div> <div>Our ruling defines us as Commercial Residential premises and allows a discounted GST rate of 5.5%.</div> <div>We have the ability to utilise the margin scheme and be related GST liabilities during development phases</div> <div>Our ruling is current</div>	<div>Prior to the Bill we had a 100% land tax advantage compared to BTR and Coliving. This advantage is now reduced by 50%. We maintain the same playing field for existing Boarding House Operators</div> <div>Prior to the Bill we had a 100% advantage for international investors regarding Land tax surcharge. we have now lost our advantage. It is now a level playing field</div> <div>Prior to the Bill we had a 100% advantage for international investors regarding Stamp Duty surcharge. we have now lost our advantage. It is now a level playing field</div> <div>We maintain 100% of our advantage relating to GST. We maintain the same playing field for existing Boarding House Operators</div> <div>We allow our stock to be recycled through sales after renovation. I am not sure if this is a good idea. We have to see how it plays out.</div> <div>We maintain our advantage to non equivalent to Boarding House operators.</div>
Land Tax Eligibility Requirements	<div><b>Land Tax Reduction - Eligibility Requirements</b></div> <div>The value of the land on which a build-to-rent property has been constructed will be discounted by 50% if:</div> <div>• a building is situated on the land</div> <div>• construction commenced on or after 1 July 2020</div> <div>It will be the Chief Commissioner's responsibility to be satisfied the building will be used and occupied as a "build-to-rent property" in accordance with the Treasurer's Guidelines.</div> <div>If the relevant land will only be used and occupied partly for a build-to-rent property, the concession may be available on a pro rata basis.</div> <div><b>The Treasurer's Guidelines</b></div> <div>At the time of writing, the Treasurer's Guidelines have not been released (and this would not be expected until after the legislation is enacted).</div> <div>The guidelines will provide guidance on when a building is taken to be a 'build-to-rent property'. This may include guidance in relation to the:</div> <div>• planning considerations that may be relevant to the building</div> <div>• return of the ownership and management of this land and building.</div> <div>The guidelines may also set out circumstances in which the land owner will be required to provide an undertaking to not:</div> <div>• subdivide the land; or</div> <div>• otherwise divide the ownership of the land.</div> <div>Based on early media reports, it appears the requirements will be that:</div> <div>• no Sydney metropolitan projects, the building must have at least 50 apartments</div> <div>• there must be one owner.</div> <div><b>Surcharge Land Tax Exemption - Eligibility Requirements</b></div> <div>The eligibility requirements for the land tax reduction outlined above act as a "gateway" for the surcharge land tax exemption.</div> <div>The owner must first be entitled to a land value reduction under those provisions before the surcharge land tax exemption can apply.</div> <div>The exemption applies to land owned as at midnight on 31 December in a year (the "basing date"), starting with land owned as at midnight on 31 December 2020.</div> <div>The additional eligibility requirements for the surcharge land tax exemption are that:</div> <div>• the building must be a building that is a build-to-rent property on the land</div> <div>• there must be a building that is a build-to-rent property on the land</div> <div>• that building must have been constructed by the owner or a related body corporate.</div> <div>Note that the building can be constructed either before or after the basing date (meaning a refund may become retrospectively available).</div> <div>The exemption will apply for a maximum period of 20 years. It will not apply to land owned as at midnight on 31 December 2040.</div> <div><b>Surcharge Land Tax - Refunds</b></div> <div>A surcharge land tax refund will be available, and the eligibility requirements are satisfied, the owner may be entitled to a refund.</div> <div>This refund must be applied for:</div> <div>• within 12 months of the Australian corporation becoming entitled to the refund</div> <div>• no later than 10 years after the land tax year concerned.</div> <div>The refund may be for the full surcharge land tax amount paid or a lower amount as set out in an order made by the Treasurer.</div> <div><b>Surcharge Land Tax - Exempt Person</b></div> <div>The Chief Commissioner may approve a "foreign person" as an "exempt person" for particular land if the Chief Commissioner is satisfied that person is likely to be entitled to a surcharge land tax refund.</div> <div>This allows the exempt person to claim the exemption without having to first pay the surcharge land tax and then seek a refund.</div> <div>The approval may be subject to conditions.</div>	<div>Land Tax exempt as long as rooms are rented according to mandated rates.</div> <div>Either way we will still pay land tax pro rata for the hotel and commercial spaces, but exempt on the residential parts</div>		
Stamp Duty	<div><b>Surcharge Purchaser Duty - Eligibility Requirements</b></div> <div>Once again, the eligibility requirements for the land tax reduction outlined above act as a gateway to the surcharge purchaser duty exemption.</div> <div>The owner must first be eligible for a land value reduction under those provisions before a surcharge purchaser duty exemption can apply.</div> <div>The additional eligibility requirements are that:</div> <div>• the owner of the land must be an "Australian corporation"</div> <div>• the transfer must have been entered into on or after 1 July 2020 (but a transfer made after that date, in conformity with an agreement for sale or transfer entered prior to that date, will qualify).</div> <div><b>Surcharge Purchaser Duty - Refunds</b></div> <div>If surcharge purchaser duty has already been paid, and the eligibility requirements are satisfied, the owner will be entitled to a refund.</div> <div>This refund must be applied for:</div> <div>• within 12 months of the Australian corporation first becoming entitled to a land tax reduction</div> <div>• no later than 10 years after completion of the transfer to the Australian corporation.</div> <div>The refund may be for the full surcharge purchaser duty amount paid or a lower amount as set out in an order made by the Treasurer.</div> <div><b>Surcharge Purchaser Duty - Exempt Transferee</b></div> <div>The Chief Commissioner may approve a person as an "exempt transferee" for a particular transfer (or class of transfers) if the Chief Commissioner is satisfied that person is likely to be entitled to a full surcharge purchaser duty refund. An exempt transferee does not need to pay the surcharge purchaser duty and then seek a refund.</div> <div>The approval may be subject to conditions.</div> <div><b>The Claw Backs</b></div> <div>As noted at the outset, all of the above exemptions and concessions may potentially be cancelled and clawed back if, within a period of 15 years after the land tax reduction first becomes available, the land is subdivided or the ownership of the land is otherwise divided.</div> <div>Further, there may be claw backs if approvals were provided on a conditional basis, or undertakings were provided, and those conditions have not been satisfied or the undertakings were breached.</div> <div>In addition to any tax or duty that may be payable as a result of a claw back, penalties and interest may apply.</div> <div><b>What About Land Acquired and Owned by Foreign Trusts?</b></div> <div>As explained above, the surcharge land tax and surcharge purchaser duty exemptions require the land to be acquired and owned by an "Australian corporation".</div> <div>It is not expressly addressed in the bill, but we expect that this requirement can be satisfied where the Australian corporation acquires and holds the land as trustee.</div> <div>A similar issue may also arise where the land is held by an Australian corporation as bare trustee (nominee / custodian) for a foreign person. This is a common structure for REITs.</div> <div>In relation to the surcharge land tax exemption, we note there is the additional requirement that the building be constructed by the Australian company or a related body corporate. This may suggest that the exemption won't be available where land is held by a bare trustee that does not itself (or via a related company) undertake the construction.</div> <div>To provide certainty, it will be important for Revenue NSW to publicly set out its views on these issues.</div> <div><b>What About Landholder Duty?</b></div> <div>Surcharge duty may also be payable in addition to landholder duty if a "relevant acquisition" is made in a private landholder that has a residential land holding in New South Wales.</div> <div>The surcharge purchaser duty exemption set out in the bill is limited to transfers of residential-related property. It does not extend to surcharge duty on a relevant acquisition in a private landholder.</div> <div>This may be relevant if the investors in an Australian company that owns a qualifying build-to-rent property set the project by selling their interests to foreign investors. The incoming investors may potentially be liable for both landholder duty and surcharge duty.</div> <div><b>And What About...?</b></div> <div>There are other unresolved issues where additional guidance will be needed from either Revenue NSW or the Treasurer (as the case may be). This includes the following:</div> <div>• What is meant by "a building"? Is this to be read strictly as meaning one building? Will the incentives be available if the residential units are spread across multiple buildings on the land?</div> <div>• What is meant by the reference to "land"? Is this limited to a real property title, or can a building be constructed across two or more real property titles (which may be treated as a single "parcel" by the Valuer-General)?</div> <div>• Will the land tax concessions be available where land is leased on a long-term basis from the State or a local government agency and the tenant is deemed the owner for land tax purposes?</div> <div>• How will the concessions work in the context of mixed use developments, where retail / office / commercial premises may be developed together with the residential premises?</div> <div>Can those non-residential parts be strata subdivided and sold without jeopardising the concessions?</div> <div><b>Concluding Remarks</b></div> <div>Individual investors that may own one residential investment property will generally be exempt from land tax on most (if not all) of the value of that property due to the tax-free threshold.</div> <div>This benefit is not available to institutional investors that own multiple residential premises as part of a build-to-rent property. The proposed land tax reduction will go some way to addressing this imbalance and will be welcomed by institutional investors.</div> <div>Of course, institutional investors will also need to take into account other tax obstacles for residential build-to-rent projects, including GST. For foreign investors, the lack of Managed Investment Trust concessions for residential rent may also be a factor.</div>			

### **Unfair tax treatment**

Whilst we believe that BtR and Co-living should not be mandated as exclusively for Affordable Housing only, it is our belief that they can play a significant role in providing flexible and diverse housing typology. To this end, we hope that BtR and Co-living Definitions do not exclusively sit in the ARHSEPP but have a wider application in all planning instruments.

Below is a chart highlighting how different taxes are treated for different housing typologies.

### **Recommendations:**

To ensure that Co-living and BtR do not continue to be disadvantaged by current tax regimes that skew's investment, a level playing field should be created in line with the proposed chart. To achieve this outcome, Co-living and BtR should be split into two categories 1. Affordable rent rate and 2. Retail rent rate. This will help to distinguish how tax should be fairly treated across the typologies.



<b>Tax Regime</b>	<b>Boarding House</b>	<b>Co Living 'Retail Rent Rate'</b>	<b>Co Living 'Affordable Rent Rate'</b>	<b>Build to Rent 'Retail Rent Rate'</b>	<b>Build to Rent 'Affordable Rent Rate'</b>
Stamp Duty Overseas investor surcharge	Exempt	Exempt pending Bill approval	Exempt pending Bill approval	Exempt pending Bill approval	Exempt pending Bill approval
Land Tax	Exempt	To apply @ 50% discount	<b><i>Should be made exempt to be consistent with a boarding house</i></b>	To apply @ 50% discount	<b><i>Should be made exempt to be consistent with a boarding house</i></b>
S.7.11	Discounted rate or Should not exceed Contribution plan	Should not exceed Contribution plan	<b><i>Discounted rate</i></b> or Should not exceed Contribution plan	Should not exceed Contribution plan	<b><i>Discounted rate</i></b> or Should not exceed Contribution plan
S.7.12	Discounted rate or Should not exceed Contribution plan	Should not exceed Contribution plan	<b><i>Discounted rate</i></b> or Should not exceed Contribution plan	Should not exceed Contribution plan	<b><i>Discounted rate</i></b> or Should not exceed Contribution plan
SEPP 70	Should not apply	May apply depending on affordable housing provision	<b><i>Should not apply</i></b>	May apply depending on affordable housing provision	<b><i>Should not apply</i></b>

## Removing Ambiguity

Our personal experience has been that Local Government manipulates the Ambiguity in the wording of the ARHSEPP to refuse applications, even those that are fully compliant. Many legal stoushes can be avoided by removing the ambiguities so that the ARSEPP can operate as it was intended and not as Local Government wishes it to be.

The following clauses are the main causes of ambiguity:

- Recommendations:** It is proposed that ARH SEPP provides 'Clarifications' to provide context to avoid misinterpretation of the SEPP. Areas within the SEPP requiring clarification includes:
- Clause 29 (1) (a) to clean up the ambiguity in the way the clause is written and interpreted by consent authorities.
  - Clause 29 (2) (a) to clean up the ambiguity in the way the clause is written and interpreted by consent authorities.
  - SEPP 65 – Apartment Design Guidelines do not apply.
  - Boarding houses, Co Living and BtR are all class on their own and must not be considered Multi Dwelling Housing for the purposes of planning approvals.

We note that the Local Council workshop highlights that Council finds it hard to win in L&E court due to weak character test laws, we would put it to state government that Local government is taking by their own acknowledgement, extremely weak arguments to court and that is why they are losing. On the vast majority of occasions, the court is ruling in favour of the developer because they are complying with the rules and it is the council who is out of step.

## Local Government

Whilst we can appreciate that Local Government is a key Stakeholder in this process, State Government must not lose sight of the Fact that Local Government themselves are the main problem in being able to deliver housing that is affordable.

Our experience with local government has been one sided and that unless they are willing to change their approach, they should not be viewed as part of the solution to improve affordability, but the root cause for the uplift in costs of affordable accommodation.

It is disappointing to see that the workshop that assisted in the creation of these recommendations, completely fails to provide a balanced view of the impact of the ARHSEPP and the resulting development costs from it. Without a balanced representation of the facts, the recommendations in my opinion have limited validity. Here are just some of the ways that Local Government are manipulating the ARHSEPP process and based upon these realities, it is Local Government who is most greater impacting on the affordability of the finished product.

- Manipulating Objections
- Demanding Excessive Consultancy to increase costs
- Deliberate stalling of ARHSEPP Development Applications
- Inappropriate planning assessment by use of non-conforming methodology
- Raising of excessive taxes to make projects non-viable
- Manipulation of 'Character Test'
- Manipulation of Clause 30a

I provide just a few of my own personal experiences of what lengths Council will go to moth ball affordable housing developments. To provide context, on one development, in our opinion, councils unreasonable actions have added \$38 per room, per week, for 10 years just to pay for the added costs caused by council.

## Unfairness

A common theme that the Local Government Workshop sets out is based upon affordability.

As a general premise, I believe that a boarding house should be affordable, but how affordability is defined is being unfairly measured by Local Government in their assessment.

### **Proposed change to Accessibility Requirements**

On Page 5 of the EoIE, the council workshop has recommended to:

Amend the location and access to facilities' provisions so that point to point transport such as taxi's, hire cars and ride share services, cannot be used for the purpose of meeting the accessibility requirement'.

