



DRAFT Submission on Proposed State Environmental Planning Policy (Housing) 2021

August 2021

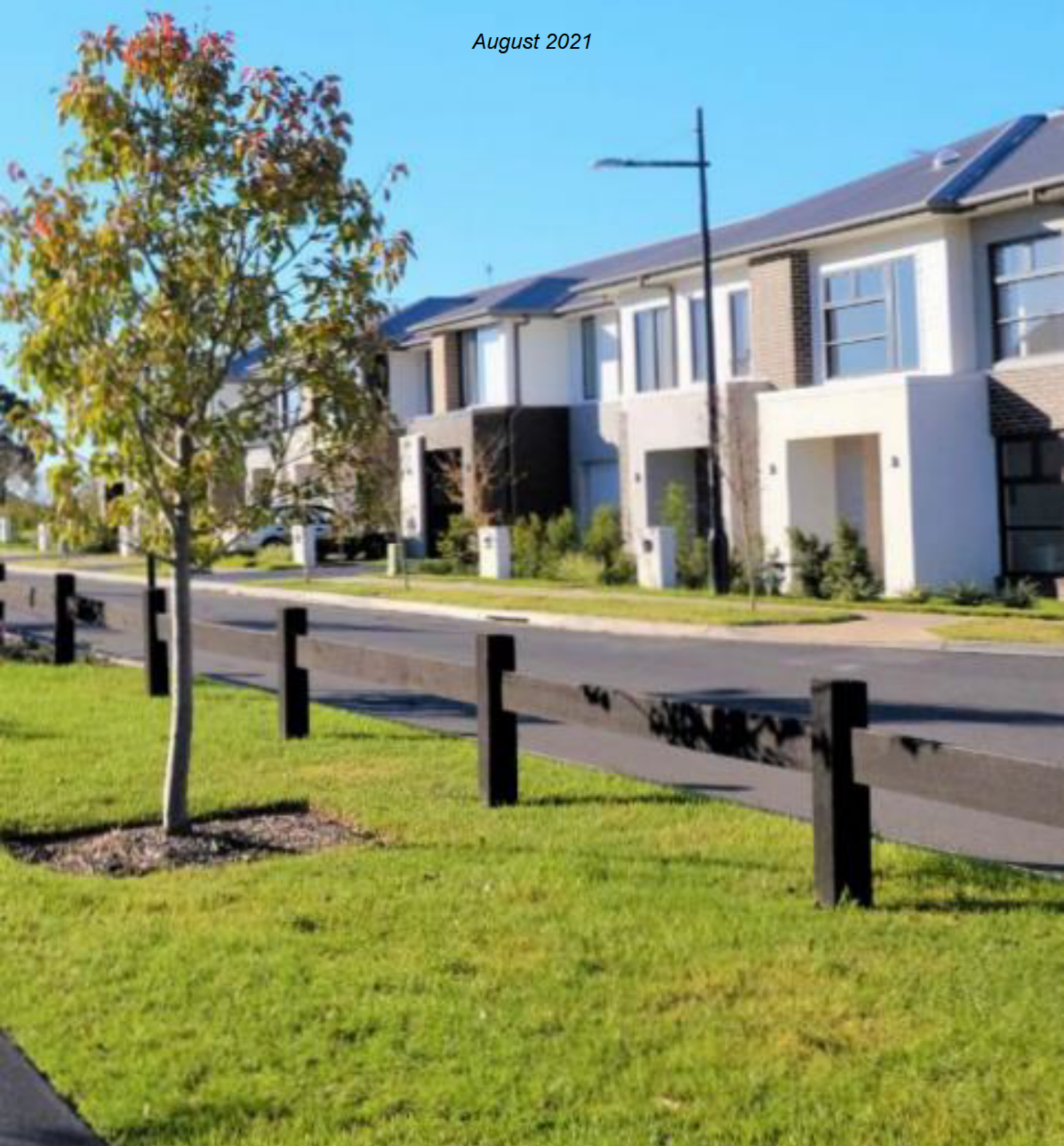




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Executive Summary

The NSW Department of Planning, Industry and Environment (DPIE) are seeking feedback on the draft State Environmental Planning Policy (Housing) 2021 (draft Housing SEPP) which seeks to consolidate existing housing-related SEPPs and introduce two new housing types (definitions and planning provisions) to facilitate housing projects with more affordable and diverse housing, including Build-to-Rent housing (BtR) and Co-living housing.

DPIE exhibited the Explanation of Intended Effect (EIE) for a proposed Housing Diversity SEPP between 29 July and 9 September 2020. It is requested that the issues and recommendations contained in our submission to the EIE (**Attached**) be considered in finalising the proposed SEPP.

Council officers have reviewed the draft Housing SEPP and support the broad intent and aims. The key issues and recommendations outlined in this submission are summarised below.

Community Engagement

Council is concerned about the limited community consultation undertaken as part of the exhibition.

- Clarification is sought about what actions have been undertaken by DPIE to ensure the proposed changes have been adequately explained to landowners and residents.

Seniors Housing

It is recommended that:

- Permissibility for seniors housing not be expanded to business zoned land, where it is not already permissible according to another EPI.
- In order to protect the amenity and character of residential and mixed-use areas in Camden, it is recommended that development standards specified for seniors housing (in zones where it is permissible), prevail over those included in the SEPP, as described in the EIE.

Build-to-Rent (BtR)

It is recommended that:

- BtR Housing be excluded from land within a Heritage Conservation Area
- The decision to make BtR Housing a mandatory permissible use on land zoned B3 be reconsidered in line with previous advice.
- The required parking spaces clause be amended such that parking requirements are determined by the relevant development control plan (or LEP), to ensure adequate provision is made.

Co-living housing

It is recommended that:

- Co-living housing be excluded from land within a Heritage Conservation Area.
- Co-living housing not be made permissible on land zoned B3, which should be reserved for commercial purposes;
- The required parking spaces clause be amended such that parking requirements are determined by the relevant development control plan (or LEP), to ensure adequate provision is made.
- The exclusion of Co-living Housing from the provisions of the ADG is reconsidered.

- The 2-person cap is reconsidered, to cater for the accommodation needs of larger groups.

Boarding Houses

- It is recommended that development of boarding houses be excluded from land within a Heritage Conservation Area.

Introduction

Council welcomes the opportunity to comment on the draft Housing SEPP which seeks to consolidate and update five housing related State Environmental Planning Policies: State Environmental Planning Policy (Affordable Rental Housing) 2009; State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004; State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes); State Environmental Planning Policy No 21—Caravan Parks; and State Environmental Planning Policy No 36—Manufactured Home Estates. These SEPPs facilitate the delivery of diverse and affordable housing types.

DPIE's initiative to review, update and consolidate the existing SEPPs to reflect current market conditions and the changing needs of the community is supported.

The proposed Housing SEPP seeks to consolidate existing housing related SEPPs and introduce two new housing types (definitions and planning provisions) to facilitate housing projects that will facilitate more affordable and diverse housing:

- Build-to-Rent housing (BtR); and
- Co-living housing.

The exhibition of the proposed Housing SEPP follows from the exhibition of the Explanation of Intended Effect (EIE) for a proposed Housing Diversity SEPP in September 2020. Camden Council officers made a submission during that exhibition, which is **attached** for reference.

The proposed Housing SEPP includes amendments to existing provisions, which were not foreshadowed in the EIE. For the sake of clarity and brevity, this submission will reference comments and recommendations made in the 2020. Where additional changes have been incorporated in the draft SEPP, or already incorporated as amendments to existing SEPPs (such as the incorporation of Build to Rent housing in the Affordable Rental Housing SEPP), these changes will be responded to in detail.

Camden Council officer comments on the draft Housing SEPP are set out below as key issues, recommendations and matters for clarification.

Relationship to Camden Local Strategic Planning Statement

Council adopted its Local Strategic Planning Statement (LSPS) on 14 April 2020. A key priority of the LSPS is to provide housing choice and affordability for Camden's growing and changing community.

A principal action of the LSPS is for Council to adopt a Local Housing Strategy (LHS) which is currently in draft.

Both the LSPS and draft LHS reference the need for affordable housing and acknowledge the promotion of new, higher density housing types. Nevertheless, both LSPS and draft LHS envision these new housing types being selected for the Camden Growth Areas and dependent on provision

of high-volume public transport options. This submission to the draft Housing SEPP is informed and underpinned by these strategies.

Key Issues / Recommendations

Seniors Housing

The draft Housing SEPP proposes changes to the applicability of seniors housing, in ways which differ somewhat from those outlined in the EIE exhibited in September 2020. Specifically, the draft Housing SEPP introduces prescribed zones, in which the development of housing for seniors and people with disability will be permissible, regardless of existing prohibitions in another EPI.

The designation of prescribed zones is intended to simplify permissibility. It replaces the process of developers having to apply for a Site Suitability Certificate.

Proposed mandatory permissibility of seniors housing in business zones

As noted in the 2020 submission to the EIE:

There are two main EPIs that facilitate housing in Camden:

- *Camden Local Environmental Plan 2010 (Camden LEP 2010); and*
- *State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP).*

The proposed SEPP seeks to make seniors housing permissible on all residential land zoned R1-R4 and business zoned land B1-B8. This would potentially expand the scope and applicability of seniors housing significantly, in ways that may not have been fully explored.

Under the Camden LEP 2010, residential accommodation (including seniors housing) is a prohibited use in all business zones in use (B1, B2, B4 and B5) and the development of seniors housing in these zones would contradict the objectives of these zones.

With respect to the Growth Centres SEPP, seniors housing is prohibited on land zoned B1 (apart from hostels), B3 (apart from shop top housing), B5 and B7.

Development of seniors housing on business-zoned land would present considerable noise/amenity issues in many cases. It may also create reverse amenity effects, where business uses specified for development in business zones risk being excluded based on the impacts on existing seniors housing developments.

It is recommended that permissibility for seniors housing not be expanded to business-zoned land, where it is not already permissible according to another EPI.

Development standards and Heritage Conservation Areas (HCAs)

In the September 2020 submission, it was noted that:

The proposed SEPP proposes to amend the Seniors SEPP provisions to clarify that development standards in an LEP will prevail to the extent of any inconsistency with the proposed Housing Diversity SEPP. The suggested approach is supported in-principle.

The draft Housing SEPP proposes to revert to the current situation, whereby development standards in the SEPP prevail where there is any inconsistency with another EPI.

Council is currently finalising its draft Local Housing Strategy, which identifies a short-term action (Action 30) to review planning controls for seniors housing, to ensure a consistent approach is adopted across the LGA (including land in an HCA). The intention of this review is to ensure that planning controls are conducive to good outcomes for seniors housing developments, including proposals within HCAs.

The draft Local Housing Strategy was placed on public exhibition from 15 October to 26 November 2021. During the exhibition period, Council received seven submissions opposing the application of the Seniors SEPP to HCAs. The submissions are currently being reviewed, with the draft Strategy scheduled to be reported to Council in October 2021 for consideration.

In order to protect the amenity and character of residential and mixed-use areas in Camden, it is recommended that development standards specified for seniors housing (in zones where it is permissible), prevail over those included in the SEPP, as described in the EIE.

In the short term, DPIE's decision to extend the moratorium on seniors housing in a HCA until 1 July 2022 is supported. However, an extension of the moratorium beyond 1 July 2022 may be needed to enable Council to finalise its Local Housing Strategy and make any necessary amendments to planning controls that flow from that.

Proposed 20% variation cap for development standards

Council notes that the operation of Clause 4.6 variations is currently under review by DPIE and that as a result the proposal to restrict variations to a maximum of 20% for seniors housing, articulated in the EIE has not been carried through to the draft Housing SEPP. Council supports this decision not to impose a 20% cap on potential 4.6 variations for seniors housing.

Recommendations

- It is recommended that:
 1. Permissibility for seniors housing not be expanded to business zoned land, where it is not already permissible according to another EPI. Particular concern is raised in regard to the intention to make seniors housing permissible on land zoned B5 Business Development.
 2. In order to protect the amenity and character of residential and mixed-use areas in Camden, it is recommended that development standards specified for seniors housing (in zones where it is permissible), prevail over those included in the SEPP, as described in the EIE.

Build-to-Rent (BtR) Housing

It is noted that BtR Housing has been integrated into the existing Affordable Rental Housing SEPP as Division 6A under Part 2, New affordable rental housing. Advice provided in the FAQs, included in the exhibition package states:

The Housing SEPP consultation draft does not include the recently introduced provisions for short-term rental accommodation and build-to-rent housing, or the recently amended social housing provisions; all of which will be transferred to the Housing SEPP generally in their current form once the SEPP is finalised.

This submission is supportive of the development of new affordable and diverse housing types, to provide appropriate housing for Camden's growing population. However, as is made clear in Council's LSPS and draft LHS, these new, higher-density products must be developed in the right areas.

As noted in Council's draft LHS in regard to BtR in particular and affordable housing more generally:

Due to the scale and form of [BtR Housing], it is anticipated that they will only be permitted in highly accessible areas...

Council will continue to support both the delivery of affordable dwellings across the housing continuum when they are designed and located appropriately, in addition to any amendments to the SEPPs that couple planning concessions with affordable price control mechanisms (Draft LHS page 101).

This submission reiterates concerns raised in the September 2020 submission to the EIE, which do not appear to have been substantially addressed in the implementation of BtR Housing, as follows:

Exclude from land that is in a Heritage Conservation Area

In the September 2020 submission, it was noted that:

Under the proposed definition of BtR housing, it contains at least 50 self-contained dwellings. Large-scale development of this nature is incompatible with conserving the heritage significance of a heritage conservation area and may result in unacceptable impacts.

Council recommends BtR housing be excluded from land within a heritage conservation area.

This exclusion has not been included in the specifications added to the Affordable Rental Housing SEPP. It is recommended that BtR Housing be excluded from land within a HCA, when the provision is transferred to the Housing SEPP.

Remove BtR from B3 Commercial Core Zone

The 2020 submission to the Housing Diversity EIE expressed the following concern in relation to the proposal to make BtR Housing a permissible use on the land zoned B3 Commercial Core:

The objectives of the B3 Commercial Core zone seek to provide wide range commercial uses to encourage employment opportunities in accessible locations, with the desired land use of retail, business, office and entertainment. Mandating a residential use is inconsistent with these objectives.

It is recommended that BtR housing not be mandated as a permissible use in the B3 Commercial Core zone.

In its current form as Division 6A of the Affordable Housing SEPP, BtR Housing is a mandated permissible use on land zoned B3. It is recommended that the decision to make BtR Housing a mandatory permissible use on land zoned B3 be reconsidered in line with previous advice.

Should DPIE nevertheless decide to retain the mandatory permissibility of BtR Housing on land zoned B3, the decision to require BtR Housing developed on land zoned B3 to be retained for that use in perpetuity would be supported. This would at least prevent the possibility of strata residential units being introduced on land zoned for commercial purposes, at a later date.

Proposed car parking rate

This submission reiterates concerns regarding the proposed minimum car parking rate for BtR Housing. As noted in Council's LSPS, underdeveloped public transport infrastructure provides a significant barrier to the development of higher-density housing in much of the LGA:

Whilst demographic indicators imply a growing need for more diverse housing, there are challenges in delivering non-detached housing in an area where market acceptance is still developing, public transport infrastructure limited and housing industry business models well-established (LSPS p39).

In the September 2020 submission, it was noted that:

The proposed minimum 0.5 car parking provision rate per dwelling for BtR housing should be increased for areas such as Camden, which has higher vehicle ownership rates compared to other parts of Sydney.

Clause 41D(2)(c) of the Affordable Rental Housing SEPP, nevertheless retains the minimum car parking for BtR Housing for the Greater Sydney Region at 0.5 parking spaces for each dwelling, where the development is on accessible land, which may include being within 400m of a bus stop with no more than an hourly bus service.

It is considered that the definition of "accessible land" provided in the draft SEPP is too broad. Council DCP parking rates should apply to BtR Housing, with the exception of development on land within 400m of a railway station.

It is recommended that the required parking spaces clause be amended such that parking requirements are determined by the relevant development control plan (or LEP), to ensure adequate provision is made.

Recommendations

○ It is recommended that:

3. BtR Housing be excluded from land within a Heritage Conservation Area
4. That the decision to make BtR Housing a mandatory permissible use on land zoned B3 be reconsidered in line with previous advice.
5. That the required parking spaces clause be amended such that parking requirements are determined by the relevant development control plan (or LEP), to ensure adequate provision is made.

Student Housing

it is noted that DPIE has chosen not to proceed with incorporating Student Housing as a separate use into the Housing SEPP. As elaborated in the September 2020 submission to the EIE, the decision not to proceed with student housing as a specified housing type is supported.

Co-living Housing

In the September 2020 submission to the EIE, it was noted that:

Co-living housing is incompatible with conserving the heritage significance of a heritage conservation area and may result in unacceptable impacts.

This submission repeats the recommendation that co-living housing be excluded from land within a HCA.

Locating co-living housing on land zoned B3 Commercial Core

Clause 63 of the draft Housing SEPP indicates that co-living housing may be developed on all land on which shop top housing is permitted under another EPI. This extends the permissibility of co-living housing on land zoned by the Sydney Growth Centres SEPP, to land zoned B3 Commercial Core. For the same reasons explored in regard to BtR Housing above, it is recommended that co-living housing not be made permissible on land zoned B3, which should be reserved for commercial purposes.

Proposed car parking rate

The proposal to reduce car parking rates to 0.5 per dwelling/room would have unacceptable consequences for Camden. Reliance on private vehicles is higher in Camden LGA than other, more accessible parts of greater Sydney.

Clause 64(f) of the draft Housing SEPP specified that for development of co-living housing within the Greater Sydney region, car parking rates are to be reduced to 0.5 parking spaces for each private room. It is recommended that the required parking spaces clause be amended such that parking requirements are determined by the relevant development control plan (or LEP), to ensure adequate provision is made.

The September 2020 submission to the EIE also raised concerns regarding the proposal that the provisions of the Apartment Design Guide (ADG) not to apply to co-living Housing and also sought a liberalisation of the decision to restrict Co-living Housing to a maximum of two persons.

Neither of these concerns has been addressed in the draft Housing SEPP. Both concerns are reiterated in this submission.

Recommendations

- It is recommended that:
 - 6. Co-living housing be excluded from land within a heritage conservation area;
 - 7. Council recommends that co-living housing not be made permissible on land zoned B3, which should be primarily reserved for commercial purposes;
 - 8. The required parking spaces clause be amended such that parking requirements are determined by the relevant development control plan (or LEP), to ensure adequate provision is made.
 - 9. The exclusion of Co-living Housing from the provisions of the ADG is reconsidered.
 - 10. The 2-person cap is reconsidered, to cater for the accommodation needs of larger groups.

Boarding Houses

This submission notes and approves the decision to retain boarding houses as affordable housing, managed by a Community Housing Provider in perpetuity. It also supports the decision to remove boarding houses as a mandatory permissible use from the Standard Instrument for land zoned R2 Low Density Residential. This is consistent with the September 2020 submission to the EIE.