This recommendation if successful has the potential to force every single ARHSEPP proposal to the L&E court. The reasoning is simple as approximately 98% of all footpaths do not comply with Accessibility requirements from point to point to public transportation. Accordingly, it is impossible to get any development to comply due to factors outside of the control of the developer. There are likely to be instances where a proposed development may be next door to the mode of public transport but still not be compliant due to councils' own non-compliant footpath. There is no good reason not to accept point to point transport such as taxis, hire cars, buses on demand or ride share services to satisfy accessibility requirements.

**Recommendation:** Do not proceed with the Council Workshop recommendation as proposed and provide flexibility for developers who in many instances are providing alternate solutions for the benefit of disabled people due to issues outside of the developers control.

# GST

I have left the most important consideration for the success of both BtR and Co-living until last. For the sector to work, it requires institutional investment and this will not occur at scale whilst BtR and Co-living projects are disadvantaged in comparison to other real estate classes that institutional investment is attracted to. Whilst state government seeks to point out that GST is a federal tax matter, it is the state government who is responsible for the planning system that to a large extent determines the definition by the planning standards that it puts in place.

We have worked on BtR and Co-living developments since 2013. In that time, we have come to work out how to make these developments work. As far as we are aware, we have the only tax ruling that defines our BtR and Co-living as a Commercial Residential Premises 'CRP'. This definition allows our development to be viable where others cannot. There is no more important consideration for this policy and its intended outcomes to do than to ensure it aligns with the requirements of the ATO, without it, the viability for the sector is simply on an unfair playing field.

This document sets out how the state government can ensure that BtR and Co-living can also be part of the affordable housing solution. The simple reality is that if a developer cannot satisfy the definition of 'Commercial Residential Premises', it is not possible to provide housing that meets the current or recommended Affordable Housing Definition. To be clear, a boarding house already is defined as a Commercial Residential Premises by the ATO, however elements of the new SEPP may place this definition in jeopardy if Local Government recommendations are implemented.

Page 25 is an important page in this document to set out the pathway to achieve CRP for Co-living and BtR and we look forward to working with the government to understand how important this component is to the success of the sector. The whole sector literally hinges on the difference in definition between 'Residential Premises' and 'Commercial Residential Premises'.

The key benefit of a "commercial residential premises" status is that the supply of accommodation will be input taxed. This means that GST will not apply, but input tax credits will not be available on any associated costs (including land acquisition and development).

If a development is defined as a "commercial residential premises", a concessional GST rate of 5.5% should apply for "long-term accommodation" stays of more than 28 days.

Some of the key factors to achieve this status are:

- Commercial intention
- Multiple occupancy
- Holding out to the public
- Central management
- Management offers accommodation in its own right
- Time of mandated tenure
- Occupancy agreement vs lease agreement
- Occupants has status 'of guest'
- Accommodation inclusions
- Treatment of Pets
- Services and amenities
- Concierge
- Titling

If Co-living and BtR are not classified the same as a boarding house, the ability to be defined as a Commercial Residential Premises will most likely be removed and therefore the ability to provide affordable housing is gone.

**Recommendation:** Policy setters must consider each of these factors prior to implementing ANY guidelines or mandates. If they fail to do so, the BtR and Co-living sectors will languish due to limited viability opportunities for institutional grade investment.



9<sup>th</sup> September 2020

Mr Luke Walton  
Executive Director  
Department of Planning, Industry and Environment  
Locked Bag 5022, Parramatta NSW 2124  
E: [Luke.Walton@planning.nsw.gov.au](mailto:Luke.Walton@planning.nsw.gov.au)



Dear Mr Walton

## Draft Housing Diversity SEPP- Explanation of Intended Effect

I write in relation to the *Proposed new Housing Diversity SEPP Explanation of Intended Effect (July 2020)* (the draft SEPP) placed on public exhibition by the Department of Planning, Industry and Environment (the Department) for comment until 9<sup>th</sup> September 2020.

### The Urban Taskforce welcomes the intention of a Housing Diversity SEPP

The Housing Diversity SEPP (draft SEPP) is broadly welcomed in so far as it acknowledges new and important housing building types that, within the right planning framework, have the potential to help meet Sydney's dwelling targets, provide more affordable and flexible housing options, and help support a post COVID-19 economic recovery. Urban Taskforce welcomes the Government's messaging around 'housing diversity'.

The new Housing Diversity SEPP, when made, should be about facilitating a broad range of housing typologies, across different price points throughout different locations. Diversity gives people housing choice for different stages of their life and their household journey. It offers the choice to upsize or downsize; either to in a different locality or within the same one.

However, Urban Taskforce members are very concerned that the details in the draft SEPP could actually work against providing housing diversity and choice in NSW. It may be worth considering implementing the new SEPP in stages while industry works with government to resolve any unintended consequences noted below.

The drive to deliver more affordable housing types is contradicted by the draft SEPP's removal of FSR bonuses and the application of some prescriptive minimum standards which will drive prices up and render many of these affordable housing types unfeasible.

By restricting permissibility (by allowing Councils to determine where certain housing types will be permitted), the feasibility and ultimately the supply of the different housing typologies included in the SEPP is threatened. Issues of affordability and equality of access to housing across the state are too important to be left to individual councils. It was councils' failure to deliver adequate choice, supply and diversity that drove the need for SEPPs in these areas in the first place. The Productivity Commission has further stated that the key driver of housing prices (and therefore un-affordability) in Greater Sydney is the lack of supply. This, according to both the Reserve Bank of Australia and the NSW Productivity Commission (an arm of NSW Treasury) is due, primarily, to over regulation by the NSW Planning system – that is: by the Department of Planning and Councils.

The NSW Productivity Commission has also clearly advised the NSW Government that complexity drives prices up. This Draft SEPP is complex.

A number of  
the proposed

provisions in the draft SEPP, in particular those relating to co-living, boarding houses and seniors' housing; add yet another layer of regulation and in some cases effective prohibition of these new housing types.

Notwithstanding our concerns Urban Taskforce is determined to work with DPIE and the Government to highlight what we believe to be unintended consequences, so the proposed changes do not result in the inhibition of supply and further reductions in affordability.

## **Aims of the draft SEPP**

The draft SEPP aims to deliver a planning framework that:

- will assist the State's economic recovery following COVID-19
- consolidates existing State level housing-related planning provisions into a single instrument
- is in a format capable of being expanded and amended as future needs may require
- facilitates the delivery of housing that meets the needs of the State's growing population.

Urban Taskforce contends that the proposed provisions of the draft SEPP fail to deliver on these worthy objectives.

While the NSW Government states the draft Housing Diversity SEPP has been prepared in the context of ensuring "an adequate supply of new dwellings that are affordable, well-designed and located in places that people want to live" the draft SEPP in its current form will actually work against this broad objective and specific aims as set out above.

The contradictions of between the SEPP's aims and its draft provisions are detailed below.

## **Co-living**

The draft SEPP correctly describes the relatively new class of dwellings that can be defined as Co-living. However, not only does it not respond to consumer demand for Co-living, it completely misreads the market for this product.

Co-Living is a viable and sought-after option for a range of people that are looking to live in areas that are located in close proximity to reliable public transport and/or places of work or study, that are seeking fully furnished accommodation with flexible medium term (3 – 12 month) rental periods, or are looking to live in a setting which offers a sense of community and social interaction between residents. Co-living is ideally suited to mobile young workers (typically aged 20 – 35), who in many cases are willing to trade size of living spaces for the features noted above. Co-living also caters to the specific needs of various other groups that are not well serviced by the existing housing market, including regionally based workers who are employed in the city during the week; recently separated people; key-workers including nurses and emergency workers; people from regional areas temporarily located to the city for short term work opportunities or for medical treatments; fly-in fly-out (FIFO) workers from interstate (not all FIFO workers work in remote areas); and those seeking short term accommodation including people escaping domestic violence environments.

The prescriptive planning and design controls in the draft SEPP do not reflect the requirements of all the possible users of co-living. They appear to have been drafted to reflect a permanent residence scenario of long term rental only, and they do not recognise the willingness of co-living users to trade size of living spaces for the various other attributes that this form of housing offers.

### Co-living and Open Space



The proposed provision of open space is excessive. The currently proposed provision of private open space to every room (4m<sup>2</sup> per room) in addition to the communal open space (minimum 25% of the site area) will destroy the feasibility of co-living on most sites.

Urban Taskforce members who are developing in the co-living space advise that requiring private open space to all rooms, on all sites, will be hugely prohibitive and often contrary to consumer preferences.

Any mandated, minimum open space requirement should be focussed on communal areas. However, the proposed 25% of site area being available for communal open space is difficult to achieve on small lots, sites within business zones, or in dense urban areas. Accordingly, a more merit based approach needs to be applied to considering open space, when the development:

- includes communal open space via a landscaped roof top terrace
- provides internal common space in excess of the minimum requirements
- includes private open space for a proportion of rooms
- demonstrates good proximity to public open space and facilities, and/or
- provides contributions to public open space

### Co-living and Parking

Urban Taskforce believes that the prescription for a minimum parking standard of 0.5 spaces per room is unnecessary. Our members tell us that co-living developments generally only work when located close to public transport and market experience suggests that car ownership and usage rates in co-living developments are far lower than those in residential flat buildings.

We suggest a sliding scale of parking ranging from zero spaces per room: for example where the site is within an accessible area radius (for example, up to 800m) from a train, metro, ferry or light rail stop; to 0.5 car spaces per room where a site is considered outside of a centre/accessible radius. In light of recent research suggesting one car share parking space can replace more than 10 vehicles<sup>1</sup>, car share spaces should be included in the sliding scale.

### Co-living - Room Sizes

Urban Taskforce members have strongly advised that the co-living model cannot and will not be financially viable if minimum room sizes of more than 20m<sup>2</sup> are prescribed. It is noted that small unit sizes are absolutely fundamental to making the co-living affordable for residents, and a financially viable model for developers/operators.

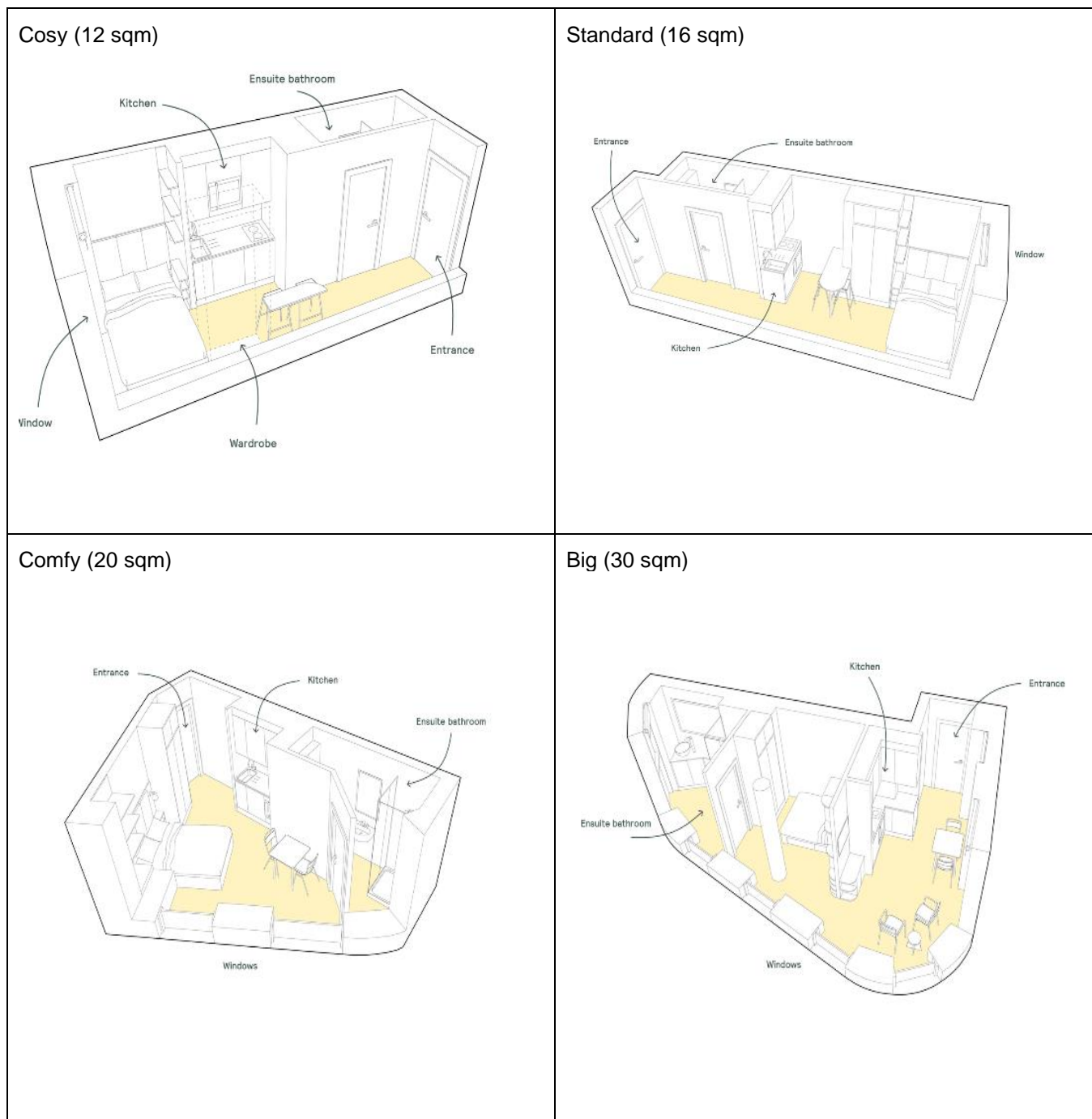
The minimum room size of 30-35m<sup>2</sup> appears to have been derived from an assumption that the co-living inhabitants will be long term. It also fails to recognise the willingness of co-living users to accept small room sizes in exchange for the locational, flexibility, community benefits and access to communal areas that co-living offers.

The proposed standards are far in excess of not just internationally accepted standards (which are closer to an average of 20m<sup>2</sup>), they are in excess of approved and successfully operating co-living buildings that already exist in Sydney.