This submission reiterates concern that boarding house development is inconsistent with maintaining heritage values. It is recommended that development of boarding houses be excluded from land within a Heritage Conservation Area.

Recommendations

- It is recommended that:
 - 11. Development of boarding houses be excluded from land within a Heritage Conservation Area.

Matters for Clarification

New Housing Type Rely on FSRs

The September 2020 submission to the EIE noted:

The proposed new housing types and amendment rely upon floor space ratio provisions in local EPIs. However, this has implications for Camden, noting the Camden LEP 2010 and the Growth Centres SEPP 2006 are both largely silent on residential FSR provisions.

It is noted that FSR bonuses continue to be referenced in the draft Housing SEPP. Clarification is requested as to how these bonuses, particularly in relation to uses including infill affordable housing, boarding houses and co-living housing are to be applied in the Camden context.

FSR Bonus for Boarding Housing and Infill Affordable Housing

The September 2020 submission to the EIE noted:

The current Affordable Rental Housing SEPP applies the same FSR bonus for infill affordable housing and boarding houses...

It is unclear about the intention to differentiate the FSR bonus for boarding houses and infill affordable housing, as the FSR bonus could generate similar built form issues for these types of developments.

It went on to note that the EIE proposed introducing a differential FSR bonus, capped at 20% for boarding houses but uncapped for other forms of affordable housing.

It is noted that Clause 23(2)(ii) of the draft Housing SEPP increases the floorspace bonus for boarding houses to 25%. Meanwhile, Clause 16 (1)(b)(i) caps the floorspace bonus for infill affordable housing at 20%, where the underlying FSR is 2.5:1 or more.

FSR bonuses applied to infill housing and boarding houses create potential difficulties at the DA stage. Compliance with parking, setback and other built form controls become potentially problematic.

This submission seeks clarification on the intent of introducing a 25% bonus for boarding houses, while capping the floorspace bonus for infill affordable housing at 20%.

Seniors Housing SEPP

The September 2020 submission to the EIE noted that:

The current Seniors Housing SEPP does not apply to land defined as environmentally sensitive land under Schedule 1. It is proposed to update Schedule 1 to align with current legislative and planning conditions.

It is noted that Schedule 4 of the draft Housing SEPP provides a far clearer definition of environmentally sensitive land. Council appreciates and supports this clarification.

The September 2020 submission to the EIE sought clarification as to how the requirement for seniors housing to be located within 400m of facilities and services, would be measured. It is noted that the draft Housing SEPP specifies appropriate details as to the nature of "facilities and services" and that the 400m should be measured as a walking distance along an accessible path. Council appreciates and supports this clarification.

Community Consultation

The draft Housing SEPP is likely to have significant impacts on the community. As noted in DPIE's 'Community Guide to Planning' (December 2020), early community participation in planning is vital to ensure strategic planning and planning rules are based on community knowledge and views.

Council is concerned about the limited community consultation undertaken as part of the exhibition. In this regard, clarification is sought about what actions have been undertaken by DPIE to ensure the proposed changes have been adequately explained to landowners and residents.

Additional Consideration – Group Homes

The September 2020 submission to the EIE suggested that DPIE:

consider implementing a group home register through the NSW Fair Trading scheme, like the boarding housing register. This will provide transparency and consistency for relevant authorities to plan and manage this type of housing development.

It is noted that this suggestion has not been incorporated into the draft Housing SEPP. It is recommended that DPIE consider amending the SEPP to facilitate the implementation of a group home register through New South Wales Fair Trading.

Conclusion

This submission supports the broad intent and aims of the proposed Housing SEPP. This submission has outlined recommendations to address the key concerns and has sought further clarification on several proposed provisions.

Concerns include the extension of permissibility for seniors housing to all business-zoned land and the decision to allow development standards in the SEPP to override seniors housing development standards specified in another EPI. Concern is also raised that the proposed SEPP does not exclude BtR and co-living from land that is within a Heritage Conservation Area, which may generate unacceptable environmental impacts on these sensitive areas.

Minimum parking rates for BtR and co-living housing as well as their mandatory inclusion as a permissible use on land zoned B3 Commercial Core is also of significant concern.

Council appreciates the opportunity to comment on the draft Housing SEPP and we would welcome any further opportunity to discuss our recommendations. We also welcome further discussion about opportunities to adequately engage with the Camden community on the proposed changes.

COPY of Camden Council Submission

Explanation of Intended Effects for a new Housing Diversity State Environmental Planning Policy 2020

(Submitted to DPIE September 2020. Included as a reference only)

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Executive Summary

This document is Camden Council's submission on the Explanation of Intended Effects (EIE) for a proposed Housing Diversity State Environmental Planning Policy (proposed SEPP).

The broad intent of the proposed SEPP to promote and deliver housing diversity across NSW is acknowledged. The proposed SEPP broadly aligns with Council's Local Strategic Planning Statement that seeks to provide housing choice and affordability for Camden's growing and changing community.

Council officers have reviewed the EIE and prepared this submission. It is requested that the issues and recommendations contained in this submission be considered in finalising the proposed SEPP. The key issues and recommendations outlined in this submission include:

- **Seniors Housing**
 - That the proposed SEPP include a provision that enables the assessment of seniors housing development under the SEPP if no detailed assessment provisions exist under another environmental planning instrument (EPI), where 'seniors housing' development is also permissible.
 - That the variation to development standards using clause 4.6 of the Standard Instrument LEP include a merit based (qualitative) assessment and not subject to a variation cap of 20%.
- **Build-to-Rent (BtR)**
 - That BtR housing be prohibited within a Heritage Conservation Area.
 - That adequate car parking be required with BtR housing eg. car parking based on number of bedrooms per dwelling.
 - That BtR housing be removed as a mandatory permissible use in the B3 Commercial Core zone.
- **Co – living housing**
 - That co-living housing be prohibited within a Heritage Conservation Area.
 - That design guidelines be developed to accompany the proposed SEPP to facilitate high quality amenity and built form outcomes.
 - That the requirement for an occupancy cap of 2 adults per dwelling be clarified.
- **Student Housing**
 - That adequate car parking be required, particularly for outer suburbs such as Camden with high vehicle ownership rates.
 - That location and accessibility criteria be required to ensure student housing is provided in proximity to educational establishments and public transport.
 - That design guidelines be developed to accompany the proposed SEPP to facilitate high quality amenity and built form outcomes.
- **Boarding Houses**
 - That boarding houses be prohibited within a Heritage Conservation Area.

Introduction

The Department of Planning, Industry and Environment (DPIE) is reviewing the three-housing related State Environmental Planning Policies SEPPs (the Seniors SEPP, the Affordable Rental Housing SEPP and SEPP 70 (Affordable Housing Revised Scheme) (SEPPs). These SEPPs facilitate the delivery of diverse housing types and have been in place for some time.

DPIE's initiative to review, update and consolidate the existing SEPPs to reflect current market conditions and the changing needs of the community is supported.

The proposed SEPP seeks to consolidate existing housing related SEPPs and introduce three new housing types (definitions and planning provisions) to facilitate housing projects that will stimulate economic recovery:

- Build-to-Rent housing (BtR);
- Student housing; and
- Co-living housing.

Relationship to Camden Local Strategic Planning Statement

Council adopted its Local Strategic Planning Statement (LSPS) on 14 April 2020. A key priority of the LSPS is to provide housing choice and affordability for Camden's growing and changing community. Key housing actions of the LSPS include (in summary):

- Finalise the Camden Housing Study and Camden Housing Diversity Analysis;
- Develop a Housing Strategy; and
- Investigate the development of an Affordable Housing Strategy and Affordable Housing Contribution Scheme.

Council has also adopted a community relief package in response to the COVID-19 pandemic to assist with economic support and recovery.

Council supports the aims of the proposed SEPP and welcomes the opportunity to provide comment. Our comments are set out below as key issues, recommendations and matters for clarification.

Key Issues / Recommendations

Seniors Housing

Relationship between Camden LEP, Growth Centres SEPP and proposed SEPP

There are two main EPIs that facilitate housing in Camden:

- Camden Local Environmental Plan 2010 (Camden LEP 2010); and
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP).

Currently, the Seniors SEPP allows development for the purpose of seniors housing to be carried out despite the provisions of any other EPI. The proposed SEPP proposes to amend the Seniors SEPP provisions to clarify that development standards in an LEP will prevail to the extent of any inconsistency with the proposed Housing Diversity SEPP. The suggested approach is supported in-principle.

Council has received advice in relation to a seniors housing development application (DA) where Camden LEP 2010 operates. The advice indicates if seniors housing is permissible under the Camden LEP 2010 and the Seniors SEPP, an applicant can choose to rely solely on Camden LEP for permissibility of seniors housing. If this is the case, Council's advice indicates Chapter 3 of the Seniors Housing SEPP does not apply to the assessment of the DA.

It is noted seniors housing is a permissible land use in several zones under the Camden LEP 2010 and Growth Centres SEPP and both are largely silent on development standards for seniors housing. It is recommended the proposed SEPP include a provision that enables the development standards within the proposed SEPP to apply if no assessment provisions exist under another EPI pathway.

Proposed 20% variation cap for development standards

It is proposed that development standards in the proposed Housing Diversity SEPP could be varied using clause 4.6 Exceptions to development standards of the Standard Instrument LEP to a maximum of 20%.

Concern is raised that the proposed 20% variation is contrary to the objective of the clause which emphasises a qualitative rather than a quantitative approach. Variation of development standards for seniors housing should enable a qualitative, merit-based assessment.

Amend location and access to facilities provision

It is proposed to remove the point-to-point transport provision so that this provision cannot be used for the purpose of meeting the accessibility requirement of seniors housing and this is supported.

Recommendation:

- Further investigation is needed where seniors housing is a permissible land use under another EPI, with no detailed local provisions in place. A suggested provision to be included in the proposed Housing Diversity SEPP is set out below for DPIE's consideration:
 - *if seniors housing is a permissible land use under another environmental planning instrument and there are no development standards that are applicable under that instrument, the seniors housing provisions of the SEPP (proposed Housing Diversity SEPP) will apply.*
- It is suggested DPIE amend the proposed 20% variation to include a merit-based assessment via Clause 4.6 Exceptions to development standards of the Standard Instrument LEP.

Build-to-Rent (BtR) Housing

Exclude from land that is a Heritage Conservation Area

Under the proposed definition of BtR housing, it contains at least 50 self-contained dwellings. Large-scale development of this nature is incompatible with conserving the heritage significance of a heritage conservation area and may result in unacceptable impacts.

Council recommends BtR housing be excluded from land within a heritage conservation area.

Remove BtR from B3 Commercial Core Zone

It is proposed to include BtR housing as a permissible use in B3 Commercial Core zone.

Concern is raised that mandating BtR in the B3 zone may undermine the zone objectives to generate employment-oriented land use activities.

The objectives of the B3 Commercial Core zone seek to provide wide range commercial uses to encourage employment opportunities in accessible locations, with the desired land use of retail, business, office and entertainment. Mandating a residential use is inconsistent with these objectives.

It is recommended that BtR housing not be mandated as a permissible use in the B3 Commercial Core zone.

Proposed car parking rate

The proposed minimum 0.5 car parking provision rate per dwelling for BtR housing should be increased for areas such as Camden, which has higher vehicle ownership rates compared to other parts of Sydney.

Furthermore, the proposed transition of BtR housing to private ownership (via strata subdivision) after 15 years will create an increased demand for car parking to service the development. An increased car parking provision rate, based on the number of bedrooms, is supported.

The draft BtR housing definition includes that it must be held in single ownership. However, there is an intention for the development to transition to private ownership (strata subdivision) after 15 years. What justification is there for BtR housing to make such a transition? There may be an argument for BtR housing to retain its rental status in perpetuity. As a minimum, the intention of requiring a proportion of units to be retained as affordable housing following strata subdivision is supported.

Clarification is sought on the proposal for BtR housing to have a tenancy period of 3 years or more. This appears to conflict with a tenant profile that seeks increased flexibility in tenure.

The intention to develop design guidance for BtR housing is supported.

Recommendation:

- BtR housing be excluded from land within a heritage conservation area.
- Remove BtR housing from being a mandatory permissible use in the B3 Commercial Core zone.
- The car parking rate must be increased for areas such as Camden.
- Design guidance be developed for BtR housing.

Student Housing

There is no minimum car parking provision rate proposed for student housing. As mentioned previously, Camden has high vehicle ownership rates compared to other parts of Sydney. A minimum car parking rate is necessary, as students' own cars, particularly in outer Sydney where student housing could be developed to meet the growing needs for educational establishments in the area.

Further to this, the proposed definition of student housing does not specify any location and accessibility criteria. Student housing should be permitted near educational establishment and public transport services. Location criteria should be established to address this issue.

Concern is also raised the proposed room size for student housing is discretionary and could be less than 10m². This may result in unacceptable amenity outcomes and should be reviewed. DPIE is requested to develop design guidance for student housing. This will ensure that room sizes and communal areas for student housing will achieve acceptable amenity outcomes.

Recommendation:

- Establish a minimum car parking requirement for student housing.
- Establish location criteria.
- Review and increase the minimum room size.
- Develop design guidance.

Co-living Housing

Co-living housing is incompatible with conserving the heritage significance of a heritage conservation area and may result in unacceptable impacts.

Council recommends co-living housing be excluded from land within a heritage conservation area.

In addition, SEPP 65 (Design Quality of Residential Apartment Development) does not apply to co-living housing, which may result in unacceptable outcomes in relation to built form, internal and external amenity, storage, solar access, natural ventilation, and visual and acoustic amenity. The development of design guidance is supported.

Clarification is sought on the proposal to accommodate not more than 2-adults. This requirement could result in a standardised product and not promote housing diversity. Co-living should cater for the accommodation needs of larger groups, (subject to review of the minimum room size requirement). For instance, a group of health-care workers such as nurses (>2 person) may elect to live together near to a hospital precinct.

Recommendation:

- Co-living housing be excluded from land within a heritage conservation area;
- Develop design guidance;
- Review the 2-person cap to cater for the accommodation needs of larger groups.

Boarding Houses

Concern is raised that a boarding house is incompatible with conserving the heritage significance of a heritage conservation area and may result in unacceptable impacts.

Council recommends boarding houses be excluded from land within a heritage conservation area.

DPIE is seeking feedback on whether it would be more appropriate to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, after which they could revert back to market rates. A proposal to introduce an affordability requirement for boarding houses that is maintained in perpetuity is supported.

Recommendation:

- Boarding houses be excluded from land that is within a heritage conservation area;
- Maintain boarding houses as affordable in perpetuity.

Matters for Clarification

New Housing Type Rely on FSRs

The proposed new housing types and amendment rely upon floor space ratio provisions in local EPIs. However, this has implications for Camden, noting the Camden LEP 2010 and the Growth Centres SEPP 2006 are both largely silent on residential FSR provisions.

The submission seeks clarification on whether the proposed SEPP will include local variations.

FSR Bonus for Boarding Housing and Infill Affordable Housing

The current Affordable Rental Housing SEPP applies the same FSR bonus for infill affordable housing and boarding houses. The proposed SEPP proposes to introduce a revised 20% flat bonus rate for boarding houses, while maintaining the current FSR bonus for infill affordable housing:

- 0.5:1 FSR bonus if existing maximum FSR is 2.5 or less; and
- 20% existing maximum FSR bonus, if existing FSR is greater than 2.5;

It is noted the report prepared by the Council Boarding House Working Group in 2019 made a recommendation to introduce a 10% flat bonus rate for a boarding house, rather than 20%.

While the infill affordable housing bonus is proposed to include other residential accommodation (i.e. manor home and terrace), it is not currently proposed to be capped at 20%. It is unclear about the intention to differentiate the FSR bonus for boarding houses and infill affordable housing, as the FSR bonus could generate similar built form issues for these types of developments.

This submission seeks clarification on the intent of introducing a 20% bonus for boarding houses and not capping the infill affordable housing development.

Tenancy Requirement for New Housing Type

The proposed new housing types involve various tenancy requirements (i.e. students only for student housing). The submission requests more detail on the mechanisms to monitor and enforce the tenancy requirements for the proposed three new housing types.

Motorcycle parking rate for Student and Boarding Housing

While the proposed student housing does not provide a minimum car parking rate, it retains the existing requirement for motorcycle parking rate (1 per 5 rooms) for student housing as well as a boarding house. Clarification is requested on the appropriateness of the motorcycle parking rate and whether it needs review to reflect current practice and demand.

The submission seeks review of the motorcycle parking rate for both student housing and boarding housing.

Seniors Housing SEPP

The current Seniors Housing SEPP does not apply to land defined as environmentally sensitive land under Schedule 1. It is proposed to update Schedule 1 to align with current legislative and planning conditions.

Further clarification is sought on this issue. Specifically, consideration should be given that some local planning instruments do not identify the location of environmentally sensitive land.

Clause 26 of the Seniors Housing SEPP specifies that senior housing developments are to be located within 400m of established services and facilities. It is unclear if the 400m distance is referring to walking distance or a direct distance from two points. Clarification of this issue is requested in the proposed Housing Diversity SEPP.

Additional Consideration

Group Homes

Council acknowledges the important role that group home accommodation plays in the community. The proposed complying development approval pathway to convert an existing dwelling to a group home could provide a fast track approval process.

It is suggested DPIE consider implementing a group home register through the NSW Fair Trading scheme, like the boarding housing register. This will provide transparency and consistency for relevant authorities to plan and manage this type of housing development.

Conclusion

This submission supports the broad intent and aims of the proposed Housing Diversity SEPP. This submission has outlined recommendations to address the key concerns and has sought further clarification on several proposed provisions.

Key concerns identified in this submission include a gap between the proposed Housing Diversity SEPP an existing issue that Council is facing in relation to seniors housing development where the Seniors housing SEPP is 'switched off'. Concerns also include excluding BtR, Co-living and Boarding houses from land that is a heritage conservation area, which would generate unacceptable environmental impacts on these sensitive areas.

From: Jim Baldwin <jim.baldwin@campbelltown.nsw.gov.au>
Sent: Sunday, 12 September 2021 11:01 AM
To: DPE PS Housing Policy Mailbox; Luke Walton
Cc: David Smith; Jeff Burton
Subject: Campbelltown City Council - Housing SEPP Draft Submission
Attachments: Submission - Housing SEPP 100921.docx; Submission - Housing Diversity SEPP 100920.pdf

Dear Luke,

Please find attached Campbelltown City Council's submission on the proposed Housing State Environmental Planning Policy (Housing SEPP).

For your convenience and reference, a copy of Campbelltown City Council's earlier submission on the preceding explanation of intended effects (EIE) is attached and is requested to be considered by DPIE as it remains largely relevant for the preparation of the proposed Housing SEPP.

In short, a review of the draft consultation paper and accompanying documentation has been undertaken, and the proposed consolidation of five existing housing related SEPPs is broadly supported to improve the efficiency and operation of these housing policies. You will see however, that a number of concerns have been raised with the content and timing of the proposed policy changes put forward in the public consultation draft.