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<sup>1</sup> Dorima Pajani et. al, 2017, 'Freeing up the huge areas set aside for parking can transform our cities', in 'The Conversation' (accessed September 2020) <https://theconversation.com/freeing-up-the-huge-areas-set-aside-for-parking-can-transform-our-cities-85331>

For example, the highly lauded 700 bed 'The Collective' at Canary Wharf, London has room sizes ranging from 12m<sup>2</sup> to 30m<sup>2</sup>. The Collective room plans are shown as below:



The Collective at Canary Wharf has been at almost full occupancy since its opening, demonstrating occupiers' willingness to accept smaller room sizes in return for all the other benefits that co-living offers.

Locally, one of the first co-living operators in Sydney, UKO (currently operating locations in Stanmore, Paddington, and Newtown) offers room sizes ranging from 18 to 28m<sup>2</sup>. These would not be allowed under this draft SEPP.

It is noted the proposed minimum room size 35m<sup>2</sup> correlates with the minimum dwelling size for a studio under SEPP 65. Co-living is not just a collection of studio apartments. The desire of occupants

to benefit from an organised communal approach to living, along with the provision of on-site shared facilities and spaces - and the need for the product to be affordable - must be recognised in determining room sizes.

Consistent with known, local market preferences, some Urban Taskforce Members suggest a minimum room size closer to 15m<sup>2</sup>. An alternative or accompanying suggestion is a control that supports a mix of room sizes, like in residential flat buildings (where there is a control on the number of studio, one-bed, two-bed, and three-bed ratios per building). Such a provision could allow for a mix of smaller Co-living rooms and some larger ones. This approach would be beneficial in responding to local consumer preferences and would ultimately allow for greater architectural flexibility and improved design outcomes.

### Co-Living - FSR Incentives

We note that existing co-living developments have been realised under the Boarding House provisions in the Affordable Rental Housing SEPP (ARH SEPP). These provisions include an FSR bonus that ranges from 20-100%. Urban Taskforce believes that a flat percentage bonus would be a better tool for supporting co-living developments, given:

- a significant proportion of allowable floor area will need to be dedicated to non-revenue generating communal areas
- the Government's stated desire to encourage the supply of affordable housing broadly
- the Minister's messaging around affordable and diverse housing options being available to all - irrespective of location and income.

Urban Taskforce also suggests that merit-based concessions be considered in the application of any building envelope controls for residential flat buildings to co-living developments, in order to accommodate the FSR bonus.

### **Build to Rent**

Urban Taskforce congratulates the Government for supporting supply of this positive initiative by recognising this housing product in the draft SEPP and further supporting its delivery through the discount on land tax. The State Significant Development pathway for BTR developments with a value of greater than \$100 million is supported. A similar pathway should be considered for all developments of this value in the interests of job creation and meeting the demand for new housing in Greater Sydney.

It is critically important that the draft SEPP does not effectively *disadvantage BTR housing* projects compared to existing rental properties. A motif of this draft SEPP is the over-prescriptive planning, which in the case of BTR, pushes up costs and reduces feasibility and thus supply. We are concerned that the draft SEPP tries too hard to create long-term rental housing options and forgets about the need to offer choice to all those in the market. The draft SEPP fails to fully realise the opportunity that BTR could deliver in terms of housing supply and affordability.

### BTR - Tenure, Ownership & Management

The draft SEPP is proposing to impose more stringent conditions on the owners of BTR rental properties than those existing for landlords in the usual rental market. For example, the draft SEPP proposes a minimum tenancy of 3 years or more. This provision acts to limit feasibility, choice, and supply. It works against the stated objectives of the SEPP.

There are no such restrictions in the general rental market. Urban Taskforce acknowledges that this requirement will work for some tenants in giving them certainty, but many tenants would be

deterred by locking into a fixed 3-year rental agreement. So, the provision will make BTR dwellings harder to rent – therefore reducing their viability in an uncertain economic, rental and property market. There needs to be flexibility for both the tenant and the owner.

The Urban Taskforce also disputes the proposal to require on-site management for BTR. In practice, most rental properties are managed by real estate agents off-site. Strata body corporate management is also typically off-site. The standards should reflect the current system where the tenants have direct access to a property manager and the body corporate, but these management services do not always need to be located on-site.

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

### BTR - Permissibility and FSR Categorisation

Opportunities should be explored of including BTR as a permissible use in the IN1 General Industrial Zone and IN2 Light Industrial zones. In these cases, criteria could be provided to ensure BTR housing is only permitted in locations which are amenable to such a use, and are appropriately located in proximity to everyday services, facilities, and transportation. Criteria may include:

- site must be within 800m of railway/metro station/light rail or transit way stop
- site must include a fixed percentage of employment (broadly defined) floor space at ground level
- the residential component of the site cannot be subject to future strata subdivision.

In the interests of facilitating investment in BTR in commercial centres, BTR should be included as part of the 'non-residential' component, when calculating FSR. Such an approach is consistent with that applied to serviced apartments. The feasibility of BTR in commercial centres is destroyed when included as part of the residential component of a development when calculating FSR. When BTR is included as the residential component, the feasibility is simply not there – as is the case for Urban Taskforce members trying to develop BTR within the existing planning framework, including sites within the higher density areas under the Crows Nest St Leonards 2036 Plan.

### BTR - Minimum number of dwellings

The draft SEPP proposes BTR should have a minimum of 50 dwellings. This proposal should be removed as any minimum number of dwelling requirements will deter the production of BTR on the exact kind of sites that suit this asset class. Well located in terms of transport and employment opportunities, such sites are often smaller, with limited capacity for site consolidation.

### BTR - Parking

The draft SEPP states "BTR housing is generally... situated in well-located areas, close to transport and amenity". Accordingly, the proposed car parking standard of 0.5 spaces per dwelling is excessive and unnecessary. In practice, in many urban areas the requirement for car spaces is decreasing. The City of Sydney, for example have approved residential dwellings with zero on-site car parking provision in select areas.

Whilst the Urban Taskforce agrees that consideration of car parking provision is required, we believe the proposed standard of 0.5 per dwelling is too high. As with co-living, a sliding scale of car parking

requirements dependent on the site's distance from public transport and inclusive of car share parking spaces should be considered.

### **Purpose Built Student Housing**

The proposed provisions relating to purpose built student housing are generally supported, although meeting demand and market price points will be challenged if height and FSR controls are determined on a council by council basis and no FSR bonus is made available.

### **Boarding Houses**

Modern or next generation boarding houses are becoming an increasingly attractive option for people because they are affordable, are increasingly well-designed and are salt-and-peppered among the suburbs so they do not stand out. The market has delivered these outcomes despite the mismanagement of policy controls in this field.

Under the existing planning regime boarding houses are borderline feasible option for development as they are incentivised by floor space ratio bonuses and being permissible on sites where regular apartments are prohibited.

It is acknowledged that it's usually the old-style boarding houses that are regarded with fear and trepidation by neighbours. Unfortunately, this deep seeded NIMBYism seems to be evident in the policy development for the draft Housing Diversity SEPP.

If the Government is committed to delivering affordable and diverse housing types, why discourage private sector investment in a housing type that has been providing an affordable housing option for many, often vulnerable, people for decades.

#### Boarding Houses - Definition

It is clear that the draft SEPP has been framed to disincentivise the private development and operation of Boarding Houses. The proposed definition of 'boarding house' as meeting 'affordability' rules in terms of its rental, requiring it to be managed by a not-for-profit community housing provider and removing any incentives to build a product that has traditionally been delivered to market with comparatively low profit margins will unfortunately render this housing type unfeasible. Accordingly, the current workable definition under the Affordable Rental Housing SEPP (ARH SEPP) should be retained.

Currently there is a negative perception in many communities that all Boarding Houses are just social welfare housing and that all boarding house residents are on welfare with most residents having anti-social behaviours. These perceptions are regularly raised during assessment of Boarding House DAs. **This is not the case** and many private operators are working hard to change those community perceptions as well as helping-out the most vulnerable in our community. If the Government redefines Boarding Houses to only being provided by not-for-profit community housing providers, the Government will be entrenching, or re-enforcing, those negative, or stereotype, community attitudes that all boarding house residents are welfare dependent. Some Urban Taskforce members suggest a change to the name of this housing product may assist in facilitating altered community perceptions. Suggestions include 'Micro Housing', 'Mini House' or 'Tiny Housing'.

#### Boarding Houses - Permissibility and FSR Bonus

Boarding houses, are generally developed on the basis of a lower profit margin than most other forms of residential development and are able to be delivered to market on the basis of the current

floor space bonus of between 20 to 100% and their permissibility in the R2 Residential Zone. Additionally, boarding house development applications cannot be refused on the grounds of density and scale if they comply with the maximum floor space ratio for any form of residential accommodation on the site (plus the bonus, if any). These existing provisions protect boarding house developments from being penalised relative to other forms of residential development. The draft SEPP will all but eliminate this housing type and thus works directly against the stated objectives of the Minister and the draft SEPP.

The Urban Taskforce understands that there may be areas zoned R2 considered unsuitable for Boarding House developments due to location and comparative bulk and scale, particularly when the full FSR bonus of up to 100% is realised. We recommend that Boarding Houses remain permissible in the R2 zone when the site is within 400m of a train or metro station and that the FSR bonus remain, but at a flat percentage rate (e.g. a 50% bonus) irrespective of the local control.

### **Boarding Houses – Parking**

In finalising the Housing Diversity SEPP, a review should be undertaken of actual car parking demand from boarding house developments. Urban Taskforce members report the existing, and proposed to be retained, standards are too onerous, not just in terms of feasibility but also, in terms of user take-up.

As with the other housing models under the draft SEPP, we suggest a sliding scale of parking ranging from zero spaces per room: for example where the site is within an accessible area radius (for example, up to 800m) from a train, metro, ferry or light rail stop; to 0.5 car spaces per room where a site is considered outside of a centre/accessible radius. The standard should apply to both private operators and community housing providers and should include car share spaces.

### **Seniors' Housing**

The Government appears to be sending a clear signal that providing a range of affordable and diverse housing for seniors is not a priority, by straight out amending the Seniors Housing SEPP to exclude any land covered by the Metropolitan Rural Lands overlay. The Urban Taskforce condemns the complete lack of consultation with industry or with seniors' groups on this amendment. This is contrary to the open approach to policy development hitherto espoused by the NSW Government during the COVID-19 period.

The amendment has effectively prohibited Seniors Housing from the entire Blue Mountains LGA, approximately 70% of the Hills Shire LGA as well as swathes of land across another 11 council areas. There is enormous unmet demand for seniors housing in many of these Council areas, the outcome being that this SEPP amendment alone could force elderly people out of the communities they have lived in all their lives.

The SEPP, as drafted, will negatively impact the supply of housing for seniors. This is particularly concerning when the proportion of people aged 65 and over double by 2054-55<sup>2</sup> and the supply of housing options for older residents is already not keeping up with demand, with "product availability (or lack thereof) identified as a significant impediment to seniors downsizing."<sup>3</sup>

If the Government is genuine about meeting the demand for affordable Seniors' Housing, and evidence base is critical for decision making. The Government should be looking for more, not less, areas to facilitate this housing type. Urban Taskforce believes there is additional potential for Seniors

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<sup>2</sup> Commonwealth of Australia (March 2015) 2015 Intergenerational Report Australia in 2055.

<sup>3</sup> Judd, B. et. Al. in Annand K, Lacey W, & Webb E. (2015) Seniors downsizing on their own terms: Overcoming planning, legal and policy impediments to the creation of alternative retirement communities. National Seniors Productive Ageing Centre

Housing on land currently zoned R2 Residential where it immediately adjoins sites zoned SP2 – Infrastructure, particularly those hosting schools or hospitals. Seniors Housing next to schools and hospitals recognises many of these sites' accessibility to transport and other local infrastructure and services, as well as a range of health and well-being co-location opportunities.

### Development Standards

The ARH SEPP has to date allowed Seniors Housing developments to be carried out 'despite the provisions of any other environmental planning instrument'. The proposal to reverse this so that 'development standards in an LEP prevail to the extent of any inconsistency' will allow councils who are fundamentally opposed to new seniors housing developments in the LGAs to use local provisions to refuse these applications to exclude seniors from remaining in their communities. Further to this, the proposed limit of 20% to allowable departures from a development standard under Cl4.6 will additionally constrain Seniors' Housing development and is inconsistent with the general position for all other types of development where there is no limit to a Cl4.6 variation.

Adding to the likelihood of a dwindling supply of Seniors' Housing is the proposal to remove point -to point transport options in meeting site access related requirements. This proposal is ill-considered, particularly when it come to sites with challenging gradients and/or those that include a residential aged care facility component, where pedestrian foot traffic to and from the site is limited.

The proposed changes to the policy bely the need for the SEPP in the first place – that was – Councils were failing to meet demand for this housing type. The changes proposed in the draft SEPP are contrary to the objectives of the SEPP and work against a clear demographic need for more housing for this growing cohort.

### **'Loss of affordable rental housing' Levies**

The draft SEPP will alter the trigger point for the charging of 'affordable housing' levies that are imposed when development applications are lodged in relation to 'low-rental residential buildings' for their demolition or upgrade. This levy is additional to any other affordable housing levies that are routinely charged by councils. It is proposed BEFORE the NSW Productivity Commission has completed its review into infrastructure fees and charges. At the same time as the Minister has called for a review into levies and charges, this draft SEPP effectively introduces a new tax (levy).

The impact of the existing regime is limited by the fact that it only applies to buildings that were 'low-rental residential buildings' as of 28 January 2000, so the scheme does not presently apply to any building that becomes a low-rental residential building after that date.

This is crucial as it means that any building where quality has degraded in the last 20 years (such that it recovers rental at or below the 'median' level) is not subject to this existing levy regime on re-development. The draft SEPP will remove this date restriction. This effectively means that the levy regime will be extended to apply to the re-development of existing buildings that were previously exempt, by reason that their deterioration post-dated the year 2000.

Further, because the median rent is determined on an entire LGA basis where there are often a range of markets (like the Northern Beaches Council for example), rental housing in entire suburbs will be below the "median" rents level for that LGA. This provision taxes the upkeep or improvement or redevelopment of those properties. This is akin to saying, "we want to keep the quality down, so it remains affordable". A better solution is to increase supply.

This provision as proposed will increase costs and reduce feasibility. This new regime, as proposed, represents a tax of any upgrade. The draft SEPP as proposed would create a perverse incentive for some landlords to take active steps to ensure that their buildings do not rent out at or below median

market rents (even at the expense of bringing forward minor upgrades to make rents more expensive). This may actually reduce the availability of affordable housing.

### **Design Guidelines**

The draft SEPP states that Design Guidelines will be developed for BTR, co-living and student housing. Further, the draft states that when assessing development applications for BTR, the consent authority should be “guided by design quality principles in SEPP 65”.

It is essential that a pragmatic and cost focussed approach be taken in developing specific design guidelines for each typology under the draft SEPP. Put simply, much needed smaller and affordable room sizes will not and cannot comply with the existing ADG.

### **Savings and Transitional Provisions**

In the interests of avoiding uncertainty for the planning and development sector and minimising the perception of investment risk in NSW, it is recommended that the final SEPP includes saving and transitional provisions for development applications under assessment at the time of the SEPP commencement.

### **Conclusion**

While the stated intent of the draft Housing Diversity SEPP is supported by the Urban Taskforce, many of the proposed provisions are not supported as they will deliver the opposite to the stated intent. The practical outcome from the draft SEPP is the addition of prescriptive controls and extra costs that will reduce the relative feasibility of delivering a range of housing types to market. Ultimately, this will have the effect of limiting both supply and affordability.

The proposed additional regulation will mean reduced choice.

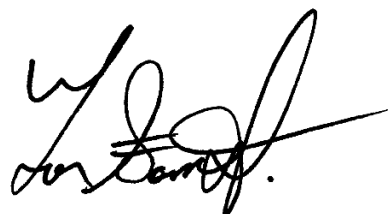
Handing powers to Councils protects the interests of current occupants but rarely (if ever) leads to meeting the public demand for more affordable housing or the needs of future populations who are essential to our economic growth.

Prescriptive controls for each category of housing simply reduces viability and feasibility.

Urban Taskforce welcomes the policy intent of the draft Housing Diversity SEPP and we are determined to work with the Government to ensure that the positive intent is realised.

The Urban Taskforce is always willing to work closely with the Government to provide a development industry perspective on these issues.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tom Forrest', with a stylized flourish extending from the end.

**Tom Forrest**  
Chief Executive Officer



Submitted on Mon, 07/09/2020 - 20:11

Submitted by: Anonymous

Submitted values are:

Submission Type: I am submitting on behalf of my organisation

First Name: Alice

Last Name: Joy

Name Withheld: No

Email: [alice@livingjoy.com.au](mailto:alice@livingjoy.com.au)

Suburb/Town & Postcode: 2291

Submission: Proposed New Housing Diversity SEPP Submission

## About Us

Urban Villager is a social enterprise focused on triple bottom line returns in the Build to Rent space. Based in Newcastle, we have a deep interest in creating sustainable, affordable accommodation for front line workers, typically in place-based jobs. We are currently working with Social Outcomes and the Social Impact Hub on a capital raise for an urban eco-village based in Belmont, NSW. You can read more about us at [www.urbanvillager.com.au](http://www.urbanvillager.com.au).

The CEO of Urban Villager, Alice Joy, is a legally trained developer with a Masters Degree in Wellness, focused on wellness architecture and the impact of the built space on community, health and happiness.

Tibor Grubits, Co-Founder, has worked at the Australian Building Codes Board, the NSW Department of Planning and holds a Masters Degree in Design Science, specialising in energy efficiency in buildings.

## Introduction

We strongly support the NSW Department of Planning's initiative to include co-living as a housing type within the newly proposed Housing Diversity SEPP.

However, we do not feel that the proposed changes are workable, and if introduced, will reduce the number of co-living and boarding house developments significantly. We believe that many developers will stop developing boarding houses and co-living assets because, with the proposed changes, these types of developments would no longer be the highest and best use of the property.

We believe that in order to allow the creation of this important rental housing sector and to facilitate housing diversity a number of amendments to the proposed SEPP are required. What's in a name: let's think about 'micro apartments' rather than 'boarding houses' and give some dignity to the choice to live in rental accommodation of this nature. In 2009, the AHSEPP introduced 'New Generation' Boarding Houses.

However, the term 'Boarding House' has a negative stigma, and causes a lot of angst and friction for local residents who are concerned about introducing housing diversity into their local area. In New York, a very similar concept is called a 'micro-apartment'. Rather than being met with resistance, New Yorkers have largely called the 'micro-apartment' an innovative response to the housing affordability issues in New York.

The stigma attached to NGBH isn't justified. The NGBH is a great option to suit the shrinking household sizes (with many people living in 1-2 person households), and incorporate

diversity, flexibility and affordability. A re-brand of the concept could go a long way to removing these negative biases. Need for Community One of the most significant factors driving co-living is the desire from tenants to be a part of a community.

The number one thing that happy people have in common is strong social connection. However, we are amongst an epidemic of loneliness and disconnection, which COVID has made worse. We have an increase in single person and dual person households, and many single people would prefer not to live alone but have limited options to live as part of a community. Co-housing is an option for these people and should be supported as a valid choice. Changes in society reflect the need for co-living Globally, co-living is increasing in popularity, both by residents and investors. There are a number of reasons for this:

- Transient & globally active workforce
  - Young people will have multiple roles in multiple careers over a lifetime
  - Renters move house often
  - Rising cost of living
  - Unaffordable house pricing and decreasing ability to own a home
  - Decreasing job security
  - Poor rental accommodation
  - Strict, time consuming and difficult experience for tenants
- Recommendations for the Department of Planning to Consider

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

2. Floor Space Ratio Bonus The current 0.5 Floor Space Ratio bonus is the leading reason why boarding houses are currently financially viable today. Without this bonus the site would have an alternative higher and better use such as residential. This is because boarding houses/co-living developments require a significant proportion of the allowable floor area to be dedicated to the provision of non-income generating communal areas, placing a major financial burden on a development. In addition the financing of these assets is much more difficult as there is no ability to obtain pre-sales and therefore the loan to value ratios are far lower than building residential (often 40-50% of costs can be obtained from a first mortgage debt facility, whereas up to 80% of costs (but usually 65%-75% of costs) can be borrowed against standard real estate transactions. Furthermore, being a relatively new asset class, there is far more limited number of banks willing to fund the construction of these assets and typically at a higher interest rate. It is critical that a Floor Space ratio bonus be retained for co-living developments. If the 0.5 Floor Space is to be removed then we propose a 20%-30% increase in Floor Space PLUS internal communal areas to be excluded from the FSR calculation.

3. Zoning It is currently proposed that Boarding houses be removed from Low Density (R2) and General Residential Zones (R1). We don't support this proposal by the Department of Planning despite the fact that a majority of negative Council and local resident objections has been for proposed boarding houses in Low density and General Residential Zones. The character test is a sufficient check, and the economics of needing to build these kinds of developments near amenities will be self-selecting.

4. Parking Ratio We have borrowed from Freedom Development's submission on this point. One aspect of the boarding house provisions that has undergone a significant amendment since its introduction relate to the provision of off-street parking for residents. This stems from concerns that the higher-intensity of land-use, which boarding houses likely represent would place additional strain on on-street parking particularly in Low Density and General Residential Zones.

The amendment in June 2018, requiring 0.5 rather than 0.2 parking spaces per room has required additional underground parking leading to extensive excavation and storm-water management. This underground parking adds significant costs to a development, so would undermine the feasibility of a boarding house, relative to other potential land-uses/developments, on a given site.

We further note that the Explanation of Intended Effect for the Housing Diversity SEPP suggests a car parking standard of 0.5 spaces per room and states that: It is proposed to include car parking as a non-discretionary 'must not refuse' provision. This would allow councils to approve a co-living development with less parking when appropriate. Since the adoption of the 0.5 parking ratio amendment many councils have used this to try to refuse boarding house developments even if they are in highly accessible areas and by all reasonable measures deemed 'appropriate' as they don't want to set a precedent. A research report commissioned by Southern Sydney Regional Organisation of Councils (SSROC), written by Dr Laurence Troy, Dr Ryan van den Nouwelant & Prof Bill Randolph in June 2019 titled 'Occupant Survey of Recent Boarding House Developments in Central and Southern Sydney' found that: "The results of the survey were quite clear, with two thirds of tenants not owning a car." Furthermore, it states "the survey responses did indicate that the proportion of tenants that did not own a car was higher closer to the city and lower (but still a majority of respondents) further from the city. In terms of the match between providing off-street parking and car ownership, the current requirement that one space-for-two-rooms be provided is in excess of that evidently needed.

Prior to the 2018 amendments, one-space-for-five-rooms was required for boarding rooms within 400m of a public transport node, and two-spaces-for-five rooms was required in other areas.

A qualitative interpretation of the distribution of survey invitations and responses suggest that this is close to actual ownership rates, and close to the difference in ownership rates across the study area." We also conducted a survey of the UKO site managed at 30-34 Parramatta Road, Stanmore, which has 33 rooms and 7 car spaces. During the seven-day analysis period there was only one room vacant and there were less than ten vehicle movements per day and 5 residents owning a car.

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

5. Car sharing It would be highly beneficial if the SEPP also addressed the issue of car sharing. There have been a number of reports and evidence supporting the benefits of car share.

UKO, for example, have formed a partnership with GoGet, and other areas can utilise other schemes, such as CarNextDoor. The Impact of Car Sharing Services in Australia written in October 2016 by Phillip Boyle and Associates states: "When people switch from low use car ownership to services, significant value is generated for the household and the community in which it is located.

This is especially the case in areas where the population is rising and, in tandem, the resident vehicle fleet is expanding. The report considers the community benefits that flow from the switch out of ownership:

- Less car ownership: moving from ownership to services reduces the resident car fleet. For every car share vehicle in the network there will be ten fewer privately owned vehicles in the analysis areas. This reduction in the number of vehicles is of great value when the number of resident vehicles is equal to or greater than the available kerbside storage space. The car share fleet in the City of Sydney alone has taken around 10,000 cars from the municipality.
- Less car use: car share users in the City of Sydney reported travelling by car less than before – around 2,000 vehicle kilometres less each year. This reduction in vehicle kilometres is of great value in reducing congestion, pollution and road trauma while increasing public health. The City of Sydney car share network has reduced VKT by up to 37 million kilometres each year. Users of car services replace car trips with trips by public transport, walking and by bicycle. These positive steps are also a focus of Council policies.
- Drivers who do not use the service benefit from the reduction in competition for road space, parking at destinations and kerbside storage. The community benefits that derive from lower vehicle ownership and use explain why the City of Sydney and other municipalities have supported the development of car share services: 'the City believes this [support for car share services] is a worthwhile investment as car share reduces demand for on-street parking and traffic congestion.

The City of Sydney car sharing policy states 'Greater uptake of car sharing will consequently reduce total driving and on-road congestion.' Individuals also benefit from reducing car ownership and use. Reducing car ownership allows households to reduce household transport expenditure significantly. Buildings with less or no car parking are cheaper to build – one the architect developer calculated that the car park free apartments were \$30,000 cheaper to provide – this lower initial cost can represent a saving five times greater over the life of a loan. Some studies estimate that the majority of this financial saving is then spent in the local economy."

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

It is also noted that the encouragement of the use of public transport and car share schemes as an alternative to private car ownership contributes towards environmental sustainability. We believe that this is an important selling point for the key target co-living target market – Millennials – a large proportion of whom favour living a more environmentally conscious lifestyle. Given the factors noted above, it is our strong belief that residents in a co-living building will generally have far lower levels of car ownership and car usage than typical

residential flat buildings, particularly if on-site car share schemes are provided for the use of residents. Furthermore, there have been a number of court cases including *Freedom Development Group v Randwick Council*, which have led to the support of car sharing. It is unfortunate that developers rather than the Department of Planning are having to educate Councils as to the benefits of carshare and negotiate for their inclusion in new boarding houses. It is therefore proposed that the Housing Diversity SEPP adopts a 1 car share equals 10 car spaces as per the research.

**6. Room Sizes** We firstly note that the proposal has not addressed where the 30–35sqm room sizes are net or gross (meaning whether these room sizes include kitchenettes and bathrooms). An ability to offer a mix of unit sizes (including smaller units of less than 20 sqm in some cases) is also fundamentally important to the viability of a co-living development. It is our strong belief that a properly designed studio apartment of 16–30 sqm (including kitchen and bathroom) will be well received by the market and there is ample evidence globally of rooms of this size being successfully operated by large scale co-living operators. Generally, we have found smaller sized rooms closer to the CBD as they are more readily accepted by residents. Smaller studio sizes are effectively the “key” to unlocking the co-living formula, as they allow the developer to create a larger number of income-generating units, and this in turn allows the operator to deliver high quality on-site management and services, and maintain a programme of community events, all whilst keeping the rents at an affordable level for the target customers/residents.

If minimum unit sizes of 30 sqm (or even 25 sqm) are prescribed then this will effectively reduce the viability of co-living as it will be completely impossible to achieve satisfactory development returns, whilst keeping rents at an affordable level. In considering the question of appropriate unit sizes for co-living developments, we believe that it is important to look at successful examples of the co-living model in other jurisdictions around the world where 16–30sqm sizes are the norm. It is proposed that the New Housing Diversity SEPP allow for a greater range and flexibility in room sizes from 16sqm-30sqm including kitchenettes and bathrooms.

**7. Communal & Private Open Space** Currently the SEPP does not stipulate the size of communal areas provided in each boarding house development as this is dictated by each individual Council’s DCP. We have found that generally 1–1.5sqm of communal area per room is supported by Councils.

The current proposal of a minimum 20sqm, + 2sqm per room above 10 rooms while being more than what is currently provided is supported. We do, however, object to the requirement of 4sqm of private open space being required. While Freedom always strives to provide Private Open Space to all rooms it is often not possible to achieve this for some rooms due to setback and privacy concerns imposed by Council’s this is also not necessary when 2sqm per room of communal area is provided. It is proposed that private open space be discretionary for the developer, who can value the additional amenity provided by such spaces.