If you would like to discuss the contents of the submission in more detail, please feel free to contact Council's Senior Strategic Planner - Jeff Burton on (02) 4645 4842.

Thank you for the opportunity to make a submission on this important policy.

Regards

Jim

 **CAMPBELLTOWN CITY COUNCIL**
Jim Baldwin
Director City Development

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Campbelltown City Council acknowledges and respects the Dharawal people as traditional custodians of this land, and extends these respects to all Aboriginal Elders, past and present, and people from all Aboriginal nations.



12 September 2021

Housing Policy Team
NSW Department of Planning Industry and Environment
GPO Box 39
SYDNEY NSW 2001

cc: housingpolicy@planning.nsw.gov.au Luke.Walton@planning.nsw.gov.au

Attention: Luke Walton

Dear Sir,

Submission – Proposed Housing SEPP

Thank you for the opportunity to make a submission on the proposed Housing State Environmental Planning Policy (Housing SEPP).

A copy of Campbelltown City Council's earlier submission on the preceding explanation of intended effects (EIE) is attached and is requested to be considered by DPIE as it remains largely relevant for the preparation of the proposed Housing SEPP.

A review of the draft consultation paper and accompanying documentation has been undertaken, and the proposed consolidation of five existing housing related SEPPs is broadly supported to improve the efficiency and operation of these housing policies. However, a number of concerns are raised with the content and timing of the proposed policy changes put forward in the public consultation draft.

For the reasons outlined in Council's earlier submission on the EIE, and the concerns outlined below, the DPIE is requested to defer the making of the proposed Housing SEPP to allow proper consideration and resolution of these issues. This includes the review, amendment and integration of SEPP No. 21 Caravan Parks and SEPP No.36 Manufactured Home Estates into the proposed SEPP.

Housing Definitions – strong concerns are raised that expanding the existing plethora of thirty three (33) housing types referenced under the Standard Instrument LEP and housing related SEPPs will increase the complexity of the existing planning framework for the delivery of housing in NSW. This increased complexity would likely hinder the efficient delivery of housing in NSW and be counter to the overarching objective of the Housing SEPP to encourage the development of diverse and affordable housing types.

Increased focus on use rather than housing form – strong concerns are raised that the proposed introduction of housing types which are defined by occupation rather than built-form will create ongoing compliance and resourcing issues for Councils to administer the proposed SEPP, and ultimately lead to eviction of tenants given the inflexible nature of the housing definitions proposed. This issue was raised by the Minister for Planning and Public Spaces in his introduction to the DPIE Housing SEPP information webinar on 25 August 2021, where the Minister specifically emphasised the objective of the new policy was to focus on building form not use.

Ventilation Standards / Covid 19 - the federal body that sets building laws is moving to create rules that would ensure new buildings have appropriate ventilation and filtration features that minimise indoor circulation of pathogens (see web-link below). Given the reliance upon common living areas within building types proposed by the Housing SEPP, it is requested that a minimum standard of construction techniques are mandated under any new Housing SEPP to ensure development of better-ventilated buildings, including minimum ventilation requirements and consideration of carbon dioxide monitoring building standards.

<https://www.smh.com.au/national/ventilation-revolution-needed-to-speed-up-australia-s-path-out-of-lockdown-20210819-p58kaq.html>

Cumulative impacts – strong concerns are raised that the proposed SEPP does not provide any consideration of cumulative impacts resulting from the clustering of higher density housing types that would potentially occur under the proposed Housing SEPP. It is requested that as a minimum, the policy is amended to include suitable controls and a mandatory separation distance between such developments, particularly within the R2 Low Density Residential zone.

Reduced standards for LAHC / Public Authorities – the creation of a planning policy that provides a two tiered system of development standards determined by who the applicant is will diminish the opportunity for merit based assessment, will create unnecessary complexity and is unfair. For example, there is not considered to be any difference in the car parking demand generated by occupants of a LAHC affordable housing development compared to an equivalent privately built development. This reduction of building design standards for LAHC developments will create the potential for increased amenity impacts to occupants and nearby residents, and will ultimately compromise the successful integration of LAHC housing within established neighbourhoods.

Consultation with Councils – it is requested that any self-determined housing approvals by the LAHC must explicitly require any objections raised by Councils to be appropriately resolved. Where concerns are unresolved, it is requested that such applications are determined by an independent planning panel to mitigate against the potential for conflict of interest and corruption.

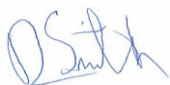
Moratorium on seniors housing in Heritage Conservation Areas – the Council and the community of Campbelltown place a very high value on its items of heritage and as such it is requested that the moratorium on seniors housing is extended indefinitely, and also expanded to include any sites with listed heritage items.

Student Housing – DPIE is requested to review and clarify the standards for “residential accommodation for students” under State Environmental Planning Policy (Educational Establishments and Child Care Facilities) to properly align with the proposed provisions of the Housing SEPP. In this respect, it is unclear whether the proposed Housing SEPP will regulate this form of housing, how this form of housing will be defined for the purpose of permissibility, and what standards will apply to this housing type.

In conclusion, strong concerns are raised that the proposed timeframe for the Housing SEPP will be detrimental to the orderly delivery of housing within NSW, including the Campbelltown LGA. Whilst the consolidation of the five existing housing SEPPs is supported in principle, a number of concerns are raised with the proposed policy changes and mandated LEP amendments. The DPIE is therefore requested to defer and amend the proposed Housing SEPP having regard to the abovementioned issues and concerns.

If you require any further information please contact Jeff Burton from Council’s City Development Division on (02) 4645 4842.

Yours sincerely,



David Smith
Executive Manager Urban Centres

25 September 2020

Ms Sandy Chappel
Director, Housing Policy
NSW Department of Planning Infrastructure and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Ms Chappel,

Submission – Proposed Housing Diversity SEPP

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

A review of the exhibited EIE and accompanying documentation has been undertaken, and the proposed consolidation of three existing housing related SEPPs (Seniors SEPP, Affordable Rental Housing SEPP and SEPP 70) as outlined in the EIE is generally supported. The consolidation of these policies is considered a timely measure to simplify the operation of these housing policies and improve the delivery of their common housing objectives.

This submission supports the consolidation of the abovementioned housing SEPPs. However, a number of concerns are raised with the content and timing of the proposed policy changes put forward in the EIE. These concerns are outlined below, and generally relate to the unconsidered impacts of some of the proposed policy changes on housing delivery in the Campbelltown Local Government Area. The DPIE is requested to defer the operation and/or amend the proposed SEPP to appropriately address these concerns.

Impacts on Planned Housing Delivery for the Campbelltown LGA

Campbelltown City Council has undertaken a strong evidence based analysis of housing needs in the local area under its Draft Campbelltown Local Housing Strategy (LHS), to sustainably manage future housing delivery in the Campbelltown Local Government Area according to local needs. This work is being undertaken to align with housing targets and related actions of the Western City District Plan. The Draft LHS has been publicly exhibited by Council (finished 9 September 2020), and subject to review of public submissions, is anticipated to be forwarded to the Greater Sydney Commission for making by 30 September.

Council is also partnering with other Western City Councils in the District Planning Partnership to advance work on affordable rental housing initiatives for the broader district, and is separately preparing a stand-alone Affordable Rental Housing Strategy for the Campbelltown Local Government Area. The preparation of the Campbelltown Affordable Rental Housing Strategy will strengthen the evidence base for the delivery of affordable rental housing in the local area, and will properly inform any required amendments to advance affordable rental housing initiatives under the Campbelltown Local Environmental Plan 2015 (CLEP 2015).

Strong concerns are therefore raised that the proposed timeframe for the Housing Diversity SEPP, and associated mandated amendments to CLEP 2015, will precede and potentially undermine the abovementioned planning work being undertaken by Council to ensure that the delivery of housing in the Campbelltown LGA is evidence based. In this respect, the mandated LEP amendments proposed under the EIE are requested to be deferred until the Affordable Rental Housing Strategy being prepared by Campbelltown City Council establishes an evidence based need for these policy changes to occur.

Increased Complexity – New Housing Definitions within CLEP 2015

The introduction of three new definitions into the Standard Instrument LEP ('build-to-rent housing', 'student housing', and 'co-living' housing) would make a total of 16 (sixteen) different dwelling types defined under CLEP 2015.

In terms of land use permissibility under the LEP, sixteen different sub-definitions of 'residential accommodation' is considered to be overly prescriptive, and unnecessarily complicates the housing approval process.

The increased complexity of having additional housing definitions to administer under the LEP will have direct resourcing implications for Council:

- **DCP Amendments**

Council's Sustainable City Development Control Plan 2015 (SCDCP) will need to be reviewed and amended to align with new LEP definitions and policy changes. It is unclear what amendments to Council's DCP will be required and there is a risk that there will be a mis-alignment between the commencement of the Housing Diversity SEPP and the amendment of the SCDCP. It is requested that the implementation program include a suitable timeframe for Councils to amend their DCPs.

- **Compliance Work**

Concerns are raised that an increased level of compliance work will be required to ensure that these developments adhere to specific site management, subdivision restrictions, and tenancy occupation requirements of the respective LEP definitions. To address this concern, it is requested that the SEPP requires covenants on the Land Title of approved developments to be enforced by DPIE. Any ongoing restrictions on tenants and site management or subdivision should be detailed in the covenant to provide greater transparency and certainty to all stakeholders.

Group Homes – Policy Changes

Strong concerns are raised that the expansion of complying development to allow the conversion of a standard dwelling to be used as a group home will potentially have negative implications for tenants and surrounding land owners.

The proposed complying development approval pathway for the retrofitting of standard dwellings to group homes would likely result in lower quality design outcomes than would have otherwise be provided if the group home was purpose built. In this respect, it is considered that group homes should be encouraged as new developments with specific building and site requirements applied to provide the best design outcomes possible.

Any proposed change of use of an existing dwelling to a group home should involve a more rigorous assessment than permitted under complying development, including a merit based assessment of potential impacts on the surrounding area and a merit based assessment of the level of access to transport and services. This should include appropriate consultation with adjoining residents under the DA process, given the potential impacts to neighbourhoods resulting from the conversion of a standard dwelling to a group home.

Notwithstanding the above, if the DPIE is to permit the conversion of standard dwellings to group homes as complying development then restrictions should be imposed on the clustering of group homes to avoid cumulative impacts in neighbourhoods. Additionally, the DPIE is requested to require the proponent of a group home development to engage a social housing provider to appropriately manage the development, similar to the proposed updated boarding house definition.

Rent to Own

There is insufficient justification provided in the EIE to demonstrate that 'build to rent' housing needs to be separately defined under Campbelltown LEP 2015, given that this form of housing may already be approved under Council's LEP as a 'residential flat building'. In this respect, the main impediments to this housing product being delivered appear to be tax related (GST and Land Tax), not planning policy related.

GST makes build-to-buy more cost effective than build-to-rent, as in a build-to-rent scenario the developer who establishes the property is also the final owner and cannot reclaim the 10 per cent tax payment. Land tax is another disincentive given that the amount of land tax liable is based on how many apartments the investor owns, meaning that owning the whole development would generate the highest rates of land tax.

It is therefore unclear how the proposed new LEP definition for this housing type will stimulate the delivery of this housing product in the market place.

Notwithstanding, the DPIE is requested to consider provisions within the SEPP to promote the opportunity for tenants to 'rent to own'. This may include, for example, a purchase option being provided to long term tenants as part of any subdivision approval of this development type. This will allow persons to have security of residency later in life and avoid long term and increasing rental costs. Home-owners can also use home equity withdrawal to fund life expenses such as health and aged care, whereas renters cannot. It is therefore requested that the SEPP provides a greater emphasis on long term ownership of dwellings by tenants to assist ageing in place and financial independency for tenants post-retirement.

Boarding House – Policy Changes

The proposed definition amendment for boarding houses to be managed by community housing providers (CHPs) is supported.

However, to ensure the sustainable delivery of affordable rental housing (ARH), all new boarding houses approved under the SEPP should be required to be used for affordable rental housing in perpetuity.

The current provisions of requiring boarding houses to be used as ARH for a 10-year period means that there is no long term security of tenure for tenants, and potentially no net increase of affordable rental housing in the market.

The ongoing use of boarding houses as affordable rental housing is consistent with the 'boarding house' definition under the SEPP, requiring this type of residential accommodation to be 'affordable rental housing'. Given this definition, it is unclear how the use of boarding houses can legally cease being used for affordable rental housing without being separately approved as a non-ARH type of residential accommodation under the LEP.

Notwithstanding, should the DPIE maintain the current 10 year limit on affordable rental housing then the SEPP should require a common register or database for boarding house developments to provide certainty for all stakeholders on the date of commencement and expiry as ARH.

Legal Weight

It is unclear whether the EIE should be given legal weight in the evaluation of current Development Applications (DAs) under Section 4.15(1) of the *Environmental Planning and Assessment Act 1979*. DPIE is requested to clarify this matter to ensure consistent consideration of the EIE in DA assessment by all Councils that are affected by the proposed Housing Diversity SEPP.

In conclusion, strong concerns are raised that the proposed timeframe for the Housing Diversity SEPP, and associated mandated amendments to CLEP 2015, will precede and potentially undermine the planned delivery of housing in the Campbelltown LGA. In this respect, whilst the consolidation of the three existing housing SEPPs is supported in principle, a number of issues are identified with the proposed policy changes and mandated LEP amendments.

The DPIE is therefore requested to defer and/or amend the proposed Housing Diversity SEPP having regard to the abovementioned issues and concerns, and ideally defer any significant policy changes affecting affordable rental housing in the Campbelltown LGA until the Campbelltown Affordable Rental Housing Strategy is finalised.

If you require any further information please contact Jeff Burton from Council's City Development Division on (02) 4645 4842.

Yours sincerely



David Smith
Executive Manager Urban Centres

3 September 2021

Housing Policy
Local Government and Economic Policy Division
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

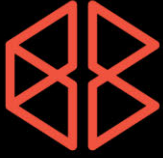
Dear Sir/ Madam,

**Draft SEPP (Housing) 2021–
Canterbury Bankstown Council Submission**

Thank you for the opportunity to comment on the Draft State Environmental Planning Policy (Housing) 2021.

This submission is prepared by Council officers and does not reflect the views of the Councillors. This submission raises the following issues in relation to the Draft SEPP:

1. Council does not support the proposal to mandate seniors housing in the B3 Commercial Core as it would contradict the zone objectives and reduce the ability for councils to provide for jobs in those locations.
2. Council does not support the minimum 450m² lot size for infill affordable housing as it is inconsistent with Council's lot size controls and is inadequate to achieve good design outcomes.
3. Council does not support the issue of site compatibility certificates for residential flat buildings as it would contradict Council's master plan program for centres.
4. Retain affordable rental housing in perpetuity to provide permanent housing solutions for people on very low to moderate incomes, including key workers.
5. Improve the planning rules for boarding houses and co-living housing to achieve good design and sustainability outcomes.
6. Improve the planning rules for secondary dwellings to achieve good design and amenity outcomes.
7. Apply the Livable Housing Design Guidelines to enable people to age-in-place.
8. Ensure the proposed definitions are consistent with existing definitions in the NSW planning system.



9. Update the affordable housing principles to be consistent with the proposed definitions.
10. Include secondary dwellings, boarding houses, build-to-rent housing and co-living housing as forms of housing that contribute to housing supply.

If you have any enquiries, please contact Council officer Mauricio Tapia on 9707 9923.

Yours sincerely

A handwritten signature in black ink, appearing to be 'M Noble', with a long horizontal flourish extending to the right.

Mitchell Noble
Manager Spatial Planning



**Canterbury Bankstown
Council Submission**

**Draft State Environmental
Planning Policy
(Housing) 2021**

September 2021





SUMMARY

Canterbury Bankstown Council raises the following issues in relation to the *Draft State Environmental Planning Policy (Housing) 2021*:

1. Council does not support the proposal to mandate seniors housing in the B3 Commercial Core as it would contradict the zone objectives and reduce the ability for councils to provide for jobs in those locations.
2. Council does not support the minimum 450m² lot size for infill affordable housing as it is inconsistent with Council's lot size controls and is inadequate to achieve good design outcomes.
3. Council does not support the issue of site compatibility certificates for residential flat buildings as it would contradict Council's master plan program for centres.
4. Retain affordable rental housing in perpetuity to provide permanent housing solutions for people on very low to moderate incomes, including key workers.
5. Improve the planning rules for boarding houses and co-living housing to achieve good design and sustainability outcomes.
6. Improve the planning rules for secondary dwellings to achieve good design and amenity outcomes.
7. Apply the Livable Housing Design Guidelines to enable people to age-in-place.
8. Ensure the proposed definitions are consistent with existing definitions in the NSW planning system.
9. Update the affordable housing principles to be consistent with the proposed definitions.
10. Include secondary dwellings, boarding houses, build-to-rent housing and co-living housing as forms of housing that contribute to housing supply.



Issue 1: Council does not support the proposal to mandate seniors housing in the B3 Commercial Core as it would contradict the zone objectives and reduce the ability for councils to provide for jobs in those locations

Council does not support the proposal to mandate seniors housing in the B3 Commercial Core for the following reasons:

Seniors housing in the B3 Commercial Core would reduce the ability for councils to provide for jobs in those locations

Since 2018, Council invested significant resources and engaged widely to prepare its new planning framework as required by State legislation and *Greater Sydney Region Plan*. The new planning framework provides a pathway to manage growth and change across Canterbury Bankstown, and includes Council's Local Strategic Planning Statement '*Connective City 2036*' and *Employment Lands Strategy*.

In 2020, Council adopted its new planning framework to provide capacity for 25,000 jobs and 25,000 students in the Bankstown Strategic Centre over the next 20 years. The Greater Sydney Commission has since assured *Connective City 2036*, confirming it is consistent with State priorities. In summary, the State and local policies recommend establishing the B3 Commercial Core to protect areas for the long-term supply of commercial floor space.

In 2021, Council prepared the *Bankstown Master Plan* to deliver the jobs target. The Master Plan proposes to introduce the B3 Commercial Core and reads (page 59):

Establishing a B3 Commercial Core in Bankstown would provide a clear and consistent signal to the market that the centre will be a focal point for future employment growth. This is important for several reasons.

Firstly, State government has already designated Bankstown as a key employment centre within the Greater Sydney context. Secondly, as business and government agencies have historically preferred to locate in neighbouring centres, a signal is required to highlight Bankstown's new status. The establishment of a commercial core will help grow the employment centre and attract investment and interest.

Another reason to safeguard employment floorspace in Bankstown is due to the recent bias towards housing development in centres. Residential development in, or nearby town centres, is important to maintain vibrancy, activity and passive surveillance. However, the Bankstown Strategic Centre also must cater for the State government's employment targets, which are substantial, however do represent a long-term view.



The concern is the proposal to mandate seniors housing in the B3 Commercial Core erodes the integrity of this employment zone to deliver the jobs target through the Bankstown Master Plan, and contradicts the intent of the new planning framework which is to ensure strategic planning occurs in a coordinated and orderly manner. Failure to protect land for commercial uses could result in Bankstown being dominated by residential development that locks out the potential for significant commercial floor space.

Seniors housing in the B3 Commercial Core would contradict the zone objectives

According to the Department of Planning, Industry and Environment's *Practice Note 11-002*, the B3 Commercial Core should be applied in major metropolitan or regional centres only where the focus is on the provision of employment and services. This is demonstrated in the zone objectives, which include:

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.

The concern is the proposal to mandate seniors housing in the B3 Commercial Core is inconsistent with the zone objectives as the purpose of seniors housing is to provide residential accommodation. Seniors housing should be optional depending on the scale, role and location of the commercial core.

Recommended Action:

- Do not mandate seniors housing in the B3 Commercial Core as it would contradict the zone objectives and reduce the ability for councils to provide for jobs in those locations.



Issue 2: Council does not support the minimum 450m² lot size for infill affordable housing as it is inconsistent with Council's lot size controls and is inadequate to achieve good design outcomes

An aim of the Draft SEPP is to provide a consistent planning regime for the provision of new affordable housing.

Whilst the Draft SEPP achieves this aim by requiring boarding houses (clause 24) and co-living housing (clause 65) to comply with Council's lot size requirements, the Draft SEPP does not achieve this aim for infill affordable housing. The Draft SEPP proposes a minimum 450m² lot size requirement for infill affordable housing (clause 17(2)(a)).

Council does not support this proposal as it is inconsistent with Council's lot size requirements as shown in the table below, and is inadequate to accommodate the proposed dwellings, setbacks to adjoining residential land, private open space and landscaped areas, driveways and vehicle manoeuvring areas.

To address this issue, the Draft SEPP should ensure infill affordable housing complies with Council's lot size requirements.

Council's LEP (minimum lot size requirements)	Draft SEPP (minimum lot size requirements)	Requested Change
<ul style="list-style-type: none"> dwelling houses = 450m² dual occupancies (attached) = 500m² dual occupancies (detached) = 700m² attached dwellings = 750m² multi dwelling housing = 1,000m² multi dwelling housing (terraces) = 1,000m² residential flat buildings = 1,500m² 	<p><u>Clause 17</u></p> <p>Infill affordable housing:</p> <ul style="list-style-type: none"> dwelling houses = 450m² dual occupancies = 450m² manor houses = 450m² semi-detached dwellings = 450m² attached dwellings = 450m² multi dwelling housing = 450m² multi dwelling housing (terraces) = 450m² residential flat buildings = 450m² 	<p>Amend clause 17 to ensure infill affordable housing complies with Council's lot size requirements.</p>

Recommended Action:

- Amend the lot size requirement for infill affordable housing to comply with Council's lot size requirements.



Issue 3: Council does not support the issue of site compatibility certificates for residential flat buildings as it would contradict Council's master plan program for centres

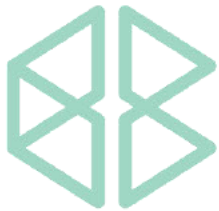
The Draft SEPP proposes to issue site compatibility certificates for residential flat buildings within the vicinity of railway stations. This would apply to zones that prohibit residential flat buildings (clause 37).

Council does not support this proposal as it is inconsistent with Council's *Connective City 2036* and *Housing Strategy*. A key action is for Council to complete its master plan program for centres in Canterbury Bankstown over the next three years. The master plan program will determine suitable locations for residential flat buildings within the vicinity of railway stations. The Greater Sydney Commission and Department of Planning, Industry and Environment have endorsed this key action.

To date, Council has exhibited the Bankstown and Campsie Master Plans, and is currently preparing the remaining master plans. As this work is not certain or imminent, Council does not support the issue of site compatibility certificates as it would pre-empt the final recommendations of the master plans.

Recommended Action:

- Do not issue site compatibility certificates for residential flat buildings as it would contradict Council's master plan program for centres.



Issue 4: Retain affordable rental housing in perpetuity to provide permanent housing solutions for people on very low to moderate incomes, including key workers

An aim of the Draft SEPP is to mitigate the loss of existing affordable rental housing.

Whilst the Draft SEPP achieves this aim by requiring certain boarding houses to be used for affordable housing in perpetuity (clause 25), the Draft SEPP does not achieve this aim for other housing types. In particular:

- The use of infill affordable housing as affordable housing is proposed to be limited to 15 years (clause 20) and 10 years (clause 39). This does not provide permanent housing solutions for people on very low to moderate incomes, including key workers.
- The requirement for boarding houses to be used for affordable housing in perpetuity does not apply to development on land owned by the Land and Housing Corporation or to a development application made by a public authority (clause 25).

To address this issue, the Draft SEPP should:

- Ensure the affordable housing stock is retained in perpetuity if infill affordable housing and boarding houses are to achieve the bonus FSR.
- Retain clause 17(1)(b) of the *SEPP (Affordable Rental Housing) 2009*. This clause enables Council to impose a restriction against the title of the property on which development is to be carried out, to ensure infill affordable housing is used as affordable housing.

The current system also does not inform the community of where to find dwellings that are approved and constructed as affordable housing. This is a State issue and the NSW Government should establish a search engine for dwellings certified as affordable rental housing, and to provide this information at the point of rent or sale.

Recommended Actions:

- Require infill affordable housing to be used as affordable housing in perpetuity.
- Require boarding houses on land owned by the Land and Housing Corporation or to a development application made by a public authority to be used as affordable housing in perpetuity.
- Retain clause 17(1)(b) of the *SEPP (Affordable Rental Housing) 2009* to ensure infill affordable housing is used as affordable housing.
- Establish a search engine for dwellings certified as affordable rental housing.



Issue 5: Improve the planning rules for boarding houses and co-living housing to achieve good design and sustainability outcomes

Council appreciates the opportunity to be involved in the Boarding House Working Group to discuss the proposed provisions for boarding houses.

Council supports the proposal to no longer mandate boarding houses in the R2 Low Density Residential zone. The preferred approach is for the Department to amend the LEPs for councils wishing to opt-out, rather than Council having to prepare a planning proposal to remove boarding houses from the Land Use Table.

However, the Draft SEPP does not address other issues raised by Council in relation to boarding houses and co-living housing, namely:

Repeal of the bonus FSR for co-living housing

Council notes the Draft SEPP proposes to repeal the bonus FSR provision for co-living housing on 1 August 2024. The preferred option is for the repeal to take immediate effect, particularly as the Draft SEPP enables co-living housing to receive the FSR bonus regardless of any evidence that the building stock is reaching the relevant demographics at an affordable cost.

Apply the Apartment Design Guide

The NSW Government Architect's *Better Placed Policy* provides the framework for good design. Good design is not just how a place looks, but how it works and feels for people. Good design applies to all dwellings and should contribute to the well-being of individuals and the community.

The concern is the Draft SEPP is inconsistent with the *Better Placed Policy* as it does not propose to set design requirements for boarding houses and co-living housing to ensure:

- There is a high standard of building design quality.
- There is adequate solar access to the private rooms and neighbouring properties.
- There are requirements for the ongoing management and maintenance of co-living housing.

The Draft SEPP should apply the Apartment Design Guide to boarding houses and co-living housing, similar to the approach taken for build-to-rent housing under the *SEPP (Affordable Rental Housing) 2009* (clause 41E).

Apply BASIX

The Department of Planning, Industry and Environment's *Explanation of Intended Effect for a Design and Place SEPP* highlights that the sustainability performance of residential buildings is one of the main drivers of energy and water efficiency for housing in NSW (page 36).



To this extent, the Draft SEPP should apply BASIX to boarding houses and co-living housing to be consistent with the NSW Government's commitment to improve BASIX as a pathway to deliver cost-effective, low-emission outcomes for residential buildings.

The Land and Environment Court has also considered this question and confirmed our view that if boarding/private rooms are capable of being used as a separate domicile, therefore meeting the definition of a 'dwelling', a BASIX certificate for the development will be required to accompany the development application (*SHMH Properties Australia Pty Ltd v City of Sydney Council* [2018]).

Increase the off-street parking rates in the residential zones

The off-street parking rates should read:

- (i) at least 1 parking space is provided for each boarding/private room on land within residential zones;
- (ii) at least 0.5 parking space is provided for each boarding/private room on land within a zone other than residential zones; and
- (iii) at least 1 parking space is provided for each person employed in connection with the development and who is residing on the site.

The parking rates should be discretionary development standards.

Recommended Actions:

- The repeal of the bonus FSR provision for co-living housing should take immediate effect.
- Apply the Apartment Design Guide and BASIX to boarding houses and co-living housing.
- Increase the off-street parking rates for boarding houses and co-living housing in the residential zones.



Issue 6: Improve the planning rules for secondary dwellings to achieve good design and amenity outcomes

The introduction of secondary dwellings as a complying development category under the Affordable Rental Housing SEPP was designed to facilitate infill suburban development through small scale dwellings up to 60m² in area. Traditionally, secondary dwellings were simple outbuildings that accommodated an aging parent or acted as an extra room for a teenage child.

The new form of secondary dwellings has however taken on a completely new role and are now a legitimate form of housing for whole families. Although they cannot be subdivided and must form part of a primary dwelling, their impacts on the local community do not differ from an ordinary dwelling.

In many instances, these dwellings are now appearing as major secondary houses with covered ancillary development, containing up to three/four bedrooms squeezed to fit within the building footprint. This kind of increasingly common scenario found in Canterbury Bankstown creates inadequate living conditions for renters, together with inadequate private open spaces and access. In Council's experience, inadequate parking is also creating added problems and concerns for the community.



Example of secondary dwelling with covered ancillary development



To address these issues, the Draft SEPP should incorporate the design requirements below.

Recommended Actions:

- Limit the number of bedrooms in secondary dwellings to two.
- Do not permit outbuildings and covered ancillary development (e.g. decks, patios, pergolas, terraces, verandahs, alfresco areas and the like) to be attached to secondary dwellings, which have the potential to be converted to additional rooms that exceed the 60m² maximum allowable floor area.
- Require off-street parking for secondary dwellings.
- Require minimum private open space for secondary dwellings.
- Provide dedicated private access to secondary dwellings that does not impinge on the privacy or the minimum requirement of either the principal or secondary dwelling's private open space.



Issue 7: Apply the Livable Housing Design Guidelines to enable people to age-in-place

An aim of the Draft SEPP is to ensure an adequate supply of an appropriate range of housing types to meet the changing needs of people across the State, including seniors and people with disabilities. The Draft SEPP does not achieve this aim as it does not reference the *Livable Housing Design Guidelines*.

At present, there is a mixed approach to this issue in NSW. Most councils apply the Adaptable Housing Australian Standard. However, industry, social housing providers and some councils are moving from the Adaptable Housing Australian Standard to the *Livable Housing Design Guidelines*.

The Guidelines aim to provide suitable accommodation for a broad range of the community including seniors, people with temporary injuries, families with young children, and people with disabilities and their families; plus enable people to age-in-place. The Guidelines contain three types of building design standards: Platinum, Gold and Silver. Livable Housing Australia's goal is for all new homes to achieve a minimum standard (Silver), however this target is not legislated and therefore remains discretionary.

In 2019, Council consulted the community, industry, social housing providers, aged care providers and state agencies to discuss options on how Council may proceed to address future demand for livable housing. In summary, most respondents supported the application of the *Livable Housing Design Guidelines*. In 2020, Council decided to move from the Adaptable Housing Australian Standard to the *Livable Housing Design Guidelines* as follows:

Housing types	Proposed planning rules
Secondary dwellings and houses	Require all new secondary dwellings and houses to achieve the Silver Standard.
Dual occupancies and semi-detached dwellings	Require one dwelling in new dual occupancies and semi-detached dwellings to achieve the Gold Standard and the second dwelling to achieve the Silver Standard.
Multi dwelling housing and attached dwellings	Require at least 20% of new dwellings to achieve the Silver Standard and further 20% of new dwellings to achieve the Gold Standard.
Apartments and shop top housing	Require at least 20% of new dwellings to achieve the Silver Standard and further 20% of new dwellings to achieve the Gold Standard noting shop top housing will not deliver dwellings at the ground floor as this would contradict the LEP definition. Shop top housing however generally provides lift access to residential floors of development.
Boarding houses	Require at least 20% of boarding rooms in new boarding houses to achieve the Silver Standard.



In applying the planning rules such as the requirement for step-free pathways in front yards, flexibility would be given to difficult sites. It is not proposed to apply the planning rules to steeply sloping sites or to modifications to existing dwellings.

There is the opportunity for the Draft SEPP to modernise the policy approach to housing options that would enable people to age-in-place, particularly in relation to the status of the *Livable Housing Design Guidelines*.

Recommended Action:

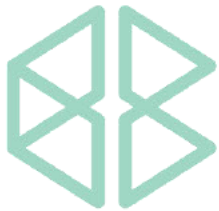
- Apply the *Livable Housing Design Guidelines* to secondary dwellings, boarding houses, build-to-rent housing and co-living housing.



Issue 8: Ensure the proposed definitions are consistent with existing definitions in the NSW planning system

The Draft SEPP proposes to introduce new definitions that depart from existing definitions, resulting in inconsistencies in the NSW planning system. Key examples are:

Existing Definition	Draft SEPP	Requested Change
<p>Codes SEPP environmentally sensitive area means any of the following—</p> <ul style="list-style-type: none"> (a) the coastal waters of the State, (b) a coastal lake identified in Schedule 1 to <i>State Environmental Planning Policy (Coastal Management) 2018</i>, (c) land identified as “coastal wetlands” or “littoral rainforest” on the <i>Coastal Wetlands and Littoral Rainforests Area Map</i> (within the meaning of <i>State Environmental Planning Policy (Coastal Management) 2018</i>), (d) land reserved as an aquatic reserve under the <i>Fisheries Management Act 1994</i> or as a marine park under the <i>Marine Parks Act 1997</i>, (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention, (f) land within 100m of land to which paragraph (c), (d) or (e) applies, (g) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance, (h) land reserved under the <i>National Parks and Wildlife Act 1974</i> or land to which Part 11 of that Act applies, (i) land reserved or dedicated under the <i>Crown Land Management Act 2016</i> for the preservation of flora, fauna, geological formations or for other environmental protection purposes, (j) land identified as being critical habitat under the <i>Threatened Species Conservation Act 1995</i> or Part 7A of the <i>Fisheries Management Act 1994</i>. 	<ul style="list-style-type: none"> • Land shown cross-hatched on the bush fire evacuation risk map. • Land identified as coastal wetlands and littoral rainforests area within the meaning of <i>State Environmental Planning Policy (Coastal Management) 2018</i>. • Land identified as coastal vulnerability area within the meaning of <i>State Environmental Planning Policy (Coastal Management) 2018</i>. • Land declared as an area of outstanding biodiversity value under the <i>Biodiversity Conservation Act 2016</i>, section 3.1. • Land identified on the Map within the meaning of the <i>Biodiversity Conservation Regulation 2017</i>, section 7.3. • Land identified in another environmental planning instrument as follows or by a similar description— <ul style="list-style-type: none"> (a) flood planning, (b) open space, (c) natural wetland. 	<p>The definition should be consistent with the Codes SEPP and include land identified by an environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance.</p>
<p>No definition</p>	<p>non-heritage land means land—</p> <ul style="list-style-type: none"> (a) not containing a heritage item, and (b) not the subject of an interim heritage order under the <i>Heritage Act 1977</i>, and (c) not listed on the State Heritage Register. 	<p>The definition should include heritage conservation areas, draft heritage items and draft heritage conservation areas.</p>



<u>Standard Instrument LEP</u> <i>landscaped area</i> means a part of a site used for growing plants, grasses and trees, but does not include any building, structure or hard paved area.	<i>landscaped area</i> means the part of the site area not occupied by a building and includes a part used or intended to be used for a rainwater tank, swimming pool or open-air recreation facility, but does not include a part used or intended to be used for a driveway or parking area.	The definition should be consistent with the Standard Instrument LEP.
<u>Apartment Design Guide</u> <i>deep soil zone</i> means an area of soil within a development that are unimpeded by buildings or structures above and below ground and have a minimum dimension of 6m. Deep soil zones exclude basement car parks, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways and roof areas	<i>deep soil zone</i> means a landscaped area with no buildings or structures above or below the ground.	The definition should be consistent with the Apartment Design Guide.
No definition	Vertical village	Introduce a definition for vertical villages to ensure the bonus FSR is correctly applied (clause 99).

Recommended Actions:

- Amend the definition of 'environmentally sensitive area' to include land identified by an environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance.
- Amend the definition of 'non-heritage land' to include heritage conservation areas, draft heritage items and draft heritage conservation areas
- Ensure the definitions of '*landscaped area*' and '*deep soil zone*' are consistent with the Standard Instrument LEP and Apartment Design Guide.
- Introduce a definition for '*vertical village*'.



Issue 9: Update the affordable housing principles to be consistent with the proposed definitions

The Draft SEPP proposes to transfer the existing affordable housing principles from the SEPP No. 70. Principle 2 reads *'affordable housing is to be created and managed so that a socially diverse residential population representative of all income groups is developed and maintained in a locality'*.

The issue is this principle is inconsistent with the proposed affordable housing definition, which is specific to very low to moderate income groups. The proposed definition does not cater for all income groups, such as high income groups.

To address this issue, the Draft SEPP (Schedule 1) should amend Principle 2 to read *'affordable housing is to be created and managed so that a socially diverse residential population representative of very low, low and moderate income groups is developed and maintained in a locality'*.

Recommended Action:

- Amend Principle 2 (Schedule 1) to create and manage affordable housing for very low, low and moderate income groups.



Issue 10: Include secondary dwellings, boarding houses, build-to-rent housing and co-living housing as forms of housing that contribute to housing supply

In the ten years to 2016, Canterbury Bankstown grew by 10,821 dwellings with over half of this being in the form of apartments.

However, a research report commissioned by the Southern Sydney Regional Organisation of Councils (SSROC) and prepared by the University of NSW City Futures Research Centre, provides that in the period between July 2007 and June 2017, 8,212 secondary dwellings were constructed across the SSROC region comprising ten council areas. Canterbury Bankstown accounted for 52% meaning over 4,000 secondary dwellings were constructed within Canterbury Bankstown over the last decade. This is over and above the 10,821 dwellings identified above.

Given the NSW Government includes one or two bedroom villas, townhouses and units as a dwelling that contributes towards housing supply, it is also logical to recognise the contribution made by secondary dwellings to the overall housing supply. Secondary dwellings can accommodate whole families which results in the same level of demand on local services, facilities, open space and on-street parking when compared to detached dwellings.

In an excerpt from the study prepared by the UNSW City Futures Research Centre:

...the volume of approvals raise a number of broader planning related issues. This kind of incremental growth in dwelling is not generally factored in planning for growth across the Sydney region. In the case of Canterbury-Bankstown where secondary dwellings account for 31% of dwelling growth between 2006 and 2017, this figure represents a substantial contribution to dwelling stock levels. While this may be viewed as beneficial to delivering dwelling growth, if it has not been factored in growth estimates and not form part of local infrastructure and service planning, then this represents a significant black spot in the planning process. Additional pressures on public transport, schools, local amenities and facilities, water infrastructure and road networks are likely to result without any plan in place to address additional demand.