**8. Height of Building** We have no concern with adhering to development controls with regards to height of building, however we would like the Department of Planning to consider lift overruns and potentially communal rooms to be excluded from height of buildings. This is to support the provision of communal areas on rooftops, which has the best access to natural light and helps the developer achieve the proposed 25% of site area being provided for communal open space. Furthermore, if communal rooms are supported on rooftop areas it allows for more area being available to communal open space and reduces the costs for developers. It also allows for garden plots for productive gardens to take place on rooftop areas. Allowing for the lift overruns is also important to ensure access for people with a disability.

9. Minimum number of Rooms It is not possible for a co-living property to deliver the additional services and on-site amenity without achieving some degree of scale. The proposed 10 rooms would not allow sufficient scale to reduce these on-site costs. It is more likely that viability will be achieved at 25 rooms or above.

#### 10. Minimum Stay

We support the proposed 3-month minimum stay broadly. However, to allow for a broader section of community, we propose that the minimum length of stay for 20% of the rooms be reduced to four weeks. This allows people and students on placements, persons on secondments, and those recently relocated, to stay for shorter periods without the need to pay for a hotel or the relative uncertainty of an Airbnb. Summary of Proposed Development Standards Development standard Our Suggestion Floor space ratio a. Retain existing 50% FSR bonus; or b. FSR bonus of 20 – 30 % with internal communal area excluded from the calculation Zoning Co-living to remain permissible in R2 & R1 zones Car parking Non-discretionary 'must not refuse' provision of 0.2 car parking spaces per room to allow councils to approve a co living development with less parking when appropriate. Formalised provision of share car counting as equivalent to 10 private car spaces. Height of buildings Some leeway applied to LEP standards to facilitate rooftop communal areas. Lift overruns in particular to be excluded from building height. Room size Unit sizes of 16 – 30 sqm (including kitchen and bathroom) Strata subdivision As per current draft SEPP - Not permitted Communal living space As per current draft SEPP - Minimum 20sqm, + 2sqm per room above 10 rooms

#### Private open space

No private open space requirement for individual units

#### Communal open space

25% of site area, but can be relaxed on a merit-based argument, where one or more of the following factors apply to the development:

- it provides appropriate communal open space in a landscaped roof-top terrace;
  - It provides internal common space in excess of the minimum requirements; or it provides private open space for many (eg. at least 80%) of the apartments; or
  - it demonstrates good proximity to public open space and facilities and/or provides contributions to public open space. Building envelope controls Merit-based concessions to be considered to accommodate the FSR bonus where appropriate
- Minimum Room Numbers 10 rooms Minimum stay 20% of rooms in a building permitted to be less than 3 months and 80% being greater than or equal to 3 months.

#### Conclusion

Co-living addresses a real need in the community for affordable, convenient, flexible and community-based living. We commend the NSW Department of Planning's initiative to include co-living as a housing type within the new Housing Diversity SEPP, but we strongly advise that the proposed co-living SEPP is unworkable. It is proposed that development standards for co-living in the SEPP should be amended to reflect the changes in the table above in order to promote the growth of this exciting new housing type in NSW. We would be happy to speak directly to anyone from the Department of Planning or industry and can be contacted at [alice@livingjoy.com.au](mailto:alice@livingjoy.com.au) / 0435 550 469.

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



8 September 2020

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

**Re: Proposed NSW Housing Diversity SEPP**

**About Us**

Urbico is an Australian-based developer, owner and operator of co-living properties ([www.urbico.com.au](http://www.urbico.com.au)).

Our first co-living development, Urbico Glebe (which comprises 33 apartments) is currently under construction and is due to open in Q1 2021. Our second development, Urbico Randwick (comprising 16 apartments) will soon be commencing construction.

We are currently in advanced discussions with a large Australian real estate funds management group to raise a special purpose fund targeting co-living opportunities.

**Introduction**

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

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

Some background on co-living and a summary of our proposed amendments to the SEPP are set out in this paper.

**Co-Living Fills a Housing Need in NSW**

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



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

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

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

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

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

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

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

### **Economic Benefit to NSW**

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

- Investment into NSW – there are multiple well-capitalised local and foreign institutional investors that are known to be actively seeking to invest significant quantities of capital into the co-living sector in NSW.

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

### **Co-living Around the World**

As noted above, co-living has rapidly gained popularity in major markets in North America, Asia and Europe over the last 7 years, reflecting the attractiveness of this housing model for many renters.

According to property services firm JLL, over \$3.2 billion of investment capital has been raised globally for deployment into co-living, and there are currently over 20,000 beds in the development pipeline in the US and over 30,000 beds in the development pipeline in Europe.

The sector is rapidly becoming an accepted institutional form of alternative real estate. In the UK, developer operator The Collective, backed by DTZ Investors, recently announced plans to raise up to £650 million for the world's largest dedicated co-living fund, reflecting the growing investor appetite and end-user appeal of this emerging form of housing.

### **Co-living Economic Model Under Current NSW Planning Controls**

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

These challenges include the following factors:

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

Given the above factors, there have been significant commercial obstacles to delivering commercially viable co-living schemes in NSW, whilst offering rents which are affordable and represent a strong value proposition (relative to other accommodation options) for prospective customers.

This lack of commercial viability has been, ironically, most pronounced in the areas with greatest demand from end users for the co-living typology, namely the inner city / city fringe.

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

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

- The FSR bonus of 0.5:1, or 20% (whichever is greater) has facilitated the provision of communal areas within the buildings, without sacrificing revenue-generating NLA;
- and
- The small allowable unit sizes of 12 – 25sqm (excluding kitchen and bathroom) have allowed operators to keep rental pricing at a relatively affordable level. It is our strong belief that these room sizes, if properly designed, are readily acceptable by the target market, many of whom have a willingness to trade size of living spaces for the other benefits offered by co-living (including access to desirable locations, flexible lease terms, and a communal lifestyle).

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

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

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

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

As a result of the above factors, and given the differences in the respective profitability of residential-for-sale and co-living, it is extremely difficult - *even under the current ARHSEPP framework* - for co-living developers to pay competitive prices for development sites in suitable areas, whilst achieving even a more moderate IRR of say 15% p/a.

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

As a result, Sydney is currently lagging other comparable global cities in the evolution of the co-living sector.

### **Distinction between Co-Living and Boarding Houses**

Whilst it has been extremely difficult to make larger institutional scale co-living schemes (of the kind now found in many jurisdictions around the world) commercially viable in NSW under the current planning controls, we recognise that the ARHSEPP has prompted a proliferation of Development Applications for New Generation Boarding Houses.

We consider that in the vast majority of these cases, the developers have not been looking to provide a genuine "co-living" offering but have instead been seeking to benefit from the FSR bonus offered for New Generation Boarding Houses.

The model for these developers has typically been to focus on small-scale developments in residential areas where the 0.5 FSR bonus represents a sizeable increase on the base FSR (in some cases up to 70%).

This has in many cases led to buildings with excessive bulk and scale that are incompatible with the low-density residential character of the surrounding area, and which often have poor design outcomes.

These developments typically offer minimal communal areas, have no community offering/social programme, and have in many cases been met with community opposition (partly due to the negative misconceptions about the type of tenants that will live in a 'Boarding House').

We further note that these have most often been relatively small developments (up to 30 rooms, with development costs below \$15m), meaning that they have been accessible to self-financed owner/builders that do not rely on external finance.

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

We greatly welcome the fact that the Draft Housing Diversity SEPP is now officially recognising co-living as a distinct and important form of rental housing.

This represents an extremely positive step towards continuing NSW's standing and attractiveness as a world-class location for living.

However, whilst the intent is overwhelmingly positive, we are deeply concerned that the proposed implementation – and in particular the proposed controls in relation to minimum room sizes, provision of car parking and private open spaces, and the lack of an FSR bonus - will in practice make it **completely impossible** to deliver commercially viable co-living developments and will effectively mark the end of NSW's nascent co-living industry.

We do recognise, understand and support the policy desire to restrict the proliferation of incompatible boarding houses in low density residential areas, through a removal of the incentives that currently exist under the ARHSEPP 2009.

However, we believe that it is possible to remove these incentives which have led to an oversupply of small scale boarding house developments in certain areas, whilst also fostering the emergence and evolution of the formal co-living sector, which will add valuable diversity to the housing stock in NSW, attract significant institutional investment, and create jobs and significant economic activity.

In order to achieve this, we believe that the NSW Department of Planning, Industry and Environment should consider the following factors and comments in relation to the framework for co-living properties set out in the Housing Diversity SEPP:

- **Zoning**

It is currently proposed to make co-living a mandatory permitted use wherever residential flat buildings are currently permitted. This would generally include the R4 – High Density Residential, and B4 – Mixed Use zones, and would also include R3 – Medium Density Residential zones in some LGAs.

We are supportive of this principle.

We are also supportive of the principle that co-living should not be permissible in Low Density (R2) and General Residential Zones (R1). We agree that in such locations (which are generally typified by single dwelling housing, away from public transport nodes and local service and amenity offerings), co-living buildings are not well suited and will not be in keeping with the character of the surrounding area.

In addition to the above, we strongly believe that co-living should also - like Build To Rent - be a mandatory permitted use in B3 – Commercial Core and B8 – Metropolitan Centre zones, as these types of locations which are rich in amenity, very well serviced by public transport, and located in close proximity to employment and education centres are the ideal locations for the co-living typology.

We recognise that residential housing is not permissible in B3 and B8 zones, as the strata selling of these residential dwellings means that the properties can effectively never be redeveloped and recycled in the future (given the disparate ownership resulting from the strata sell-down). By contrast, co-living (like Build To Rent) is not able to be strata sold, and therefore can lend itself to later redevelopment as the relevant localities evolve in the future.

We therefore do believe that co-living permissibility in B3 and B8 zones should be strongly considered by the NSW Department of Planning, Industry and Environment.

- *Minimum Size of a Co-Living Building*

We believe that the definition of Co-living in the proposed Housing Diversity SEPP should be amended to require a minimum of 40 private rooms (as opposed to 10 private rooms, as currently proposed).

We believe that with a 40-room threshold in place, appropriate incentives can and should be offered to promote the co-living sector, so that it can add valuable diversity to the housing stock in NSW

We believe that these incentives will be unlikely to lead to the overdevelopment of properties that are incompatible with their surrounding local area (as has been the case for boarding houses in recent years), as:

- Projects of this larger size (i.e. 40 rooms or more) will not be accessible to the smaller self-financed owner/builder/developers that have been the proponents of a high proportion of the lower-quality boarding house developments in recent years.
- From a zoning point of view, co-living buildings would only be able to be developed in locations where residential flat buildings are permissible (or in B3 and B8 zones as proposed above), and will therefore not create the same issue of incompatibility with surrounding low-density residential areas.
- By removing the 0.5 FSR bonus in low density areas where the base FSR is low (and therefore the proportional FSR uplift is greater), the major incentive for many boarding house developments will be removed.

- Minimum Rental Periods

The Statement of Intended Effects prescribes minimum tenancy periods of 3 months for co-living.

We are generally supportive of this provision, noting that the typical expected stay for a co-living resident will be between 6 to 12 months.

However, we do suggest that the legislation should provide some flexibility to allow for a small proportion of rooms in a co-living development (e.g. up to 20%) to be available to rent out for slightly shorter periods of 1 to 3 months.

We do believe that having this flexibility can help to cater to a small proportion of the co-living market that require accommodation for between 4 and 12 weeks (e.g. workers or students on a 6 week placement in Sydney), require flexible and fully furnished accommodation, but cannot afford to stay in a hotel for such an extended period of time.

We emphasise that there is no desire to compete with short term accommodation providers for short-stay tenancies of less than one month, and we are supportive of a prohibition on any leases shorter than one month.

- FSR bonus – it is our strong contention that a 20 – 30% FSR bonus should be allowed for co-living, to enable the developer to provide adequate communal spaces within the property. These areas are non-income producing and soak up a significant proportion of the allowable Gross Floor Area, which under a normal residential scheme would be saleable/leasable area.

In the absence of an FSR bonus, co-living will simply never be economically viable, and any given site is likely to have an alternative higher and better use such as residential for sale. It is our belief that an FSR bonus is required to put co-living on a level playing field with other competing land uses, so that this type of accommodation can be added into the housing mix in NSW for residents seeking the communal, flexible and affordable format of housing that co-living provides.

We note that the proposed new controls for Student Housing do not provide for an FSR bonus, despite the fact that these developments will also need to dedicate a significant proportion of the allowable GFA to communal areas. However, we note that it is proposed to allow Student Housing developments to offer rooms of 10sqm (or less), and to offer no car parking, both of which may help to balance the financial burden of communal area provision in the absence of an FSR bonus.

In contrast with Student Housing, the proposed co-living controls offer no FSR bonus, prescribe larger minimum unit sizes of 30 sqm + (see further commentary below), and set a significant car parking requirement, meaning that it will essentially be impossible for a co-living development to achieve commercial viability.

In order to promote co-living as an emerging housing class in NSW, we strongly believe that an FSR bonus of at least 20-30% must be offered, in addition to the other changes to the proposed controls suggested below.

- Unit sizes – an ability to offer a mix of unit sizes (including smaller units of less than 20 sqm in some cases) is also fundamentally important to the viability of a co-living development. It is our strong belief that a properly designed studio apartment of 18 - 35 sqm (including kitchen and bathroom) will be well received by the market and there is ample evidence globally of rooms of this size being successfully operated by large scale co-living operators.

Smaller studio sizes (which are readily accepted by residents) are effectively the “key” to unlocking the co-living formula, as they allow the developer to create a larger number of income-generating units, and this in turn allows the operator to deliver high quality on-site management and services, and maintain a programme of community events, all whilst keeping the rents at an affordable level for the target customers/residents.

If minimum unit sizes of 30 sqm (or even 25 sqm) are prescribed then this will effectively kill the viability of co-living as it will be completely impossible to achieve satisfactory development returns, whilst keeping rents at an affordable level.

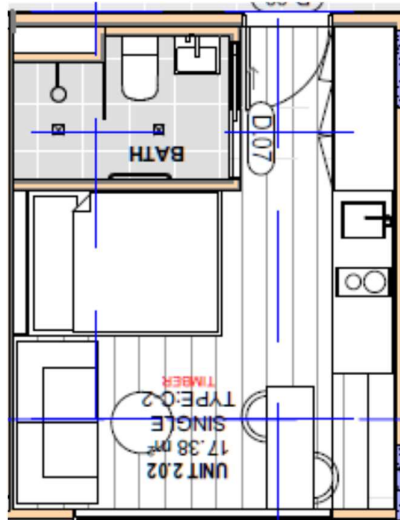
We have included below some examples of some of the unit types which are currently being delivered in our Urbico Glebe project.