Ref: A research report commissioned by Southern Sydney Regional Organisation of Councils (SSROC), June 2018, page 18.

The same concern applies to boarding houses, build-to-rent housing and co-living housing under the Draft SEPP. According to the SSROC research, there are gaps in the Department's understanding of the types of dwellings being built, their use and occupant profile, and the additional infrastructure and amenity demands they create on their host neighbourhoods.



Recommended Action:

- Improve the NSW Government's data collection by formally including secondary dwellings, boarding houses, build-to-rent housing and co-living housing as forms of housing that contribute to housing supply and Canterbury Bankstown Council's dwelling target.



CATHOLIC ARCHDIOCESE OF SYDNEY

1 September 2021

The Secretary
Department of Planning, Industry and Environment
4 Parramatta Square
12 Darcey Street
Parramatta NSW 2150
Attention: Mr Luke Walton [by email: housingpolicy@planning.nsw.gov.au]

Dear Mr Walton

Catholic Archdiocese of Sydney: draft SEPP (Housing) 2021 – Public Exhibition Submission

The Catholic Archdiocese of Sydney (CAS) commends the Department of Planning, Industry and Environment (DPIE) for the exhibition of the draft State Environmental Planning Policy (Housing) 2021 (draft Housing SEPP).

CAS is a significant not-for-profit institutional property owner working across a range of scales and sectors on sites across the greater Sydney region. With a strong emphasis on projects with social welfare and community uses at their heart, the projects include wholesale asset renewal, mixed used master-planned communities, and the adaptive reuse and restoration of heritage buildings and their curtilages.

Sectors include commercial, various residential typologies including affordable housing, BTR and retirement living, education (early childhood, primary, secondary and tertiary), and retail/hospitality. CAS is not a developer: collaboration is key to the delivery of these projects, with Government, Councils, the private sector and other not-for-profit agencies using our land to create affordable options for the community.

We remain strongly supportive of the DPIE's intent of facilitating more diverse seniors housing forms, and this opportunity to review the Housing SEPP. However, CAS remains concerned that some of the proposed amendments could have long lasting and significant adverse effects on the delivery and supply of future seniors housing. This is happening at a time when the demographic "grey tsunami" of retirees will put upwards pressure on demand and therefore cost of housing.

While we concur that some amendments are required to the Seniors SEPP, the current instrument has provided the not-for-profit industry with a high level of certainty for years

and, in our opinion, has been extremely successful in achieving its aims. CAS request that DPIE further considers and investigates the level of certainty provided to not-for-profits, particularly where the policy does not support any advantages over private residential developers.

Notwithstanding this, CAS believes that the fundamentals of Part 4 of the draft Housing SEPP are sound, and modest amendment as discussed below could be a transformative public policy for the seniors housing in NSW.

The key amendments sought are:

- **Recommendation 1:** Clause 16 should provide for a proportionate increase in the maximum building height that corresponds with the floor space incentive to ensure alignment between these key development standards. For example, an additional level would be sufficient for a site with a floor space ratio of less than 2.5:1 but two or more levels may be required in higher density zones to ensure the full bonus floor space can be achieved.
- **Recommendation 2:** The Department should undertake feasibility modelling before the proposed change from 10 to 15 years affordable housing is made to determine the likely impacts of this amendment on the supply of affordable housing.
- **Recommendation 3:** The Department should continue to mandate boarding houses as permissible uses within the R2 zone and/or remove the cap of 12 rooms.
- **Recommendation 4:** Clause 23 should provide for a proportionate increase in building height to correspond with the floor space incentive to ensure alignment between these key development standards.
- **Recommendation 5:** Clause 23 should include a non-discretionary standard relating to landscaped area rather than deferring to existing controls, to ensure consistency across the State and provide certainty for industry.
- **Recommendation 6:** Delete clause 24(1)(a) requiring the design of a boarding house to be compatible with the character of the local area.
- **Recommendation 7:** Clause 24 should include development standards for minimum lot size and setbacks rather than deferring to existing controls, to ensure consistency across the State and provide certainty for industry.
- **Recommendation 8:** Delete clause 24(1)(j) requiring compliance with the minimum building separation distances specified in the ADG.
- **Recommendation 9:** Amend clause 59(1) to enable the conversion of an existing dwelling into a group home to be complying development.
- **Recommendation 10:** DPIE should reconsider the definition of seniors in clause 8 of the Policy with regard to the impact it may have on its ability to deliver different service offerings and housing forms throughout NSW.
- **Recommendation 11:** We recommend the SP2 zone be treated the same as the SP1 zone for the purposes of seniors housing.
- **Recommendation 12:** Permit all forms of seniors housing within the R2 Low Density Residential Zone.

- **Recommendation 13:** Include other suitable rural zones in the list of prescribed zones, subject to suitable locational criteria (similar to other prescribed zones). It is also noted that development in rural zones would be subject to clauses 82 and 83 of the SEPP, ensuring appropriate access to services and facilities.
- **Recommendation 14:** Ensure that clause 74(3) is tied to the 9m height standard and only applies to land in a residential zone where residential flat buildings are not permitted.
- **Recommendation 15:** DPIE and Parliamentary Counsel's Office should carefully consider the potential ramifications of this terminology change, and the subsequent legal challenges and L&E Court appeals it could generate.
- **Recommendation 16:** Review the non-discretionary development standards for RCFs in clause 96, particularly in relation to their interplay with the development standards in clause 74.
- **Recommendation 17:** CAS therefore again recommends that the prohibition of ILUs in the R2 zone is deleted. As previously mentioned, a non-discretionary standard related to density (i.e. 50 dwellings per hectare) in the R2 zone could be an alternative to a blanket prohibition of ILUs in the R2 zone.
- **Recommendation 18:** Broaden the application of the vertical villages provisions to include land on which development for the purpose of shop top housing is permitted (in addition to residential flat buildings).
- **Recommendation 19:** Increase the FSR bonus for vertical villages involving ILUs to 20% (instead of 15%) and allow a two-storey height increase in higher density zones to enable the full FSR bonus to be realised.
- **Recommendation 20:** Removing this default FSR is therefore strongly recommended as the incentive provision could still operate effectively in areas without an FSR as the building height bonus provides an incentive in itself.
- **Recommendation 21:** Either remove the requirement for the CIV of the RCF component to be at least 60% of the total CIV, or require both the RCF and ILU components to together comprise at least 60% of the overall CIV.
- **Recommendation 22:** CAS would welcome an appropriate FSR and building height incentive clause that provided for renewal of aging villages where the renewal was tied to defined and desirable accessibility, ESD and design standards. The SEPP should also make it clear that renewal of villages is permitted irrespective of the zoning in which the village sits.

1.0 Affordable Housing

1.1 In-fill affordable housing

Floor Space Ratio

The floor space bonus currently afforded to in-fill affordable housing developments is critical for incentivising the delivery of affordable housing within Sydney and other

metropolitan centres. However, the benefits provided by this additional floor space bonus are often not able to be realised due to the absence of a commensurate increase in building height under the current provisions. This results in a misalignment of controls and the need for an arbitrary clause 4.6 variation request to achieve the permissible FSR, significantly increasing the costs and risks associated with a development application under this pathway. For this reason, it is considered that the current incentive is not working as intended which is evident from the lack of uptake of developments utilising this bonus.

Recommendation 1: Clause 16 should provide for a proportionate increase in the maximum building height that corresponds with the floor space incentive to ensure alignment between these key development standards. For example, an additional level would be sufficient for a site with a floor space ratio of less than 2.5:1 but two or more levels may be required in higher density zones to ensure the full bonus floor space can be achieved.

Duration of Affordable Housing

Clause 20 of the draft SEPP seeks to increase the duration in which a dwelling is used for affordable housing from 10 years to 15 years. Whilst the intent of this clause to increase the supply of affordable housing is strongly supported, concern is raised that the amendment, may in fact, further discourage the use of the SEPP for the delivery of in-fill affordable housing (particularly when the full extent of the bonus is unable to be achieved).

This change was not identified within the Explanation of Intended Effects and it is unclear what feasibility modelling or consultation has been undertaken in relation to this matter. This is considered necessary to ensure the proposed amendment achieves the aims of the SEPP, including providing incentives for certain development types and a consistent planning regime for the provision of affordable housing.

Recommendation 2: The Department should undertake feasibility modelling before this proposed change is made to determine the likely impacts of this amendment on the supply of affordable housing.

1.2 Boarding houses

Removal of boarding houses from R2 zone

The proposed removal of boarding houses as a mandatory permissible use within the R2 zone is very concerning as this will drastically reduce the amount of available land in which this important development typology can be delivered. Like other uses encouraged under the SEPP, boarding houses struggle to compete with market housing for scarce land in higher density zones and the R2 zone is where many of these facilities are therefore delivered.

If Councils are able to prohibit the use within the R2 zone, this would potentially exclude over 80,000Ha of zoned land in the Sydney Metropolitan Area, placing even further pressure on the medium to high density residential areas that are already hotly contested for alternative high density forms of development. This would have severe consequences for the delivery of this important housing typology and is contrary to the objective of improving housing diversity and affordability, particularly now that boarding houses are to be restricted to social housing providers for the purposes of affordable housing.

Furthermore, the intent of this proposed amendment is unclear given that the floor space bonus is only available where residential flat buildings are permissible and for development on non-heritage land. Accordingly, there is no urban design basis for the exclusion of this typology in the R2 zone as the scale of development would be no different to other forms of residential accommodation. The social consequences of restricting this use, on the other hand, would be severe and would result in less diverse neighbourhoods and the marginalisation of the vulnerable.

In addition, the cap of 12 boarding house rooms within the R2 zone is questionable given that the use will no longer be mandated in the zone. This further exacerbates the issue of restricted supply in Local Government Areas that rightly elect to encourage boarding houses within the R2 zone. In these instances, boarding houses should not be subject to a more stringent requirement under the SEPP. Rather, the density of the development should be determined by a merit assessment of the relevant controls.

Recommendation 3: *The Department should continue to mandate boarding houses as permissible uses within the R2 zone and/or remove the cap of 12 rooms.*

Non-discretionary development standards

The proposed non-discretionary development standard in clause 23, providing an additional 25% floor space (previously 20%) for boarding house developments in certain locations is supported. However, as outlined above, it is imperative for this to be accompanied by an equal uplift in height otherwise it will not have the desired impact on the supply of this use as the additional FSR may not be realised.

The benefit of the proposed non-discretionary standards relating to minimum landscape areas is questioned given that the controls defer to the minimum requirements for other land uses under another relevant planning instrument. Boarding house providers rely on a consistent approach to non-discretionary standards for site selection and if these differ between LGAs, certainty is diminished. Instead, it is suggested that the Department implement a standard minimum landscape area which can be applied consistently for boarding houses across the state.

Recommendation 4: *Clause 23 should provide for a proportionate increase in building height to correspond with the floor space incentive to ensure alignment between these key development standards.*

Recommendation 5: Clause 23 should include a non-discretionary standard relating to landscaped area rather than deferring to existing controls, to ensure consistency across the State and provide certainty for industry.

Standards for boarding houses

The proposed new standard that boarding houses must be 'compatible with the character of the local area' is problematic and presents a key risk for applicants. This standard is highly subjective and can be used by Council as a reason to arbitrarily refuse consent as has been seen with previous seniors housing development, despite Land and Environment Court precedents on what constitutes compatibility. This draft clause is considered unnecessary given the detailed development standards provided under the SEPP, which if complied with, should ensure compatibility. We therefore encourage the Department to remove this draft provision from the final SEPP.

As with the non-discretionary standards, there are a number of proposed new development standards which defer to existing controls under other relevant planning instruments, including minimum lot sizes and setbacks. This undermines the purpose of having a SEPP, and does not achieve one of the Aims of the draft SEPP which is "to provide greater clarity and certainty for the housing sector". Therefore, it is recommended that the Department introduce standard provisions which can be applied equally across all LGAs.

Similarly, the reference to compliance with the separation distances of the ADG for boarding houses over 3 storeys is considered inappropriate as the ADG has traditionally not applied to this land use. In addition, this provision unduly elevates the weight of the ADG from a guideline to a statutory control which must be complied with – making it more onerous than for a residential flat building.

Recommendation 6: Delete clause 24(1)(a) requiring the design of a boarding house to be compatible with the character of the local area.

Recommendation 7: Clause 24 should include development standards for minimum lot size and setbacks rather than deferring to existing controls, to ensure consistency across the State and provide certainty for industry.

Recommendation 8: Delete clause 24(1)(j) requiring compliance with the minimum building separation distances specified in the ADG.

2.0 Diverse Housing

2.1 Group homes

The proposal within the Explanation of Intended Effect released in July 2020 to introduce a quicker and easier process to allow an existing dwelling to be used as a group home is

strongly supported. Whilst it is acknowledged that the Group Housing provisions will be subject to a subsequent review in Phase 4, this change could be made as part of the current amendments by simply amending Clause 59(1) to state:

*Development for the purposes of a group home, **or a change of use of an existing dwelling to a group home**, is complying development if the development...*

Any group home would still have to comply with the prerequisites and the development standards at Schedule 3, meaning there would be no additional environmental impacts than if a new group home was to be developed on a site under the same provisions. This relatively minor amendment could bring forward the delivery of this important accommodation typology for people with a disability or people who are socially disadvantaged. Furthermore, this change would not inhibit the subsequent review of the group home development standards which is also supported to ensure that these facilities meet modern standards.

Recommendation 9: Amend clause 59(1) to enable the conversion of an existing dwelling into a group home to be complying development.

3.0 Seniors Housing

3.1 Age of Seniors

DPIE proposes to amend the definition of 'seniors' as follows.

Increase the minimum age threshold for seniors to 60 (currently 55) to align with the 'preservation age' of the Superannuation Industry (Supervision) Regulations 1994.

CAS does not support raising the age of seniors from 55 years to 60 years. The current Policy states that seniors are people aged 55 or more years; people who are a resident at a facility at which residential care (in accordance with the *Aged Care Act 1997*) is provided; or people who have been assessed as being eligible to occupy housing for aged persons provided by a social housing provider.

This definition recognises that the population is ageing and there is a specific need to plan for different forms of seniors housing accommodation. The delivery of seniors housing in the form of independent living units and residential care facilities attracts different cohorts of retirees and seniors and allows these residents to contemplate retirement living and care within their existing community.

In addition, increasing the age reduces the size of the demand catchment for this housing product, which ultimately will have an influence and impact on future development feasibility in some locations.

Recommendation 10: *DPIE should reconsider the definition of seniors in clause 8 of the Policy with regard to the impact it may have on its ability to deliver different service offerings and housing forms throughout NSW.*

CAS also requests that the DPIE provide clarity as to the application of the concession clause being afforded to social housing providers if the proposed revised definition is upheld in the amendments.

3.2 Prescribed Zones and Restrictions

CAS supports the introduction of prescribed zones as the current Seniors SEPP is often subjective to its application and at times requires legal interpretation. The prescribed zones approach simplifies the application of the instrument and provides greater certainty.

3.2.1 Special Purpose Zones

CAS is concerned with the limited consideration of the Special Purpose zones. In particular, the only circumstance that the SP2 Infrastructure zone can be used for seniors housing is when the zone is identified for 'Hospital' use. CAS is particularly concerned that these changes will stifle the development of surplus land on many school sites that have potential for intergenerational communities to be created.

By contrast, for SP1 zones under clause 76, seniors housing can only be developed in the SP1 zone in circumstances where:

- A place of public worship, educational establishment, hospital or seniors housing is permitted on the land; and
- At least 50% of the site adjoins a residential zone.

It is noted that SP zones are generally well located within urban areas in relation to the infrastructure and services that seniors housing also benefits from, such as hospitals and health facilities. Importantly, there is no consistent distinction between an SP1 zoned educational establishment and an SP2 zoned educational establishment across the NSW planning system. The two Special Purpose zones have been applied interchangeably for the past 15 years with the SP2 zone being a prevalent zoning for educational establishments in NSW.

Across the Archdiocese, 82 out of 170 school sites are zoned SP2. Whilst integrated renewal of all sites will be possible, or desirable, there is a history of compatible multi-use of these sites for integrated developments, there are some examples where this has been possible – and a desirable outcome.

Two such examples are:



St Patrick's Green, Kogarah

- Delivered 2018. Developer: Greengate. Current owner: Australian Unity.
- Original site zoning: SP2. The project was delivered on the site of a former secondary school. The site is adjacent the primary school, which is still operating, and the parish. An integrated parish, school and retirement village. Development is RAC and ILU. Height of buildings varies across the site, 3 to 15 storeys. Adjacent Kogarah town centre and St George Hospital.



St Brigid's Green, Maroubra

- Delivered 2015. Developer: Greengate. Current owner: Australian Unity.
- Original site zoning: SP2. Winner of the retirement living development of the year at the Property Council innovation and excellence awards in 2016. The project was delivered on the site of a former secondary school. The site is close to the primary school, which is still operating, and the parish. Development is RAC and ILU. Height of

buildings varies across the site, 3 to 6 storeys. Adjacent Maroubra Junction town centre.

Through the introduction of this clause, these developments **could not be realised**. This model also supports the delivery of financially and socially sustainable communities, that includes affordable housing, crisis accommodation, retirement living and opportunities for 'place making' that comes with the creation of vibrant, liveable communities in integrated developments. The knock on impact of this will ultimately be an impact on the ultimate financial independence and sustainability of the local parishes proposing this development and for the Archdiocese to play its part in increasing diverse affordable housing options on its land.

Recommendation 11: *We therefore recommend the SP2 zone be treated the same as the SP1 zone.*

3.2.2 R2 Low Density Residential

The restriction on ILUs in R2 zones is the most concerning aspect of draft Housing SEPP for the not-for-profit (NFP) industry and its inclusion within the draft Housing SEPP without prior consultation or explanation is concerning for CAS.

The R2 zone has been the life blood of seniors housing since the commencement of SEPP No. 5 in 1982. This is because land values are lower than in higher density zones such as R3 or R4 zones, and seniors housing providers do not need to compete for the acquisition of sites with market residential apartment developers. This has resulted in an enormous amount of successful seniors housing developments over the past 40 years in the R2 zone across NSW, which has enormously increased supply. This equates to approximately 80,000 hectares of R2 zoned land just in the Sydney Metropolitan Area being excluded from ILU development as a consequence of this provision.

In terms of CAS, a number of existing villages are located with an R2 zone. These villages are well established with their local communities and are entirely compatible with the character, scale and density of their localities. These villages would become prohibited development and their long-term futures be placed in jeopardy as a consequence of this provision. Furthermore, without the permissibility enshrined within a SEPP, local councils could simply make "seniors housing" prohibited in their R2 zones to align with the draft Housing SEPP. This would render all CAS villages and their ILUs as prohibited development and reliant upon the "existing use" rights provisions of the EP&A Act.

It is important to note that, ILU development in R2 zones is afforded no additional building height or floor space ratio over other forms of permissible development, with an 8m building height and a 0.5:1 FSR maximum as non-refusable standards under clause 50 of the Seniors SEPP. Indeed, a RCF at a 1:1 FSR and a building typology and function more akin to a health services facility than residential dwellings, has arguably a greater impact upon streetscape and neighbourhood amenity than ILUs – yet RCFs remain

permissible in the R2 zone. The intent of draft Housing SEPP is for the delivery of affordable and diverse housing types. This clause will have the opposite effect.

Notwithstanding this, should DPIE continue hold concerns regarding ILU density in R2 zones in some locations being potentially problematic, rather than a blanket and draconian prohibition for ILUs on all land in the R2 zone, a suggestion is a non-discretionary density standard to be included as part of clause 97 where a “non-refusable” 50 dwellings per hectare is provided. Alternately, a 50 dwellings per hectare density development standard could be provided at clause 74 that applies just to R2 zoned land.

Whilst CAS does not support either of these provisions being implemented as it is our long experience that ILU development in R2 zones is entirely compatible, it is a preferable solution to a blanket ILU prohibition in R2 zones.

Lastly, the removal of all rural zones (apart from RU5) coupled with ILUs no longer being permissible in the R2 zone is an enormous change for the NFP industry and will limit housing choice and people downsizing to age in place. It will also force a significant number of seniors housing providers into direct competition with market residential developers to acquire a small amount of available sites primarily in R4 zones (in order to achieve the vertical villages bonus), thereby increasing land values and therefore the cost of housing.

Recommendation 12: *Permit all forms of seniors housing within the R2 Low Density Residential Zone.*

Recommendation 13: *Include other suitable rural zones in the list of prescribed zones, subject to suitable locational criteria (similar to other prescribed zones). It is also noted that development in rural zones would be subject to clauses 82 and 83 of the SEPP, ensuring appropriate access to services and facilities.*

3.3 Existing Use Rights

The new prescribed zones framework has the potential to make existing lawfully approved seniors housing developments a prohibited use. This is particularly relevant to existing seniors housing developments in rural zones which the draft Housing SEPP does not apply to. Furthermore, lawful existing independent living unit (ILU) development under clause 76 would become prohibited in the R2 zone.

Just these two changes alone could result in potentially thousands of lawfully approved and successfully operating seniors housing development in NSW becoming prohibited development and therefore being reliant on the “existing use” rights provisions of the EP&A Act.

DPIE inadvertently making potentially thousands of seniors housing developments prohibited development and reliant on the “existing use” rights provisions not only is problematic from a land use planning perspective, but also provides little certainty for any

future development or renewal on these sites and could substantially devalue the homes of residents.

4.0 Development Standards and Non-Discretionary Standards

4.1 Development standards

CAS is generally supportive of the rationalised development standards proposed in the draft Housing SEPP. However, there appears to be a drafting error in clause 74(3) that states:

- (3) The development may result in a building with a height of no more than 11.5m if servicing equipment on the roof of the building—*
- (a) is fully integrated into the design of the roof or contained and suitably screened from view from public places, and*
 - (b) is limited to an area of no more than 20% of the surface area of the roof.*

It is understood the underlying intent of this provision is to provide an additional 2.5m of building height for roof servicing equipment, above the 9m height standard. However, the 9m height standard applies only to residential zones where residential flat buildings are prohibited, whilst the 11.5m servicing equipment height appears to apply to all zones.

For example, land in an R4 zone with a 20m height development standard (or 6 storeys) under an LEP, will require a clause 4.6 variation statement in order to vary the 11.5m height standard of subclause (3), despite the proposal achieving an LEP compliant height of 20m. Clearly, this outcome was not the intent of this provision.

Recommendation 14: *Ensure that clause 74(3) is tied to the 9m height standard and only applies to land in a residential zone where residential flat buildings are not permitted.*

4.2 Non-discretionary development standards

CAS welcomes the proposed non-discretionary standards as they have for many years provided certainty and advantages for NFP providers not only in the assessment of development applications but also in the acquisition of sites from a due diligence and feasibility perspective.

4.2.1 Non-discretionary terminology

The change in the name of these provisions from the Seniors SEPP “standards that cannot be used to refuse consent” to the draft Housing SEPP “Non-discretionary standards” is understandable considering the reference to this term in section 4.15 of the EP&A Act, however we would like to bring DPIE’s attention to section 4.15(3)(b) that states:

(b) *a provision of an environmental planning instrument that allows flexibility in the application of a development standard **may be applied** (emphasis added) to the non-discretionary development standard.*

This provision effectively gives a consent authority discretion whether to apply clause 4.6 of a relevant LEP to non-discretionary standards in the Housing SEPP, since clause 4.6 is the provision that allows flexibility in the application of a development standard.

This has never been the intent of the Seniors SEPP “standards that cannot be used to refuse development consent” provisions to act as hard development standards, nor how they have been applied in NSW since they were introduced. This is evident from the fact that the non-discretionary standards have been placed in Division 7 of Part 4 of the draft Housing SEPP, separate to the development standards in Division 3. Furthermore, the intent of the non-discretionary development standards is clearly stated in clause 96(1) of the draft Housing SEPP as follows (with clause 97(1) being drafted in similar terms):

*“The object of this section is to identify development standards for particular matters relating to development for the purposes of hostels and residential care facilities that, **if complied with, prevent the consent authority from requiring more onerous standards for the matters.**”*

The above indicates that non-discretionary development standards are not meant to be applied in the same way as hard development standards. They merely provide certainty to applicants that a consent authority cannot require more onerous standards should they be complied with. If consent authorities apply clause 4.6 to non-discretionary standards, the distinction between non-discretionary and other development standards becomes blurred and is contrary to the intent of non-discretionary standards.

Recommendation 15: *DPIE and Parliamentary Counsel’s Office should carefully consider the potential ramifications of this terminology change, and the subsequent legal challenges and L&E Court appeals it could generate.*

4.3 Non-discretionary development standards for residential care facilities

CAS queries the inconsistency between the 9.5m non-discretionary height standard of clause 96(2)(a) and the 9m height development standard of clause 74(2)(c)(i). For example, a RCF in an R2 zone where residential flat buildings are prohibited could achieve a building height of 9.5m thereby complying with the non-discretionary standard, however it would breach the 9m height development standard of clause 74(2)(c)(i). This breach would therefore require a clause 4.6 statement to vary the 9m height development standard, despite the fact that a consent authority cannot require more onerous standards where a proposed development complies with a non-discretionary standard.

This is clearly not the intent of the interplay between the development standards of clause 74 and the non-discretionary standards of clause 96 and 97 and will need to be reviewed by DPIE to ensure consistency.

Furthermore, the new standard for internal and external communal open space of 10m² per bed, for a 100 bed RCF equates to 1,000m² of communal open space which is considered onerous, particularly outside of low density residential zones. CAS believes that 7m² per bed would be an appropriate rate and aligns with many of our modern RCFs.

Recommendation 16: Review the non-discretionary development standards for RCFs in clause 96, particularly in relation to their interplay with the development standards in clause 74.

4.4 Non-discretionary development standards for independent living units

CAS supports the non-discretionary standards relating to ILUs generally, however question some of their applicability in light of the prohibition of ILUs in R2 zones. The intent of these non-discretionary standards is to set a baseline of compliance, particularly in low density zones (ie R2), where a consent authority cannot refuse consent on that basis should a standard be complied with. In particular, the building height standard of 9m and the FSR standard of 0.5:1 for ILUs relate directly to R2 zoned land, where ILUs are proposed to no longer be permissible development.

This reinforces the prevailing seniors housing industry's perception that the prohibition of ILUs in R2 zones was a last moment addition to the draft Housing SEPP without proper consideration by DPIE.

Recommendation 17: CAS therefore again recommends that the prohibition of ILUs in the R2 zone is deleted. As previously mentioned, a non-discretionary standard related to density (ie 50 dwellings per hectare) in the R2 zone could be an alternative to a blanket prohibition of ILUs in the R2 zone.

5.0 Site-related requirements

CAS welcomes the update to the existing clause 26 of the Seniors SEPP, an onerous and problematic provision. By removing the word "public" this allows many of our existing villages and emerging villages to provide an alternative private bus service, which is typically the preferred transport method for many of our residents.

Furthermore, this aligns with recent judgments from the NSW Land and Environment Court that acknowledge the frailty and high care needs of residents of RCFs, and that a private bus service is the safest and realistically the only transport option in such circumstances.

6.0 Development for vertical villages

CAS supports the intention of this provision to incentivise seniors housing (in particular co-located developments) and to level the playing field in the acquisition of sites for seniors housing providers when competing against market residential developers which is typically the highest and best use.

CAS also supports DPIE removing the need for a Site Compatibility Certificate (SCC) to access the bonus, and also removing the minimum affordable housing and the associated community housing provider requirement. These were significant impediments for the industry utilising the existing vertical village bonus of the Seniors SEPP.

6.1 Application to business zones

CAS strongly believes that, in order for this incentive provision to achieve its intent, it must be applied more broadly, and not just restricted to zones where residential flat buildings are permissible as this restricts the application of the bonus primarily just to R4 zoned land and less frequently to R3, R1 and B4 zones. Accordingly, in the opinion of CAS it must also apply where shop-top housing is permitted, which would open up many business zones to the application of the incentive.

Business zones in our commercial centres also provide the highest FSR development standards, which correlate better with a percentage bonus (as proposed) and provide a greater incentive for seniors housing providers as the base FSR increases.

We understand that this is the intent of this provision as publicly stated by the Minister for Planning and Public Spaces in the media regarding the draft Housing SEPP, in that vertical villages will incentivise seniors housing in our city centres and on top of our shopping centres. The current drafting of the draft legislation regrettably does no such thing, with the vertical villages clause not applying to our urban centres or shopping districts.

This incentive applying to business zones is not only to bring seniors into our urban centres from an intergeneration sustainability perspective, but to partially offset the significant amount of land that is proposed to be lost to NFP providers with the draft Housing SEPP no longer applying to rural zones and ILUs being prohibited in the R2 zone.

The proposed changes significantly narrow the land available to the seniors housing industry to higher density zones that are typically outside where seniors housing providers have traditionally operated, given their inherent competitive disadvantage. Accordingly, its application must be broad and its incentives substantial enough to recalibrate the industry into high density zones and not reduce the overall supply of new seniors housing at this crucial time in the demographic history of NSW.

Recommendation 18: Broaden the application of the vertical villages provisions to include land on which development for the purpose of shop top housing is permitted (in addition to residential flat buildings).

6.2 Additional floor space and building height

CAS recommends that a 20% bonus of additional FSR is applied to development for the purposes of ILUs to bring them into alignment with RCFs. From CAS's most recent experience, modern ILUs are on average between 20-25% larger in GFA than standard market residential apartments, and when combining the increased circulation spaces and communal areas of modern ILU developments. Accordingly, a 20% bonus for ILUs is a conservative estimate of the additional GFA required for ILU developments to effectively compete with standard market residential developers in the acquisition of sites in higher density zones.

CAS welcomes however the additional building height of 3.8m to accommodate the floor space bonus without the need to submit a clause 4.6 variation. However, in higher density zones it is unlikely that the available bonus floor space will be able to be accommodated within only a single additional storey, and further bonus for building height in high density zones will be necessary.

Recommendation 19: Increase the FSR bonus for vertical villages involving ILUs to 20% (instead of 15%) and allow a two-storey height increase in higher density zones to enable the full FSR bonus to be realised.

6.3 Default Floor Space Ratio

CAS has significant concerns regarding the default 0.5:1 FSR standard that would apply to land that does not have an FSR standard, this effectively applies an R2 zone FSR to all zones. This is highly problematic given that almost all R3 and R4 zoned land prescribes densities well above 0.5:1, and many R4 zones prescribe densities well above 1:1.

For example, a seniors housing development on a 2,000m² site without an FSR development standard but with an R4 zoning, a building height development standard of 20 metres (or 6 storeys) and related DCP built form controls, would have a 0.5:1 FSR + bonus forced upon it. For an ILU development this would equate to an FSR of 0.575:1 which correlates to a 2 storey development in a 6 storey residential locality. This will result in seniors housing in these areas having a significantly lower density and yield than other forms of residential development, which is contrary to the purpose of this provision to incentivise seniors housing in our urban centres.

Recommendation 20: Removing this default FSR is therefore strongly recommended as the incentive provision could still operate effectively in areas without an FSR as the building height bonus provides an incentive in itself.

7.0 State Significant Development Pathway

CAS welcomes the recognition of large seniors housing projects as State Significant Development (SSD) where it provides an opportunity to prioritise and provide consistency

to the assessment of RCFs and ILUs and allied health where they sufficiently relate to the residential care use. It is recommended, however, that the CIV for RCF SSD development be reduced to \$20m throughout Greater Sydney and all other areas, in recognition of the average development costs for RCF beds for CAS being approximately \$250,000 per bed. Accordingly, a \$20m RCF equates to an approximately 80 bed facility, which is a significant RCF.

However, the requirement for the CIV component of the RCF in an integrated development to comprise at least 60% of the CIV is concerning, as it does not align with industry practice. In our experience, in almost all integrated large villages the RCF component makes up less than 25% of the overall GFA of a village. Therefore, by requiring the RCF facility be the majority contributor to the threshold for SSD will mean that the trigger to SSD is unlikely to be used regularly. Alternatively, it may mean that the planning process for the development of large sites may be split between part SSD and part Regional or Local development. This would be confusing for consent authorities, applicants and the community, particularly so when attempting to apply the various FSR bonuses of the vertical villages incentive provision.

ILUs and RCFs being co-located on sites or within vertical villages provides continuum of care and the ability for residents to age in place within their own community and social networks and should be encouraged by planning policy. Accordingly, providing an SSD pathway for RCFs yet limiting the ILU component to a maximum of 40% of total CIV, runs counter to this concept, and will either force large seniors developments out of SSD, or split the planning pathway. Neither of these options support the intention of an SSD pathway for seniors housing.

The 60% minimum CIV for RCFs also could potentially allow third party appeals where an objector could challenge the planning pathway of an SSD following its determination when the non-RCF component of the SSD is near to 40%.

Recommendation 21: *Either remove the requirement for the CIV of the RCF component to be at least 60% of the total CIV, or require both the RCF and ILU components to together comprise at least 60% of the overall CIV.*

8.0 Incentives to Renew Ageing Villages

CAS and many other NFP providers own and manage seniors housing stock that itself is aging and is not in keeping with modern and evolving design standards and resident expectations. Many of these retirement villages and RCFs were developed in the 1980s following the adoption of SEPP 5 which encouraged large village development on urban fringes. These large villages are common throughout Sydney and some large regional centres and are rapidly reaching the end of their economic life.

Often the obsolescence of the stock is incurable, with buildings not originally designed or constructed to enable upgrades (eg wide corridors and rooms for wheelchair accessibility), to achieve minimum compliance with the Australian Standards and Building Code of Australia and must be replaced. This is of particular importance as life expectancy in Australia has increased by 10 years since the introduction of SEPP No. 5 and the average age of residents in retirement villages is now 81 years, accessibility for older, more frail and impaired residents is of great importance. The draft Housing SEPP needs to address how such stock can be effectively replaced.

Accordingly, renewal and redevelopment are needed to secure the long term future of many of these villages and facilities. However, a major barrier for renewal lies in the fact that many of these villages are either at or near the highest development potential afforded to them under SEPP Seniors and local planning instruments. Therefore, there is little or no additional density or height available under the current planning framework to spark renewal.

Replacement of existing seniors housing at a 1:1 ratio is simply not economically viable given the combined costs of buying back the units as well as ensuring the relocated residents are not economically disadvantaged. Some of our existing villages may become prohibited under the planning controls in which they reside, making their renewal extremely difficult.

Such renewal could provide for seniors housing to be brought up to date with current accessibility requirements and ESD requirements including BASIX. Furthermore, the social benefit to residents of having modern dwelling stock provided in existing villages where they call home is important. Such an incentive provision would allow for villages to be renewed in a staged manner and for existing residents to not have to move villages.

Recommendation 22: CAS would welcome an appropriate FSR and building height incentive clause that provided for renewal of aging villages where the renewal was tied to defined and desirable accessibility, ESD and design standards. The SEPP should also make it clear that renewal of villages is permitted irrespective of the zoning in which the village sits.

9.0 Conclusion

CAS would like to thank the DPIE for the opportunity to provide a submission in respect of the exhibited draft Housing SEPP. CAS is a significant not-for-profit provider of seniors housing, aged care, affordable and social housing and, therefore, has a keen interest in planning matters that could potentially impact its delivery of future development.

As outlined in this submission, CAS commends DPIE on the draft Housing SEPP and is supportive of the intent of the draft policy to simplify affordable and seniors housing planning legislation in NSW and to incentivise vertical villages in our urban centres.

CAS is however concerned the amendments proposed could have an adverse effect on the delivery of seniors housing in NSW. While it is noted that some amendments are required to the Seniors SEPP, the current instrument has provided the not-for-profit industry with a high level of certainty for years and, in our long experience, has been extremely successful in achieving its aims. Therefore, the DPIE is encouraged to investigate the recommendations outlined above by CAS to allow the continued provision of a viable affordable and seniors housing service offering.

Notwithstanding this, with the modest adjustments proposed to the relevant provisions contained within this submission, CAS is confident that the draft Housing SEPP could deliver the modern seniors housing needed in NSW to meet the rising needs of the ageing population.

I would be happy to discuss any of this further with you or make ourselves available to expand upon this submission. CAS is hopeful that the above submission and recommendations are thoroughly considered by DPIE in its finalisation of the draft Housing SEPP which will play such a critical role in enabling and the delivery of affordable housing options in NSW for years to come.

Yours sincerely



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This letter was sent by email.

31 August 2021

Mr Jim Betts
Secretary
Department of Planning, Industry and Environment
4 Parramatta Square
12 Darcy Street
Parramatta NSW 2150

Lodged via the NSW Planning Portal

Dear Mr Betts

Submission – draft *State Environmental Planning Policy (Housing) 2021*

Introduction

Thank you for the opportunity to make a submission in relation to the draft State Environmental Planning Policy (Housing) 2021 (Draft SEPP) presently on public exhibition until 29 August 2021. I refer to my email dated 30 August 2021 and thank the Department for agreeing to allow us to make this submission after the closing date.

For background, Catholic Healthcare Limited (CHL) is the largest Catholic provider of aged and community services in NSW. Our vision is to create communities focused on integrated aged care services that respond to the significant need for care provision to Australia's growing ageing population. Presently, we provide care and service to almost 7,000 elderly Australians through our integrated care approach of residential aged care, retirement villages and home care. We are also actively growing our service footprint with a substantial, multi-million-dollar pipeline of future seniors housing developments planned or in delivery over the next 5-10 years.

Overview

We are making this submission because we have real concerns about how the Draft SEPP, as it is presently drafted, will affect the supply and affordability of seniors housing.