The floorplans and images below illustrate that in small unit sizes of 17sqm and 21 sqm respectively, we can accommodate an appealing and highly functional layout that includes an ensuite bathroom, fully self-contained kitchen (including oven, microwave, cooktop and bar fridge), separate sleeping, lounge, and dining/study zones, and full height wardrobe and under bed storage. These rooms are fully air conditioned, offer large windows and excellent natural light and we firmly believe that they provide great amenity for residents.

*Urbico Glebe – Type C Apartment 17.38 sqm*

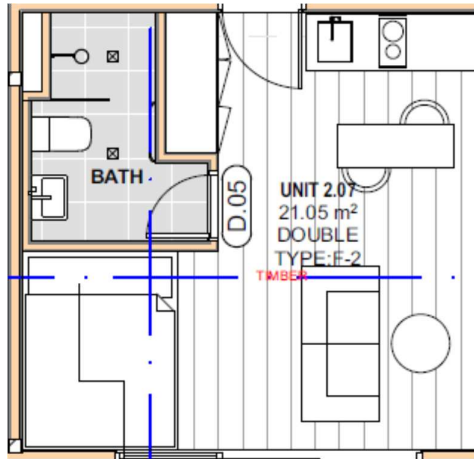






*Urbico Glebe – Type F Apartment 21.05 sqm*





In considering the question of appropriate unit sizes for co-living developments, we believe that it is also important to look at successful examples of the co-living model in other jurisdictions.

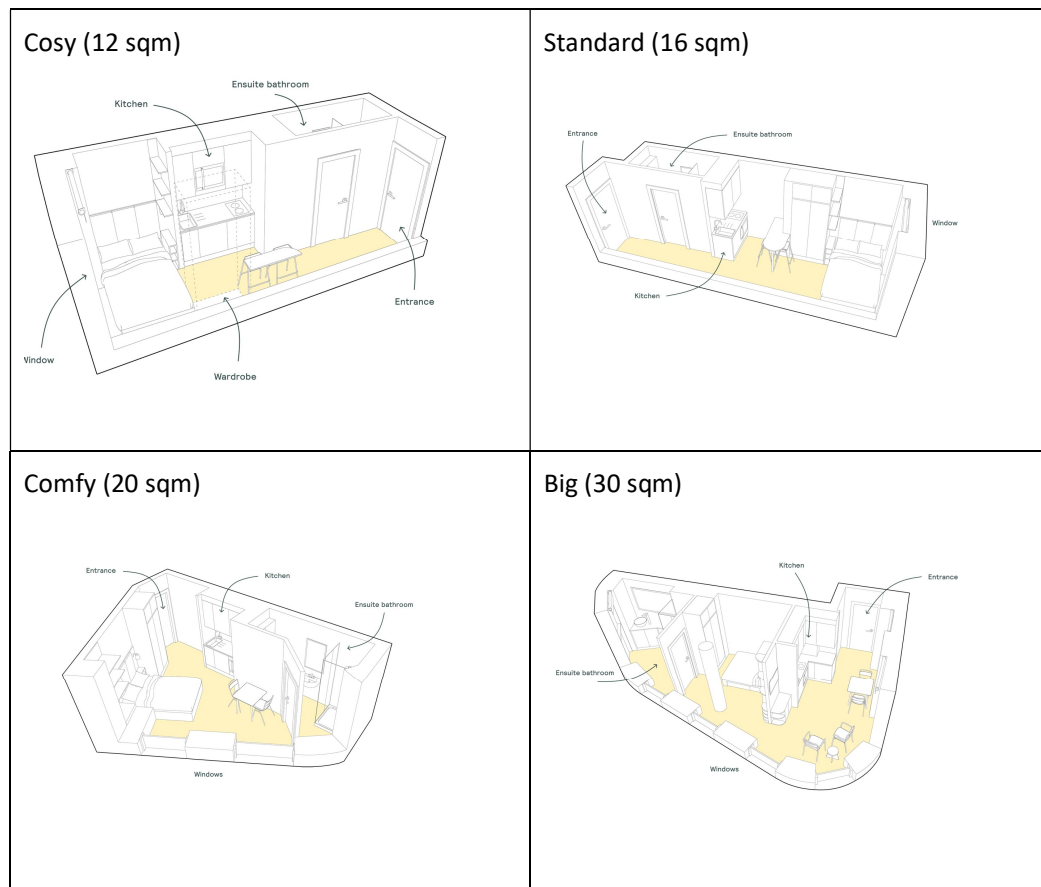
In this context, we draw reference to one example – the latest London project (located in Canary Wharf) delivered by The Collective (<https://www.thecollective.com/>), a global market-leader in institutional scale co-living.

The Collective Canary Wharf (<https://www.thecollective.com/locations/canary-wharf>) comprises 705 studio apartments, which are all fully self-contained (i.e. include private bathrooms and kitchens) and which range in size as follows:

- Cosy – 12 sqm
- Standard – 16 sqm
- Comfy – 20 sqm
- Big – 30 sqm

This 700+ bed development has traded at close to full occupancy since commencing operations, demonstrating the market's willingness to accept smaller studio sizes in return for all the other benefits that co-living offers.

Some images of these example floorplans are below:



This is but one example of a successful international co-living scheme that includes a mix of studio sizes, however such precedents are many across the international co-living landscape.

- **Car parking** – the Explanation of Intended Effect for the Housing Diversity SEPP suggests a car parking standard of 0.5 spaces per room and states that:

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

*In addition, should councils choose to prepare local plans with reduced car parking for co-living developments, it is intended these would prevail.*

*It is noted that the demand for car parking varies significantly between different areas and it may be appropriate to have different car parking rates depending on the locational context, such as proximity to a train station.”*

We strongly echo the sentiments above that the demand for car parking varies significantly between different areas, particularly when having regard to the public transport infrastructure that exists.

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

These locations – and indeed the whole co-living housing model – lend themselves towards a lifestyle that is “rich in experiences and light in possessions”, combining excellent public transport connectivity to places of work and/or study, with a locally-based “village” lifestyle for leisure and recreation.

In this context, we believe that car ownership becomes an expensive luxury rather than a necessity for many co-living residents.

A research report commissioned by Southern Sydney Regional Organisation of Councils (SSROC), written by Dr Laurence Troy, Dr Ryan van den Nouwelant & Prof Bill Randolph of UNSW’s City Futures Research Centre in June 2019 titled ‘Occupant Survey of Recent Boarding House Developments in Central and Southern Sydney’ concluded:

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

We also note that the nature of a co-living property – which is fundamentally based on principles of community living and participation in the “sharing economy” – lends itself to on-site car share schemes (e.g. GoGet, Car Next Door, etc) which can significantly reduce car ownership and therefore car parking requirements.

Research undertaken by SGS Economics and Planning indicates that for every shared car, 9 to 13 private cars are taken off the road, and that a survey undertaken by GoGet, a car share provider, indicates that 62% of resident-members indicated that they had deferred purchasing a private car since becoming a GoGet member. In addition, the City of Sydney website notes that a single car share vehicle can replace up to 12 private vehicles. Furthermore, the Land and Environment Court of NSW has accepted the use of car share parking spaces to offset the requirements for off-street car parking, particularly in locations which are readily accessible by public transport. These include Sheer Property Group Pty Ltd -v- Randwick City Council, Freedom Development Group Pty Ltd -v- Randwick City Council, and Arkibis Pty Ltd -v- Randwick City Council.

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

Given the factors noted above, it is our strong belief that residents in a co-living building will generally have far lower levels of car ownership and car usage than typical residential flat buildings, particularly if on-site car share schemes are provided for the use of residents. We also believe that in key urban locations (e.g. close to Sydney CBD or Sydney Central Station) it would be preferable to offer no car parking, to encourage residents to use public transport, walk, travel by bicycle, or to utilise car share schemes.

In this context, we strongly contend that a development standard requiring 1 car parking space for every 2 rooms will have a hugely detrimental impact on the commercial viability of the co-living model (noting that car parking is often provided in underground basement areas which are by their nature very costly and risky to deliver from a construction point of view).

We recognise that the draft SEPP suggests that the car parking standard of 0.5 spaces per room is suggested as a non-discretionary 'must not refuse' provision, allowing councils scope to approve a co-living development with less parking when appropriate. However we note that the car parking rates under the ARHSEPP – which have also been non-discretionary 'must not refuse' provisions – have in practice been held effectively as standards by many councils, even where the locational context of a site supports a far lower level of car parking (e.g. given close proximity to public transport).

We would therefore propose that the following car parking provision requirements should apply:

- 'Must not refuse' provision of zero car parks for sites within a prescribed radius (e.g. 3km) of key urban centres such as Sydney CBD, Central Station, Paramatta, North Sydney, Chatswood, Bondi Junction, etc;
- 'Must not refuse' provision of 0.2 car parks per room for sites in other accessible locations (Within 800m walking distance of a railway station or a Sydney Ferries wharf, Within 400m walking distance of a light rail station; or Within 400m walking distance of a bus stop used regularly between 6am and 9pm);
- 'Must not refuse' provision of 0.5 car parks per room for all other locations.

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

- Communal Living Space – we are supportive of the concept of communal living space within a co-living development, as these communal areas are a fundamental element of the co-living concept.

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

We also believe that the methodology for calculating the communal open living requirement should be linked to GFA rather than to the number of rooms.

On this basis, we believe that a requirement to provide Communal Living Space that equates to 5% of GFA would be appropriate and reasonable.

Alternatively, if the NSW Department of Planning, Industry and Environment continues to calculate Communal Living Space requirements based on number of rooms, we would suggest a standard which equates to 1.2sqm per room.

- Private Open Space – we are supportive of the intent and believe that it is indeed preferable to offer private open space to residents where possible, however the proposed provision of 4 sqm per room will be a major constraint on building design, and – independent of other proposed development standards in the draft SEPP – this provision alone could completely destroy the viability of any potential co-living scheme.

Whilst there are many variants of co-living around the world, the dominant model is a built form which closely resembles a Student Housing building, or even a hotel, comprising a large number of self-contained studio apartments (which typically do not offer balconies or private open spaces), together with shared communal spaces.

We note that residents in co-living buildings are most often singles or couples in the 20 – 35 age group that are spending a significant time out of their apartment, either at work, or recreationally (whether in the building's shared communal spaces, or outside the building). In addition, these residents are often using co-living accommodation as a "medium-stay" accommodation for stays of 3 to 12 months.

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

Whilst we firmly believe that co-living rooms should have good amenity, we do not believe that they should be held to the same design standards as traditional residential accommodation.

The application of such standards would result in higher development costs and a significantly lower number of compliant dwellings being achievable on any given co-living development site.

This in turn would result in either:

- co-living developments simply never getting off the ground, as developers will not be able to achieve satisfactory returns whilst offering rents that are affordable to the target market; or
- much higher rents being passed on to the end-users, significantly reducing the affordability of the model and making co-living a niche luxury product which is only accessible to a small proportion of the target market.

Given the above, we firmly believe that some design flexibility needs to be allowed, to allow for affordable rental levels and to foster the evolution of co-living industry, and we would advocate for design standards for co-living modules that are aligned with those applicable to student housing, rather than those that are applicable to traditional residential accommodation.

Whilst many developers will seek to offer private open spaces where possible, making this a mandatory requirement for all apartments would completely destroy the viability of the co-living model.

Given the above, we believe that there should be no development standard requiring each room to offer Private Open Space.

- Communal Open Space – we are supportive of the concept of communal open space within a co-living development, as these communal areas are a fundamental element of the co-living concept.

However, we believe that the proposed control requiring a minimum of 25% of the site area could vastly limit the number of potential sites upon which a compliant co-living scheme could be achieved.

It could be particularly difficult to achieve on small lots, sites within business zones, or in a dense urban area.

As such we propose that the development standard be amended to require a Total Open Space provision equal to 15% of site area.

- o We further propose that at least 50% of this space (i.e. 7.5% of site area) should be required to be provided as Communal Open Space. This would mean that up to 50% of the Total Open Space requirement can be satisfied with the provision of Private Open Spaces (noting that we propose for the provision of Private Open Space to be discretionary rather than mandatory).

- Building envelope controls – the proposed Housing Diversity SEPP states that ‘*building envelope controls for residential flat buildings under the relevant DCP could apply*’.

We have noted above that we firmly believe that an FSR bonus of 20 – 30 % should be offered for institutional-scale co-living developments.

If such a bonus is offered for co-living developments, we believe that it may be necessary to allow some concessions (based on merit) in the application of building envelope controls that would apply for a residential flat building on the relevant site, otherwise it may not be possible for the development to actually take advantage of the FSR bonus that is on offer.

- Transition Period

We believe that it is absolutely essential that appropriate transitional arrangements are applied by the NSW Department of Planning, Industry and Environment in the implementation of the new Housing Diversity SEPP, so as not to undermine confidence in the NSW planning system.

We would strongly recommend:

- ensuring that the new SEPP will not be applied retrospectively, i.e. ensuring that Boarding Houses developed or approved under the existing ARHSEPP regime will be “grandfathered” and will not be subject to the restrictions under the new SEPP; and
- providing advanced notice of a set date when the new SEPP will come into effect, and providing that any Development Applications that are submitted prior to this date be assessed based on the current legislation.

We are advocating for these transitional changes because, absent this type of ‘savings provision’ the industry will effectively be on pause for the next 6-12 months while the draft SEPP is being resolved. No developer will be able to acquire or commence any new co-living project without knowing what set of planning controls their site will be assessed under. This will have a negative impact on the housing supply and jobs within the construction industry. In addition many developers who have developed co-living properties or have purchased development sites based on the existing ARHSEPP, would face catastrophic financial losses should the new regime be applied to these buildings or sites.

It is noted that in June 2018, when the car parking requirement under the ARHSEPP was increased from 0.2 to 0.5 for non-social housing providers, no savings provision was applied, and many developers that had purchased sites based on the pre-existing car parking standard and had lodged Development Applications up to 12 months earlier were suddenly faced with a significant negative financial impacts to their projects, in some cases destroying the entire financial viability of the proposed development.