The Explanation of Intended Effect, which preceded the Draft SEPP, acknowledged the growing and ageing population in NSW, and the need to ensure planning controls facilitate the delivery of diverse housing types that meet the needs of people in NSW, especially seniors or people with a disability. While this has been reflected in the aims of the Draft SEPP, we are concerned that a number of the proposed controls, if brought into force, will have the opposite effect, adversely impacting the feasibility of developing seniors housing.

This is compounded by the increased regulatory requirements arising from the findings of the Royal Commission into Aged Care Quality and Safety (Royal Commission), which will require substantial investment by many operators. Such investment will comprise new design guidelines, substantial refurbishments of existing facilities and alternative operational models for newly developed services.

Summary

This submission focuses on ten key aspects of the controls proposed by the Draft SEPP, and proposes amendments which we urge the Department to consider and adopt before the Draft SEPP is finalised. These key aspects are summarised as follows, and are set out in more detail below:

- 1 in relation to **land zoned R2 Low Density Residential**, it is of paramount importance to us that independent living units (ILUs) be permitted, for the reasons set out in **section 1**;
- 2 in relation to **land zoned SP2 Infrastructure**, we seek that seniors housing be permitted more broadly in SP2 zones as set out in **section 2**, not just those in which 'hospital' is permitted;
- 3 in relation to **environmentally sensitive land**, refinement of the term 'flood planning' is needed so as to apply only to areas at risk of flooding, and clarification is also needed where only part of a site is so identified, as set out in **section 3**;
- 4 in relation to **approval pathways**, as set out in **section 4** we propose that the eligibility criteria be expanded to apply to any form of seniors housing development having a CIV over \$30m in Greater Sydney or \$20m in regional areas, whether comprised of ILUs, a RACF, or any combination of them, and to remove the requirement for a RACF to contribute to 60% of the overall CIV for mixed development;
- 5 in relation to the **vertical villages bonus**, we suggest several ways in **section 5** for this incentive to operate more effectively, namely it should extend to land on which shop top housing is permissible, not be subject to a minimum site area, have a base FSR of 1:1 if no FSR control applies under the LEP, and instead of the three tiered bonuses the existing fixed bonus under SEPP Seniors, equal to an additional 0.5:1 should be reinstated so that a meaningful incentive is available;
- 6 in relation to **development standards**, we seek:
 - (a) clearer dispensation for social housing providers, in relation to the **minimum site area and frontage** under clause 74(2)(a) and (b), as set out in **section 6.1**;
 - (b) an ability for social housing providers to satisfy the **ground floor uses in commercial zones** requirement under clause 78 through the provision of services for residents at the ground floor, as set out in **section 6.2**;
 - (c) for **RACF developments**, better recognition of the practicalities of roof plant requirements in clauses 73(3) and 96(2)(a) and (b), and clear dispensation for social housing providers to exceed the floor space ratio, expressed in clause 96(2)(c), as set out in **section 6.3**; and
 - (d) for **ILU developments**, an increase in the density standard under clause 97(2)(c) to 1:1 and a clearer reduction in the amount of landscaped area required to be provided by social housing providers under clause 97(2)(d), as set out in **section 6.4**; and
- 7 in relation to **access to facilities and services**, as set out in **section 7** we recommend the term 'direct access' be clarified to ensure the requirements of clauses 82 and 83 are met if residents can access a public bus service within 400m of the site.

Recommended amendments to ten key aspects of the Draft SEPP

1 ILUs on land zoned R2 Low Density Residential (clauses 67 and 76(1)(d))

We support there no longer being a requirement to obtain a site compatibility certificate, and the concept of 'prescribed zones', which provides greater clarity about where seniors housing is permitted. However, the operation of clauses 67 and 76(1)(d) needs to be reconsidered. Of paramount importance to us is to preserve the ability to develop ILUs on land within R2 zones.

Although headed 'development standards', clause 76(1)(d) does not specify any development standard and instead acts as a prohibition on seniors housing, other than a RACF, in R2 zones. This has major implications for existing and proposed new ILU developments in those zones. We estimate that approximately one third of our existing seniors housing developments are in R2 zones. Under the Draft SEPP, we would be unable to redevelop or refurbish those facilities other than relying on the limited existing use rights provisions which would restrict the extent of any development able to be carried out. This has very real consequences in the context of the Royal Commission findings, for the reasons explained in the overview section above. An example of this is our site at 17-23 Ziems Avenue, Towradgi, a northern suburb of Wollongong (Bishop McCabe Retirement Village). This village comprises 23 older style ILUs, refurbishment or redevelopment of which would be heavily constrained under the Draft SEPP.

We also own a number of RACF developments within R2 zones, on land with capacity for in-fill ILUs to be developed on the site. An example of this is our site at 140 Reservoir Road, Blacktown. While we hold development consent to develop ILUs on the site, further redevelopment opportunities are being explored, including repurposing existing buildings and developing more ILUs. Any future growth on this and other sites would be severely constrained by the Draft SEPP. Clause 76(1)(d) would prohibit this in-fill development, and prevent sites like this from reaching their full development potential. This goes against the intent of the Draft SEPP of ensuring an adequate supply of an appropriate range of housing types for seniors, and encouraging development that is designed and located in a manner that meets the needs of seniors or people with a disability.

Another unintended consequence of prohibiting ILUs in the R2 zone is that it will ultimately result in there being an undersupply of ILUs in a number of localities. This means future residents who are transitioning to an ILU will have to leave their local area to find suitable housing, and reside further from their families and community support network.

Recommendation

Clause 76(1)(d) of the Draft SEPP be removed, or amended to specify that independent living units are also permitted within R2 zones.

2 Seniors housing on land zoned SP2 Infrastructure (clause 67)

There are a range of SP2 zones in which seniors housing could be appropriately developed, and we think this may have been overlooked by the Department. As clause 67 is currently drafted, the Draft SEPP applies only to SP2 zones in which development for the purpose of a 'hospital' is permitted. Other permitted uses in SP2 zones can include 'health services facilities', 'place of public worship', 'educational establishment', 'community facilities' or 'seniors housing'. These types of SP2 zones are particularly relevant to religious charitable organisations (who may also be social housing providers) which may have significant landholdings in these zones. An example of this is our site at 7 Coogee Bay Road, Randwick, which is zoned SP2 Infrastructure (educational establishment). Similar sites within our future development pipeline are ideally suited to seniors housing, in areas where there is real demand for seniors housing among local residents. The availability of an approval pathway under the Draft SEPP should not be switched off where these uses are permitted.

Another example is our site at 2B West Street, Lewisham, which is zoned SP2 Infrastructure (community facilities). The site has been recently master-planned and approved for major redevelopment involving a new RACF and ILUs (Sydney Eastern City Planning Panel reference no. PPS-2019ECI001). Prohibiting seniors housing on SP2 land under the Draft SEPP risks compromising the delivery of this and other developments like it, on land that is well suited to seniors housing.

Recommendation

Clause 67 of the Draft SEPP be amended, to specify that the Draft SEPP applies to zone SP2 Infrastructure if a hospital, health services facilities, place of public worship, educational establishment, community facilities or seniors housing is permitted.

3 Environmentally sensitive land (clause 68 and schedule 4)

The updating of the terms used to define environmentally sensitive land is a welcome change, and provides for greater alignment with the terms used in Councils' LEPs.

However, we suggest that an unintended consequence of including 'flood planning' as a type of environmentally sensitive land is that significant areas of land will be excluded from the Draft SEPP, simply because they are subject to flood planning studies or investigations, by Councils. Schedule 1 of the current *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (SEPP Seniors)* uses the terms 'floodway' and 'high flooding hazard' which connote a real safety hazard from flooding. While we don't suggest reverting to these terms which don't align with the language of LEPs, we do suggest the terminology used to describe flooding as a type of environmentally sensitive land needs to be reconsidered. Another difficulty arises because some Councils measure flooding risk by reference to the probable maximum flood level (PMF), and others, by reference to the annual exceedance probability (AEP) such as 1% AEP also known as the 1 in 100 year flood.

Another area of concern arises where only a portion of a site meets the criteria for environmentally sensitive land. Clause 68(1)(b) of the Draft SEPP provides that it does not

apply to 'land described in schedule 4' but provides no guidance for consent authorities about how this should be applied. We suggest it should be the Department's intention to sterilise entire parcels of land where only part of a parcel is caught by schedule 4.

Recommendation

- (a) Reference to 'flood planning' in schedule 4 be amended to a description which properly connotes a high flood risk, so as not to sterilise land that is, for example, under flood investigation but does not present a hazard.
- (b) Clause 68(1)(b) be amended, to clarify that where only part of land meets a descriptor in schedule 4, then Part 4 of the Draft SEPP does not apply only to that part.

4 SSD approval pathway (schedule 7 clause 7.1)

We support the introduction of an SSD approval pathway for RACFs, which recognises that the delivery of this type of development should be prioritised, and also recognises RACFs as often being contentious when DAs are assessed and determined by Councils.

However, restricting eligibility in the mixed seniors housing development context to RACFs which contribute to 60% of the overall CIV cuts across what the Department is seeking to achieve. Mixed seniors housing developments (RACF with ILUs) cater for the changing needs of residents, and supports the Draft SEPP's aim of ensuring a range of appropriate housing types. Co-locating RACFs with ILUs also has the benefit of enabling a wide range of services and facilities to be made available on site for the benefit of residents. By imposing the percentage CIV requirement, the Department is overlooking the feasibility of mixed seniors housing developments, where smaller yields of ILUs may not be financially viable. For this reason, we suggest the percentage CIV requirement should be removed.

The delivery of ILUs is equally important. This is acknowledged by the Draft SEPP's aim of ensuring an adequate supply of an appropriate range of housing types to meet the changing needs of seniors and people with a disability, as well as the retention and expansion of the floor space bonus for vertical villages which is reflected in the stated aim of providing incentives for certain types of development. We think these aims would be much better achieved if a SSD approval pathway were also provided for ILU developments.

Recommendation

- (a) The eligibility criteria for the SSD approval pathway be expanded to apply to any form of seniors housing development, whether comprised only of ILUs, a RACF, or any combination of them, having a CIV over \$30m in Greater Sydney or \$20m in regional areas; and
- (b) The requirement for a RACF to contribute to 60% of the overall CIV for mixed development be removed.

5 Vertical villages bonus (clauses 98 and 99)

The retention of the vertical villages bonus, and its expansion to provide tiered incentives, is supported. However from a feasibility perspective, we think there are several ways the bonuses should be amended to achieve its intended effect of incentivising vertical village developments.

First, the application of clause 98 should be expanded beyond land on which residential flat buildings are permitted (as is currently the case under SEPP Seniors), to include land on which shop top housing is permitted. This is because under the current provisions, seniors housing providers and in particular social housing providers such as Catholic Healthcare Limited are forced to compete with residential developers to acquire residential zoned land, and as a result the land acquisition cost is higher. This affects the feasibility model for seniors housing developments on land on which residential flat buildings are permitted, and makes the vertical villages bonus less attractive.

Second, and for similar reasons, the minimum site area should be reduced. By requiring a site area of at least 2,000m², seniors housing developers will have to acquire and amalgamate surrounding sites to reach the requisite site area. As a social housing provider we cannot compete with residential developers, and we suggest instead that the minimum lot size under the relevant LEP should instead apply.

Third, so that the tiered bonuses provide a measurable incentive and ensure vertical village developments are feasible, where no FSR is specified in the LEP the base FSR applicable should be increased, from 0.5:1 to 1:1.

Fourth, we consider the tiered bonus system is unworkable on the majority of sites, and does not result in a meaningful incentive being applied. Instead, it is preferable to retain the existing fixed bonus under SEPP Seniors of an additional 0.5:1 added to the base FSR.

Recommendation

- (a) Clause 98 should be amended so that Division 8 applies to not only to land on which residential flat buildings are permitted under another environmental planning instrument (*EPI*), but also to land on which shop top housing is permitted under another EPI;
- (b) The minimum site area specified in clause 99(1) should be removed, and instead specify that the site area must be no less than the minimum lot size under the relevant LEP;
- (c) Clause 99(4)(b) should be amended, so that if no maximum FSR is specified under a relevant EPI, the maximum permissible floor space ratio means 1:1; and
- (d) The three tiered bonus in clause 99(2)(a) should be replaced by reinstating the existing fixed bonus under SEPP Seniors of an additional 0.5:1 added to the base FSR.

6 Development standards

6.1 Minimum site area and frontage (clause 74(2) (a) and (b))

While it may be intended that the development standards in clause 74 in their entirety do not apply to social housing providers, we think this should be made clearer. At present the drafting in clause 74(4) provides that subsections (1)(a) and (b) do not apply to development the subject of a DA by a social housing provider. This leaves the consent authority to take the next step in interpreting the fact that by switching off subclause (1), the whole of clause 74 is in turn switched off. We suggest a better approach would be to make it clear that clause 74 in its entirety does not apply. If Catholic Healthcare Limited were required to meet the site area and frontage requirements under clause 74(2), this would sterilise some sites, for example, our site at Kogarah (Lot A DP332533) which, while appropriately zoned for a vertical village, has a land size of 800m² and a frontage of 18m.

Recommendation

Amend clause 74(4) so that instead of referring to subsection (1)(a) and (b), it refers to 'this clause' not applying to development the subject of a DA made by Land and Housing Corporation, or another social housing provider.

6.2 Ground floor uses in commercial zones (clause 78)

Our reading of clause 78 is that it effectively prevents a seniors housing operator from putting 'retail' type services and facilities (such as a hairdresser, community room, café, wellness service) which serve residents on the ground floor of a RACF within commercial zones. Because these services and facilities (where they serve the residents) are ancillary to the RACF, they are properly characterised as being for the purpose of seniors housing, a residential purpose prohibited by clause 78(2).

We suggest the drafting should be clarified, to allow services and facilities serving the seniors housing development to be placed at ground level fronting the street, without offending clause 78(2).

Recommendation

Amend clause 78(2) so that services and facilities that serve the residents of the seniors housing development are not caught by the prohibition on using the ground floor of the building fronting the street for residential purposes.

6.3 RACF developments

Roof plant clauses and 73(3) and 96(2)(a) and (b)

We are concerned that the requirements in relation to RACF roofs, specifically as to mechanical plant, do not align with the practicalities of how that plant is designed and configured. In effect, the requirements would likely drive design towards flat roofs which is not always a good design outcome.

Floor space ratio 96(2)(c)

Among the non-discretionary development standards for RACFs is a requirement that the density and scale of the building, when expressed as a floor space ratio, be 1:1 or less (clause 96(2)(c)). Like other development standards in the Draft SEPP, there needs to be a clear dispensation for social housing providers, to ensure that affordable seniors housing developments are feasible.

Recommendation

- (a) Amend clause 74(3) and cl 96(2)(a) and (b) of the Draft SEPP to ensure that the additional 2m building height allowance for mechanical plant extends to RACFs where the mechanical plant is located below the roof or between floors, as opposed to located on the rooftop only.
- (b) Amend clause 96(2)(c) by clarifying that this development standard does not apply to developments by social housing providers.

6.4 ILU developments

Floor space ratio clause 97(2)(c)

Among the non-discretionary development standards for ILUs is a requirement that the density and scale of the buildings, when expressed as a floor space ratio, be 0.5:1 or less (clause 97(2)(c)). Like other development standards in the Draft SEPP, there needs to be a clear dispensation for social housing providers to exceed this and achieve a density and scale equal to at least 1:1, to ensure that seniors housing developments are feasible for social housing providers.

Landscaped area clause 97(2)(d)

Another non-discretionary development standard for ILUs is a requirement that social housing providers provide at least 35m² of landscaped area per dwelling (clause 97(2)(d)). While dispensation of this kind is a good thing in principle, we suggest this should be revisited, given that clause 97(2)(e), applicable to non social housing providers, requires at least 30% of the site area to be landscaped. Depending on the size of the site, the dispensation given to social housing providers could easily become a greater burden than the usual position for non social housing providers.

Recommendation

- (a) Amend clause 97(2)(c) to provide a clear dispensation for social housing providers exceed the specified floor space ratio, and achieve a density and scale of at least 1:1); and
- (b) Reconsider clause 97(2)(d) by specifying the amount of landscaped area for social housing providers is to be 35m² per dwelling or 30% of the site area, whichever is less.

7 Access to facilities and services (clauses 82, 83 and 92)

We support the provisions in cl 82 and 83 of the Draft SEPP which amend the location and access to facility requirements for RACFs and ILUs and provide greater flexibility to seniors housing providers.

However, we recommend that the meaning of the term 'directly' in clause 82(1)(a) and clause 83(1)(a), be clarified, and not left open to the interpretation of consent authorities. Specifically, if a site is within a short walking distance of public bus services which can transport residents to facilities and services, then the operator should not be required to provide a door-to-door bus service. This sits more comfortably with clause 92 (accessibility) which specifies seniors housing developments should have safe, obvious pedestrian links from the site that provide access to public transport services.

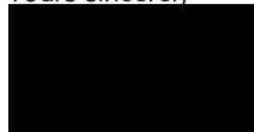
Recommendation

The term 'directly' in clauses 82(1)(a) and 83(1)(a) be clarified by adding at the end 'or by public transport within 400m walking distance of the site'.

We urge the Department to make the amendments to the Draft SEPP that we have requested before it is finalised, in order to better achieve the stated aims and ensure supply of seniors housing, particularly by social housing providers, is not hindered.

We thank you for the opportunity to make this submission and if you have any further questions regarding the above, please do not hesitate to contact me on 02 8876 2100 or afahey@chcs.com.au

Yours sincerely



Catholic Healthcare Limited

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Tuesday, 31 August 2021 4:28 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Attachments: [REDACTED]

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Tue, 31/08/2021 - 16:13

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

[REDACTED]

Last name

[REDACTED]

Organisation name

Catholic Healthcare Limited

I would like my submission to remain confidential

Yes

Info

Email

[REDACTED]

Suburb

[REDACTED]

Postcode

[REDACTED]

Submission file

[REDACTED]

Submission

Dear Mr Betts,

On behalf of Catholic Healthcare Limited, please find attached our submission with reference to the draft Housing SEPP. Should you wish to discuss, please do not hesitate to contact me on 02 8876 2100 or afahey@chcs.com.au.

Yours sincerely,
Adam Fahey

I agree to the above statement

Yes

31 August 2021

NSW Government

Department of Planning Industry and Environment

By electronic transmission

Attention: To whom it may concern

Dear Sir / Madam

Housing SEPP Submission

Cedar Pacific Investment Management, Pty Ltd has prepared this submission in response to the Housing SEPP consultation draft, currently on exhibition.

Cedar Pacific is an alternative asset manager and property developer specialising in student accommodation, primarily through its two investment funds. We pride ourselves on our strong university relationships and have developed or in the process of developing more than 7,500 student accommodation beds in the region.