The negative impacts would be even greater and more widespread if the new Housing Diversity SEPP provisions are to be applied to existing boarding houses, or to development sites which have already been purchased based on the currently applicable framework.

We strongly believe that a failure to adopt appropriate transitional arrangements could significantly undermine and erode confidence and faith in the NSW planning system.

### Summary of Proposed Development Standards

Development standard	Proposed by Urbico
Height of buildings	Some leeway applied to LEP standards, merit based
Floor space ratio	FSR bonus of 20 – 30%
Car parking	<p>Non-discretionary ‘must not refuse’ provision of zero car parking spaces per room for sites within a prescribed radius (e.g. 3km) of key urban centres such as Sydney CBD, Central Station, Paramatta, North Sydney, Chatswood, Bondi Junction, etc;</p> <p>Non-discretionary ‘must not refuse’ provision of 0.2 car parking spaces per room in ‘accessible areas’ (as defined in the ARHSEPP)</p>



	<p>Non-discretionary 'must not refuse' provision of 0.5 car parking spaces per room outside of 'accessible areas' (as defined in the ARHSEPP)</p> <p>Possibility of provision of share car counting as equivalent to 10 private car spaces</p>
Room size	<p>Minimum size for self-contained unit (including bathroom + kitchen) of 18 sqm</p> <p>Maximum size for self-contained unit (including bathroom and kitchen) of 35 sqm</p>
Strata subdivision	As per current draft SEPP - Not permitted
Communal living space	5% of GFA
Private open space	No private open space requirement for individual units
Communal open space	<p>Total Open Space requirement - 15% of site area.</p> <p>At least 50% of this space (i.e. 7.5% of site area) must be provided as Communal Open Space.</p> <p>Up to 50% of the Total Open Space requirement can be satisfied with the provision of Private Open Spaces (provision of Private Open Space to be discretionary rather than mandatory).</p> <p>○</p>
Building envelope controls	Merit-based concessions to be considered to accommodate the 20-30% FSR bonus where appropriate

## Conclusion

There is a significant weight of capital seeking to invest in the development of co-living properties in NSW, reflecting the significant potential demand that exists for this type of housing in Sydney.

This potential investment can create a valuable addition to the housing stock in NSW, and can stimulate jobs and significant economic activity at a time where the economy is hugely depressed.

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

Please don't hesitate to contact me if you wish to discuss any aspect of our submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kenny Phillips', with a stylized flourish at the end.

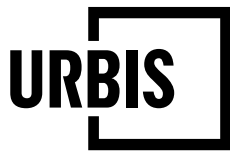
Kenny Phillips

**Co-Founder**

Urbico

[kenny@zenprop.com.au](mailto:kenny@zenprop.com.au)

Mobile: 0420 561 110



**ANGEL PLACE  
LEVEL 8, 123 PITT STREET  
SYDNEY NSW 2000**

URBIS.COM.AU  
Urbis Pty Ltd  
ABN 50 105 256 228

8 September 2020

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

To the Housing Policy Team,

## **SUBMISSION ON THE DRAFT STATE ENVIRONMENTAL PLANNING POLICY (HOUSING DIVERSITY) 2020**

### **1. INTRODUCTION**

This submission has been prepared on behalf of Starwood Capital Group and Arrow Capital Partners (**the Proponent**) in response to the Explanation of Intended Effect (**EIE**) for the draft *State Environmental Planning Policy (Housing Diversity) 2020 (Housing Diversity SEPP)* currently on exhibition by the NSW Department of Planning, Industry and Environment (**DPIE**).

The Proponent strongly supports the DPIE for its initiative in providing new development definitions which reflect changes in NSW's housing market, particularly in relation to the newly defined area of Built to Rent (**BTR**).

Starwood Capital Group has international experience in the area of BTR accommodation being the developers and owners of over 80,000 BTR units in the United States and 3,000 units in Ireland.

The Proponent is the landowner of 29-57 Christie Street, St Leonards (**the site**), a large site zoned B3 Commercial Core in the strategic centre of St Leonards CBD. The Proponent is currently preparing a development application for the redevelopment of the site which will comprise a concept development application (Concept DA) across the whole site to establish three building envelopes, and a detailed Stage 1 DA for two commercial buildings with ground floor retail.

The proposed development will deliver 57,267sqm of gross floor area (**GFA**) in a highly accessible location between St Leonards Train Station and the future Crows Nest Metro Station.

### **2. BUILT TO RENT**

The Proponent recognises the importance of BTR accommodation in the NSW housing market. With the number of long-term private renters (tenure over 10 years) doubling since the 1990s, BTR is an opportunity to provide improved amenity for long term renters in well-located areas, close to public transport and other services.

The Proponent is particularly supportive of the proposed definition of BTR and its compulsory permitted use in the B3, B4, B8 and R4 zones as well as inclusion in all R3 zones where residential flat buildings are permitted.

Further clarification is sought for the approach to BTR in business zones (B3, B4 and B8). The EIE currently states that *“it is proposed that it would not be possible to strata subdivide a BTR housing development for the first 15 years and to prohibit subdivision in a B3 – Commercial Core zone, in perpetuity”*.

We recommend a flexible approach to strata subdivision that allows the commercial and retail components of any mixed-use development to be strata subdivided from the residential component and sold separately. The residential component could still be mandated to be in single ownership.

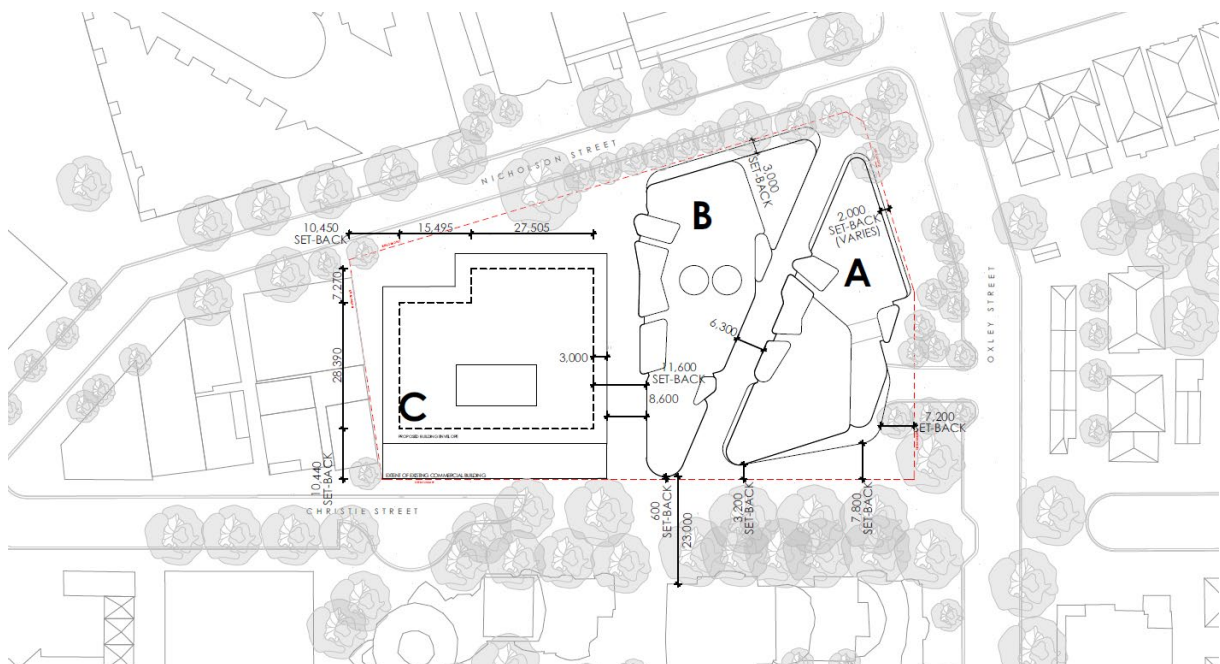
Based on their professional experience in the BTR market internationally, Starwood Capital Group and Arrow Capital Partners consider lease tenures of 3 years or more to be seen as a risk for both asset owners and tenants. It is therefore requested that the tenancy term is reduced to a minimum 12 month term.

It is noted that the EIE sets a minimum parking provision of 0.5 spaces per dwelling. We request that flexibility be applied to parking requirements for sites in accessible areas where there is high public transport capacity.

### 3. SUITABILITY OF THE SITE

We believe that the site at 29-57 Christie Street, St Leonards would be an ideal location for BTR housing within the proposed concept Building C that is subject to a future detailed development application and illustrated below.

Figure 1 Proposed development at 29-57 Christie Street, St Leonards



Source: Fitzpatrick + Partners

Provision of BTR housing on the site is consistent with State and local strategic objectives for St Leonards, as follows:

- St Leonards is identified as a strategic centre within the Greater Sydney Commission's North District Plan due to its contribution to the economic growth of NSW. The vision for Greater Sydney means that residents in the North District will have quicker and easier access to a wider range of jobs, housing types and activities. Provision of BTR housing within Building C of the proposed development and next to high-quality floor space within Building A and B, all of which are in close proximity to St Leonards Train Station and Crows Nest Metro Station, directly aligns with the strategic vision for Greater Sydney.
- The recently released St Leonards and Crows Nest 2036 Plan recognises a key opportunity that St Leonards and Crows Nest has to deliver build-to-rent housing given its accessible location and improvements to active and public transport links with the introduction of the Crows Nest Metro Station. The Plan also considers BTR as a way of promoting jobs growth in the area.
- The Plan provides capacity for up to 6,683 new dwellings in the St Leonards/Crows Nest area and recognises the opportunity to influence affordability by increasing supply and increasing the diversity of housing products. The proposed Building C envelope which is proposed on the site will have a total GFA of approximately 31,362sqm which has the potential to accommodate up to 280 bedrooms or 340 residents, resulting in a significant contribution towards housing targets.
- Lane Cove Council's Local Strategic Planning Statement (**LSPS**) contains a planning priority to plan for the growth of housing that creates a diverse range of housing types and encourages housing that is sustainable, liveable, accessible, and affordable. The LSPS has identified that the majority of the dwelling capacity in the 2010 Lane Cove LEP has been taken up and therefore Council has focused its Housing Strategy on residential development at St Leonards, consistent with the State Government's prioritisation of Transit Oriented Development. In this regard, the subject site is considered to be an ideal location for residential accommodation. Provision of BTR accommodation on the site would align with the LSPS's planning priority without the need for a rezoning application.
- BTR housing on the site would suitably service key workers and students attending the Royal North Shore and Mater Hospitals.
- It is considered that a lower parking requirement could be applied to the site due to its close proximity to St Leonards Train Station and Crows Nest Metro Station.

## 4. CONCLUSION

We would like to thank you again for the opportunity to provide a submission on the draft *State Environmental Planning Policy (Housing Diversity) 2020*. We are supportive of DPIE's decision to include the newly defined Built to Rent housing type as a compulsory permitted use in the B3 Commercial Core zone and provide the following recommendations at this stage:

- Allow strata subdivision of the commercial component from BTR in a mixed-use building
- Reduce the tenancy term from 3 years to 12 months
- Allow parking flexibility for sites in accessible areas.

We look forward to further opportunities to provide feedback on the Housing Diversity SEPP, particularly as design guidelines begin to be developed.



Yours sincerely,

A handwritten signature in black ink, appearing to read "S Noone".

Sarah Noone  
Consultant  
+61 2 8233 7694  
snoone@urbis.com.au





# SUBMISSION TO DRAFT HOUSING DIVERSITY SEPP

Prepared for Cor Partners  
September 2020



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**Urbis staff responsible for this report were:**

Director	Stephen White
Consultant	Brigitte Bradley

Project code	P0026685
Report number	1

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# INTRODUCTION

We write on behalf of Cor Partners, in relation to the Explanation of the Intended Effect for the proposed draft *State Environmental Planning Policy (Housing Diversity)* 2020 (Housing Diversity SEPP).

Cor Partners are a national operator of residential accommodation with significant experience in Student Accommodation, Co-Living and Build to Rent Housing projects. Their platform rollout is supported by Accord Property and Nuveen Real Estate, one of the largest investment managers in the world with \$131 billion of assets under management, of which \$22.2 billion is specifically invested in housing accommodation.

To date, Cor Partners have over 2,500 beds under development nationally (Perth, Adelaide, Melbourne and Sydney), with a further pipeline of at least 2,000 beds. Cor Partners has a focus on providing affordable, high quality development close to public transport and local services.

Cor Partners strongly supports the NSW Department of Planning and Environment (DPIE) for its initiative in providing new definitions which reflect changes in NSW's housing market. However, in order to facilitate the intentions of the SEPP and create diverse and affordable housing, a number of amendments are required in relation to the three newly defined areas of:

- **Build to Rent**
- **Student Accommodation; and**
- **Co-living**



## Introduces new definitions

Build to Rent Housing

Student Housing

Co-living

## Amends some state-level planning provisions

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)

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)

## Amends state-level planning provisions

Boarding house and seniors housing development;

Seniors housing development

# BUILD TO RENT

## Built to Rent Definition and Vision

Cor Partners recognises the importance of Build to Rent (BTR) housing in the NSW market particularly as an operator funded by a large-scale institutional investor. With the number of long-term private renters (tenure over 10 years) in NSW doubling since the 1990s, we see BTR as an opportunity to provide improved amenity for long term renters in well-located areas, close to transport and amenities.

Cor Partners are also supportive of the proposed definition of BTR and its compulsory permitted use in the R4, B3, B4 and B8 zones as well as inclusion in all R3 zones where residential flat buildings are permitted.

Further details are required for the approach to BTR in the Business zones (B3, B4 and B8). We recommend a flexible approach that allows the commercial and retail components of any mixed development to be strata subdivided and sold separately. The residential component could still be mandated to be in single ownership.

## Rental Tenures

Based on their professional experience in the BTR market nationally, setting lease tenures of 3 years or more will be seen as a risk for asset owners and tenants at the start of residing in a new place.

To allow for flexibility for the owner and tenant it is recommended that a 12 month minimum lease term is first set for new tenants with lease renewal opportunities for a minimum of 2 years following the initial 12 month period.

## Development Standards

From an assessment perspective, we acknowledge DPIE's intention to develop specific advice about what specific parts of SEPP 65 are relevant to BTR. It is our opinion that BTR should not be seen as the same as a regular residential development.

BTR tenants are usually looking for a more communal living situation with a similar level of shared facilities found in co-living developments, as discussed later in this submission.

We also recommend that standards are set similar to the current boarding house and proposed co-living provisions for '**Standards that cannot be used to refuse consent**' to incentivise BTR developments in comparison to market housing.

## Proposed 'Standards that cannot be used to refuse consent'

- **Building Height**  
Allow for developments within the LEP height control
- **Adequate access to Communal Facilities**  
Incentivise high quantum of communal facilities rather than private open space
- **Solar Access**  
Similar requirements to current ARHSEPP
- **Parking**  
0.2 car spaces per room or equivalent car sharing scheme

## Recommendations

- **Remove the 3 year tenancy lease hold and replace with minimum 12 month leases with renewal guarantees of 2 to 3 years if the tenant and operator mutually agree**
- **Allow strata subdivision for retail/commercial development for BTR in Business Zones**
- **Provide development standards (or Standards that cannot be used to refuse consent) to incentivise BTR developments**

# STUDENT HOUSING

## Student Housing Definition and Vision

Cor Partners acknowledges the importance of purpose-built student housing and its role in alleviating demand on other affordable housing types in proximity of major universities. The current definition specifically states:

*'provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods'. We recommend the definition is updated to ensure that residents can stay over holiday periods and the like to reduce the impacts on short-term accommodation in these areas.*

Cor Partners are also supportive of a majority of the proposed development standards including:

- Height of Buildings
- Car/Bicycle/Motorcycle parking
- Reductions to minimum room sizes
- Communal areas (indoor and outdoor)

## Removal of FSR Bonus

The removal of the current FSR bonus for student accommodation will significantly reduce the commercial viability of student housing. This policy if implemented, will dramatically reduce the future supply of student housing which will push up the prices of student accommodation, undermining the desired outcome of the policy.

While the reduction of minimum room sizes is considered a positive benefit of the new development standards, this will not however compensate for the reduced allowable floorspace when taking into consideration the other amenity requirements to be met.

It is recommended that the current FSR bonus allowance is maintained for student housing developments. If this is not considered appropriate as a blanket approach, it may be appropriate to have requirements/standards that must be met to achieve additional FSR on site. These might include:

- the development provides internal common space in excess of the minimum requirements
- the development is highly accessible via public transport
- the development is in close proximity to open space and other facilities
- the development achieves design excellence

## Recommendations

- Amend current definition to ensure students can remain in student accommodation during non-teaching periods
- Retain the current FSR bonus allowance for student housing projects, or at least, insert performance criteria to enable it to be achieved

# CO-LIVING

## Co-Living Definition and Vision

Cor Partners are supportive of identifying a new housing type as 'co-living' . Co-living developments are the new generation of accommodation for young professionals who are seeking affordable accommodation close to employment and other services which also provides a high level of communal amenities and a sense of community.

Cor Partners are also supportive of the proposed definition of co-living and its mandatory inclusion in all zones where residential flat buildings are permitted.

## Private Open Space

Rather than the proposed reduction in communal open space where all dwellings have private open space, we recommend a provision for co-living which incentivises an **increased** level of communal facilities to negate the need for private open space.

Co-living is a form of communal living. According to ABS data, single and couple households account for over 50% of total households. Smaller apartment sizes with communal facilities including kitchens and laundries allows for increased interactions between residents and diversity and flexibility in possible apartment typologies/layouts for tenants.

## Minimum Apartment Sizes

While the private rental market has grown at twice the rate of all households since 2001, analysis by AHURI provides strong evidence that the predominant increase in rental accommodation relates to:

- an increase in privately rented dwellings with mid-market rents; and
- an increase in private renter households at middle and higher income levels.

With current market housing providing for medium and higher income tenants, the minimum apartment sizes proposed for co-living apartments will still not provide housing opportunities for lower-medium income tenants moving into the rental market.

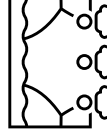
To replace the 'one size fits all approach' for apartment layouts, we recommend co-living would allow for a mix of sizes from 10sqm (excluding ensuite) to 40sqm to meet market demands. While the apartments would be smaller than regular ADG apartments, they will remain serviced by a range of communal/shared facilities.

This approach is considered much more feasible for operators as it allows for a range of apartment typologies while continuing to deliver high quality on-site management and services, and maintain a programme of community events, all whilst keeping the rents at an affordable level for the residents.

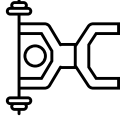
## Examples of Communal Services Provided in Co-living Buildings



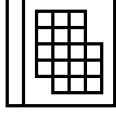
Swimming Pools



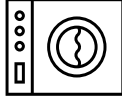
Cinemas



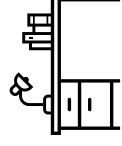
Gyms



Weekly/Monthly Catchups



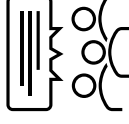
Communal Laundry Facilities



Study/Work areas



Communal eating areas



Group communication channels

# CO-LIVING

## Car Parking

We acknowledge that stakeholder feedback has been specifically sought on appropriate car parking rates for co-living developments. If it is the intention for co-living developments to replace 'new generation' boarding houses and provide affordable housing in highly desirable areas, lower parking numbers than residential development should be standardised across all co-living development.

While the intention of the current scheme to allow Councils to have authority over car parking is understood, Councils are more likely to require more parking than necessary for co-living developments which would reduce the viability of co-living developments for developers.

The location of co-living developments are typically in close proximity to public transport and employment/services used daily by tenants. One point that has been largely missed in the Draft SEPP is the rising use of car share schemes replacing private vehicle ownership for weekend trips and larger grocery shops. One car share space used by tenants can replace approximately 12 private vehicles.

It is recommended to provide a minimum standard for parking of 0.2 spaces per room that overrides Council controls and cannot be refused by Council. Additional performance standards are also recommended for implementation based on proximity to public transport and introduction of car sharing schemes.

## Floor Space Bonus

Similar to current student accommodation provisions, the current floor space ratio bonus is the leading reason why boarding houses are financially viable in desirable locations.

The removal of the FSR bonus would reduce the viability of new co-living developments drastically due to the fact that a large portion of the FSR associated with co-living development is required to provide the necessary communal spaces for residents rather than revenue generating areas.

In addition, the financing of these assets is much more difficult as there is no ability to obtain pre-sales compared to market housing.

It is critical that a Floor Space Ratio bonus is incorporated into new co-living developments to encourage the supply of affordable housing.

An alternative scheme to a Floor Space Ratio bonus would be to remove the calculation of communal spaces from the overall FSR calculation for the site.

## Recommendations

- **Revise minimum size of apartments to improve diversity of apartment sizes**
- **Remove private open space requirements to incentivise communal open space**
- **Set a minimum parking standard of 0.2 spaces per room that cannot be refused by Council**
- **Incentivise less parking close to public transport and car sharing schemes on site**
- **Re-introduce FSR bonus for Co-living Developments or remove communal spaces from FSR calculation**



# SUMMARY OF RECOMMENDATIONS

We would like to thank you again for the opportunity to provide a submission to the Draft *State Environmental Planning Policy (Housing Diversity)* 2020. In light of the comments above, we offer the following recommendations in relation to the three newly defined housing typologies:

## BUILD TO RENT

- Remove the 3 year tenancy lease hold and replace with minimum 12 month leases with renewal guarantees of 2 to 3 years if the tenant and operator mutually agree
- Allow strata subdivision for retail/commercial development for BTR in Business Zones
- Provide development standards (or Standards that cannot be used to refuse consent) to incentivise BTR developments

## STUDENT HOUSING

- Amend current definition to ensure students can remain in student accommodation during non-teaching periods
- Retain the current FSR bonus allowance for student housing projects, or at least, insert performance criteria to enable it to be achieved

## CO-LIVING

- Revise minimum size of apartments to improve diversity of apartment sizes
- Remove private open space requirements to incentivise communal open space
- Set a minimum parking standard of 0.2 spaces per room that cannot be refused by Council
- Incentivise less parking close to public transport and car sharing schemes on site
- Re-introduce FSR bonus for Co-living Developments or remove communal spaces from FSR calculation



models are different from standard multi-unit development in that they enable a higher degree of sharing (of spaces, facilities, resources), are explicitly designed to encourage social contact and build community, and use non-speculative, participative delivery models that have a stronger focus on delivering affordability outcomes. The key barriers to better enabling these larger scale models are financial, however they also need to be incentivised via the planning system. The research identified the need for incentives, definition and guidance (e.g. model planning guidelines).

**Additional notes:**

- The Royal Commission into Aged Care Quality and Safety indicated interest in both small and large scale collaborative housing – they came across our research and conducted an interview with us
- This website presents the findings from our second research project – it contains more detail on the models, and justification of their relevance to NSW:  
<https://www.collaborativehousing.org.au>

Sincere apologies for the brevity of this submission, our research team has been extremely busy and was only made aware of the opportunity to contribute a submission on the final day of exhibition. We have had very limited time to look into the SEPP proposal and develop this response. I would very much welcome the opportunity to talk further with your housing policy team and can be contacted via the email above.

Best regards, Caitlin McGee Institute for Sustainable Futures, University of Technology Sydney

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



Submitted on Mon, 07/09/2020 - 13:54

Submitted by: Anonymous

Submitted values are:

Submission Type: I am making a personal submission

First Name: Vanessa

Last Name: saade

Name Withheld: No

Email: [vanessa\\_saade@hotmail.com](mailto:vanessa_saade@hotmail.com)

Suburb/Town & Postcode: 2040

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

Submission: I think the innerwest needs more affordable housing for our children whom may not be able to rent a full apartment. That way we can still be in close proximity to them

30<sup>th</sup> September 2020

Submission regarding Draft Report

I am emailing you to asked you to forward to the appropriate department for the residents of Kingswood 2747 regarding Boarding Houses to be built in our area of Kingswood NSW 2747 and to discuss the ongoing issue of Boarding Houses in Kingswood

Issues of concerns.

1. Number of Boarding Houses being built in any local area and concerned about the number of boarding houses on one street.
2. No details in the NSW Sepp policies on the number of boarding houses that can be built in our family friendly area of Kingswood.
3. No mention of the clustering of Boarding Houses in an area.
4. The Characteristics of the local area and the impact of this on our community
5. Failed to address the lack of parking under the current State Environmental Planning Policy (Affordable Rental Housing 2009)
6. The overflowing of on street parking which contributes to street congestion
7. No mention on the treatment of asbestos when older properties are demolished.
8. Regarding asbestos, that currently any development applications do not require an asbestos report to be undertaken. If a sample of asbestos is detected, the onus is on the builder to inform members of the public. The residents are not being properly advised of the risks, and, that asbestos is not being carefully removed
9. Management of asbestos removal in existing dwellings that are being demolished to construct the boarding houses.

10. There are several boarding houses that have been approved on Manning Street ranging from fifteen to thirty-four rooms with only a couple of parking spaces onsite.
- 11.. In total, it is understood the process that there are around thirty -four boarding houses under approval.
12. The residents of Kingswood are troubled by the lack of parking as under the current State Environmental Planning Policy (Affordable Rental Housing) 2009 each boarding room which can often house up to two people per room, and is only required to have 0.5 car spaces. We the residents are stating that this results in the overflow of parking onto the street, which leads to street congestion. This has increased their fears that this will impact on the ability for emergency services vehicles to access the area in an emergency.

The residents feel Real Estate Agents constantly persist in distributing flyer's in our letter box wanting to buy property in our areas, we the residents are getting bullied to sell our houses to them so they can inform builders to buy the property and build more boarding house. The residents are totally disgusted with their action.

I await your response regarding this matter.

Kind regards,

Vince Montgomery

Residents of Kingswood 2747

Email [vincebeth@bigpond.com](mailto:vincebeth@bigpond.com)

Mob 0410614463

Submitted on Tue, 08/09/2020 - 15:43  
Submitted by: Anonymous  
Submitted values are:  
Submission Type:I am making a personal submission  
First Name: Vivian  
Last Name: Dray  
Name Withheld: No  
Email: [viandra@gmail.com](mailto:viandra@gmail.com)  
Suburb/Town & Postcode: Gailes 4300  
Submission file: [webform\_submission:values:submission\_file]

Submission:

Re Proposed Changes to NSW SEPP I am concerned about some of the proposed changes to the SEPP: Housing affordability is a huge issue with massive shortfalls of private rental dwellings for low-income households. As 24% of households have one person and 33% have only two people, share housing is able to take up massive amounts of this shortfall in a very short time simply by converting existing homes into share homes. Already there are 79% of homes with spare bedrooms that are unused. By encouraging share housing we can quickly make a difference to this situation. My concern with the proposed changes is that it makes it

MORE DIFFICULT to create share housing. Why does there need to be management by Community Housing Providers when so many ordinary mum and dad investors are willing to create share houses that can take low-income people off the streets? Clearly we need to protect residents and the community around them and make sure these houses are safe and not just sardine living! I know of countless investors who are already creating beautiful share housing accommodation all over the nation so I know it can be done well and within the law.

I propose that one of the biggest roadblocks to converting houses into share houses is the need for universal access when converting existing housing stock. I do not propose to change it for new buildings, but it is a ridiculous expectation to spend massive money on conversions to meet universal access requirements in EVERY house. This assumes that 1 in 5 Australians need universal access! Really? Yes, 1 in 5 Australians have a disability but not all need wheel chair access.

What we need right now is housing that people can afford and this requirement for universal access is the only thing stopping my husband and I from creating affordable housing in existing homes. If you could remove this requirement for existing housing stock and allow share housing for up to 6 people in any zone within 400m of public transport like the current access requirements for New Generation Boarding Houses in R2 zones, this would make it possible for young people and working couples to afford decent accommodation without the cost of renting whole houses and still have easy access to transport where they may not need a car and give them opportunity to get back on their feet while they live cheaply for a short time. Converting existing houses is also more flexible than creating new homes because they can be used for families again later when the need for this is no longer applicable. Allowing certification through private certifiers would also help expedite the process so that we can get many houses approved quickly and help these people NOW.

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