The submission focuses on "Student Housing" as per the Explanation of Intended Effect (EIE) for a new Housing Diversity SEPP discussion paper of July 2020, and the subsequent deletion of that term from the draft instrument. The submission offers a broad review and comment on the proposed controls applicable to *student housing/Co- living Housing*.

1. Draft Housing SEPP – Student Housing deletion

Lack of student housing definition

The draft provides:

"Following consideration of stakeholder feedback, it is no longer proposed to introduce a separate definition or development standards for student housing. Instead, on campus accommodation will continue to be facilitated through the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017, which will be amended to expand student accommodation to accommodate people associated with the education facility (i.e. not just students). Off campus student housing developers will use the co-living housing provisions. This approach recognises the similarities between co-living and student housing typologies and responds to concerns expressed by both educational establishments and private sector developers"

The decision to remove Student Housing as a defined asset class from the instrument is our opinion is a retrograde move. Purpose Built Student Accommodation “PBSA” has been one of the fastest growing asset classes in Australia to meet the rising demand for accommodation as the university sector has grown on the back of increasing foreign student enrolment. This growth has led to the education sector becoming Australia’s third largest export, ahead of tourism. The sector has attracted global investors with a vast range of experience in PBSA in more mature markets such as the UK and US, who bring best practice to developments to appeal to a discerning tenant base. The features of student housing projects are unique, owing to the target cohort, their situation, their length of tenancy and the propensity of tenants to afford payment of rent.

Without having public access to the stakeholder feedback, it is difficult to understand the deletion of a defined *Student Housing* from the proposed instrument. The statement from the draft instrument places expectations that on campus *Student Housing* will be provided under the Education SEPP, and off campus *Student Housing* will be provided under the provisions of *Co-living Housing* controls. This makes no sense as the student housing product on and off campus differs only in its location, not in its typology and are both different from a “Co-living” product. Furthermore, Co-living is even more of a nascent asset class than PBSA and unlikely to have the same amount of capital backing it. If anything, co-living should be included in a well thought out PBSA regime, not the other way around as contemplated.

The requirement that *Boarding Houses* are to be managed as *Affordable Housing* for the lifetime of the development removes the current approvals pathways for private *Student Housing*, often approved under the existing *Boarding Houses* provisions.

The replacement *Co-living Housing* provisions fail to adequately cover the intended provisions of *Student Housing*, and will require larger room sizes, increased communal open space, increased communal space, and dramatically increased car parking spaces compared to that exhibited under the EIE and which in our opinion do not best serve the needs of students.

A brief analysis of the disparity of the *Student Housing* controls as exhibited under the EIE and the *Co-living Housing* controls currently exhibited under the Housing SEPP is shown in Table 1.

TABLE 1

Comparison of EIE to Draft SEPP	EIE – Student Housing	Draft SEPP – Co-Living Housing
Car Parking	0 if justified	1/room outside of Greater Sydney
Pushbike Parking	1/3 rooms	1/room
Motorbike Parking	1/5 rooms	1/5 rooms
Minimum Room Size	10sqm, or less if justified	12sqm not including Kitchen/Bathroom facilities
Communal Area (Indoor)	15sqm/12 students	30sqm/6 rooms, plus 2sqm per additional room

Comparison of EIE to Draft SEPP	EIE – Student Housing	Draft SEPP – Co-Living Housing
Communal Area (Outdoor)	Potentially nil within 400m campus / 2.5 m2 of outdoor space per student.	Minimum 20% site area

2. Parking

Per the FAQ that accompanies the Housing SEPP consultation draft, *off campus student housing developers will use the co-living housing provisions. Co-living will be able to have as few as six private rooms but will be more likely to involve buildings containing 30 – 40 private rooms. Co-living will typically be built in highly connected areas, where residents have convenient access to work, study, and recreation opportunities.*

The FAQ is contradictory, stating that *“Co-living (which includes student housing – our addition) will typically be built in highly connected areas, where residents have convenient access to work, study, and recreation opportunities”* whilst simultaneously requiring that car parking is provided at a rate of 1 parking space for each private room. Even at the low yield indicated, being 30 – 40 rooms, the corresponding requirement to provide parking at a rate of 1 for 1 is a barrier to development that is likely to result in abandonment of dedicated *Student Housing* projects anywhere in the state outside of the Greater Sydney region.

The car parking rate specified for *Co-living Housing* is in fact greater than that specified within SEPP 65 and the ADG, which relies on the lesser of either the applicable Council controls, or the Guide to Traffic Generating Developments (The Guide). The applicable rate for *High Density Residential Flat Buildings*, defined as *“a building containing 20 or more dwellings. High density residential flat buildings are usually more than five levels, have basement level car parking and are located in close proximity to public transport services. The building may contain a component of commercial use.”* is 0.6 spaces per 1 bedroom unit.

Given other elements of the ADG now also apply to *Co-living Housing* (C64(d)), it makes little practical sense to require a higher parking rate than that required for residential apartment development as well as when the characteristics of the tenant cohort are considered. It would seem more opportune for private developers to construct residential apartment buildings than to develop high density *Co-living Housing*, given the reduced parking rates required.

Notwithstanding and in addition to the comments above, we note that the **Residents of PBSA typically do not own vehicles and therefore do not have a requirement for parking.** This varies depending on capital city and access to public transport but in general holds true and applies equally to motorcycles and to motor cars. Our experience is based on many properties in Australia. This fact is further supported by the foreign focus of PBSA; foreign students do not arrive from their country in the family car.

As drafted, the provisions would cause student housing projects to become unfeasible, and if they were constructed, carparks and motor bike parks would likely sit unused and empty through lack of demand. But, if there was demand for carparks, then market drivers would simply cause those potential tenants to rent elsewhere where carparks were available. Ultimately it is the developer's risk whether his target tenants need those carparks.

3. Minimum Room Size

The EIE discussed minimum room sizes for *Student Housing* in detail, stating that “*The minimum room size is based on similar standards in other jurisdictions and reflects current industry practice, which is to provide a range of room options in a single development, including rooms that have an area of less than 10 m². The proposed 10 m² standard will be a discretionary standard. This will allow developers that wish to, to demonstrate that a smaller area has adequate internal amenity and that shared facilities are available to compensate for the smaller room size.*”

We support the statement as drafted as it allows a mix of product in-line with international and proven standards while allowing the operator to offer a range of pricing, including more affordable accommodation for students. Unfortunately, between the EIE and the current Draft Housing SEPP the minimum room size of *Student Housing* has been modified and replaced by a minimum room size of 12sqm (excluding kitchen or bathroom facilities within the room). Our development experience indicates that this will drive yield of developments intended for *Student Housing* down, with a development previously capable of providing 18 / 10sqm rooms now limited to providing 15 / 12sqm rooms. As a result, bigger (12m²) rooms will require residents to pay higher rents to meet return hurdles or projects will not be built. In many cases, the revised proposal will result in a significantly larger room the tenant had in their own home prior to becoming a university student. This measure does not include allowance for access to amenity spaces such as break out study areas, media and games rooms, gyms and fitness areas, communal kitchens, laundries to name a few. Our experience with operations is that it is best to create amenity in order to engage students and develop a community.

4. Communal Open Space (Indoor)

Communal Area (Indoor) for *Student Housing* within the EIE was indicated to require 15sqm per 12 students, which if single rooms were to be provided would equate to 15sqm / 12 rooms. At 1.5m² per room, we can confirm this is reasonable and in line with our experience and other jurisdictions.

The Draft Housing SEPP specifies that *Communal Area (Indoor)* is provided at a rate of 30sqm/6 rooms, plus 2sqm per additional room, which if single rooms were to be provided would equate to 42sqm per 12 rooms or 3.5m² per room. This increase is excessive, without precedent and will result in unaffordable properties for students, if developers are able to build them at all.

For comparison, the minimum area required to provide 12 rooms, inclusive of *Minimum room size and communal area (indoor)* under the *Student Housing* proposed controls of the EIE was 135sqm. The same arrangement of 12 rooms under the draft Housing SEPP would require 186sqm (not inclusive of any kitchen or bathroom facilities provided within rooms). The difference is 51sqm of area to provide the same outcome.

5. Communal Open Space (Outdoor)

Communal Area (Outdoor) for *Student Housing* within the EIE was indicated to require potentially no area within 400m of a campus (if demonstrated that campus facilities would be available for use), or 2.5sqm of outdoor space per student.

The Draft Housing SEPP specifies that *Communal Area (Outdoor)* is provided at a minimum 20% of the site area which is comparable to the requirements of SEPP 65 and the ADG, which detail Communal Open Space being provided at 25% of the development.

Sydney universities are primarily urban campuses where land prices are based on achieving high density. This requirement is well above those of residential properties and the solution should rely on access to current existing public parks, as well as the campus that the property serves.

6. Elevation of Non-Statutory Controls

The elevation of ADG and DCP controls to be quasi statutory instruments is concerning, and leads to an experience that gives too great an influence to controls designed to be supporting documents that guide development.

The Draft Housing SEPP specifies, at Clause 65

Standards for co-living housing (1) A consent authority must not consent to development to which this Part applies unless it is satisfied that:

(c) the front, side and rear setbacks for the development are not less than:

(i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument,

(ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument, and

(d) if the co-living housing exceeds 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide

The words “*Must not*” result in the non-statutory controls, considered guidelines in general planning terms, to suddenly be non-negotiable statutory controls. Problems arise when older DCP documents specify setback controls well in excess of those within the ADG, and are further compounded if those controls of the ADG are expected to be complied with in entirety to gain consent. It is common practice for the ADG to be considered as a guide, with ideal site outcomes achieved through good design and consideration of site-specific opportunities and constraints. The wording of the Draft Housing SEPP implies that these guidelines are to be taken as firm, immovable directions, further stifling development opportunities available under different planning controls for the same site.

Best Regards



Bernard Armstrong

Chief Executive Officer



PROPOSED HOUSING SEPP - SUBMISSION

Sunday, 29 August 2021

Department of Planning Industry & Environment
4 Parramatta Square
12 Darcy St
PARRAMATTA, NSW 2150

Attention: Mr Jim Betts

Position: Department Secretary

3 Pages

PROPOSED HOUSING SEPP – DRAFT HOUSING SEPP RESPONSE TO PROPOSED SENIORS SEPP CHANGES

Centurion Group is a private company which provides Development and Project Management services to the property sector of NSW, with a large proportion of Aged Care & Seniors Living developments. We work with several Private and Not for Profit (NFP) Aged Care providers, assisting them in the pursuit of new and renewed Aged Care and Seniors Living facilities for older Australians in and around Sydney.

Centurion Group is pleased to make this submission on the Draft Housing SEPP. Centurion Group 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).

With gratitude we note the goodwill and progressively improved outcomes created by the Housing team's effort to pursue extensive consultation with the Aged Care industry through the LASA – DPIE working group that we have been pleased to assist and participate in.

However, we remain acutely concerned that the Draft SEPP, while considerably improved from the initial EIE proposals, as currently drafted will yet generate significant obstacles to obtain approval for the types of residential accommodation the Aged Care industry provides, and that the intended outcome will not be achieved to the potential that the Housing team rightly seeks.

Our comments relating to specific clauses in the draft Housing SEPP are as follows:

Division 3 - Clause 76 (d): Development Standards - R2

The omission of ILU's in R2 zones is not a good outcome. The effect of this change will lead to our elderly being forced to move away from their communities. The familiarity and amenity, wellbeing and livability for elderly residents of the NSW community will be immensely affected should this not be corrected. Smaller ILU developments in R2 zones allow for people to age within their communities. The removal of the permissibility of ILU's in R2 zones will potentially force elderly residents to move away from their area & community - into more dense areas, near urban main streets, shopping centres, higher traffic zones etc. Precisely the opposite of many elderly residents preferred locations as they advance in age.

It will be highly detrimental to achieving diverse demography and housing in residential areas, will leave elderly residents in an unfamiliar and, given their level of comfort and capability at a later stage in life, could lead to cloistering & consequently, significantly lower levels of independence within the elderly in our communities. The overarching effect being that far greater resources and government support will be required for their care & wellbeing. It is not going to provide a positive social or economic outcome for the wider community.

We strongly encourage that this omission is corrected, and that ILU's be permissible in R2 zones.



Division 7 - Clause 96 (1): Non-discretionary development standards for hostels and residential aged care facilities.

The proposed non-discretionary standards SEPP seeks to provide guidance to Councils, rather than direct “do not refuse” standards. We do not see this as leading to an improvement in the provision of high quality Aged Care & Seniors Housing. The proposed changes weaken the authority of the SEPP, leaving too much interpretation open to various Councils & Council officers. If the Department is seeking the adequate provision of Seniors housing in coming decades, we strongly recommend the do not refuse principal is maintained in the new Housing SEPP.

Division 7 - Clause 96 (f): Aged Care - Deep Soil & Division 7 - Clause 97 (2)(f): ILUs - Deep Soil

The imposition of directed locations for proportions of landscape and deep soil prevents the best site planning outcomes. Having removed the rear 25% rule for second storeys, the deep soil rule will reimpose an arbitrary and often highly detrimental outcome for sites. Site planning should be merit based on orientation, solar access, reference to outlook etc. The proposed rule of 10% of the rear of the site as deep soil is in our view a regression in the development of the standards that Planning seems intent to update.

Division 7 - Clause 96 (2)(a)+(b): Aged Care - Height & Division 3 - Clause 97 (2)(a)+(b): ILU's - Height

The imposition of a 9.5m absolute height limit is very tight and will see no reduction in the amount of Clause 4.6 objections lodged with applications. The adoption of this height limit will preclude pitched roofing in most cases, leading to conflict with the “desired future character” test for most suburban and residential local area plans.

In addition to servicing equipment on the roof, a welcome consideration, allowances should be considered for the incorporation of active roof gardens and/ or landscaped spaces on the rooftop aswell. Upper-level gardens are generally utilized for private external repose for residents in a state of palliation, owing to the privacy concerns of residents and families being in more public ground level areas of an Aged Care facility.

We would consider it to be an highly inequitable outcome to prevent those in the last stages of care to be prevented from utilizing the rooftop garden elements which are often welcomed by Councils but certainly by residents seeking vitamin D from the sunshine – a prominent issue for health outcomes in our elder communities.

We would recommend a provision is made of at least 10.5m where a pitched roof is proposed and proportionally amending the plant equipment (and rooftop landscaped terraces) height limit from 11.5m to 12.5m, with an exclusion for centrally located lift overruns.

Also, we would recommend the allowable “total roof area” for plant and rooftop landscape area be noted as 40% if landscaping is incorporated. 20% is the bare minimum for plant and service access.

Division 8 - Clause 99 (2)(a)+(b): Vertical Villages

The proposed bonus structure for Vertical villages is generally supportable but the rates of bonus are insufficient to satisfy the differing financial imperatives between independent living / aged care and developer led residential development.

The financial feasibility of the majority of sites with the permissibility for a vertical village will simply not be able to compete with the wider development market unless the current bonus structure is maintained for sites with a permissible FSR of up to 2:1-2.5:1. We would urge the department to consider amending the proposed bonus structure to maintain the current bonus amounts for sites up to an FSR of 2:1.

Further, height limits will invariably be breached by a Vertical Village application that allows for adequate open space and landscaping. Limiting the potential increase in height to a single floor dictates that the increase in FSR allowance will create lower level density that seems in our view to be contrary to the premise of the Vertical Village typology.

We would recommend the guiding principle be a merit based assessment that accounts for shadow impact & amenity over prescriptive limits on height. Directed massing to one portion of a large site may warrant a greater height limit breach, which may be a better outcome for the development and the neighbouring properties. A single story limit on height increases would preclude such an outcome.

Conclusion

In summary, we support the DPIE in its review and modernization of the Seniors SEPP. However, we believe that it is critical at this time that the “do not refuse” principles of the Seniors SEPP are retained, rather than the effective placement of prescriptive limits to the massing & site layouts for sites proposed as development of Seniors Housing.

Without this:

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



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

As the population ages and the baby boomer generation moves into advanced age in the next 10-15 years, it is becoming increasingly important that we have sufficient suitable accommodation which is especially designed to be able to cater for our older Australians to age in place, in a manner that reflects their needs and the dignity they should be afforded.

This would both improve the provision of care to older residents, increase renewal of aging and inappropriate facilities, with the added benefit of incentivising the industry to stimulate the seniors housing sector at a critical time for the NSW economy.

Please contact us should you wish to clarify or discuss any aspect of this correspondence.

Kind Regards

Nick Winberg
Director

For and on behalf of
Centurion Group Pty Ltd



Community Housing Industry
Association NSW

Submission on proposed Housing State Environmental Planning Policy

August 2021



02 9690-2447



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Suite 5, 619 Elizabeth Street
Redfern NSW 2016



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About this submission

The Community Housing Industry Association NSW (CHIA NSW) welcomes the opportunity to provide a submission on the proposals for a new Housing State Environmental Planning Policy (draft Housing SEPP).

Social and affordable housing is vital infrastructure that is integral for economic prosperity and community wellbeing. At a time of ongoing economic uncertainty, it is especially important that the right planning framework is in place to facilitate the delivery of diverse and affordable housing and greater options in the rental housing market.

CHIA NSW supports NSW Government efforts to streamline, simplify and improve the clarity of the SEPP framework. However, while we recognise the potential benefits of the proposed reforms, it is **CHIA NSW's strong opinion that the draft Housing SEPP must not be made in its current form.**

This submission outlines changes needed to ensure the new Housing SEPP appropriately supports the feasibility of affordable and diverse housing and incentivises delivery, including in regional areas. Our concerns relate primarily to:

- increased costs being placed on not-for-profit community housing providers (CHPs);
- insufficient incentives being provided to support delivery in regional areas; and
- unnecessarily restrictive provisions for boarding house and seniors housing.

Where possible, design guidelines should be used to facilitate good development outcomes, rather than prohibition and overly prescriptive development standards.

CHIA NSW welcomes the opportunity to discuss our recommendations with the Department of Planning, Industry and Environment (DPIE) in more detail. We strongly recommend that the community housing sector continues to be engaged in the preparation of the Housing SEPP and subsequent design guidelines to ensure the proposals do not have adverse or unintended impacts on the delivery of genuinely diverse and affordable housing.

About CHIA NSW and community housing providers

CHIA NSW is the peak body representing 94 registered, not-for-profit community housing providers (CHPs) in NSW. Our members currently own or manage more than 51,000 homes across NSW for individuals and families who cannot afford to rent or purchase a home on the private market. Approximately half of these homes are in regional communities.

Since 2012, CHPs have delivered more than 4,000 new homes across NSW, representing an investment of over \$1.5 billion. This includes boarding houses, seniors housing and in-fill affordable housing. Critically, these are new homes that the private sector cannot – or will not – deliver in response to housing need.

CHPs deliver housing with the needs of their future tenants in mind, tailoring projects to match the housing need in the local area and the profile of those on social housing waiting lists where relevant. As not-for-profit organisations delivering lower-cost housing, designing developments that are cost-effective is an integral component of a CHP's financial viability. This is especially critical at a time when land prices and operating costs, such as insurance premiums, are rising. CHPs typically have an operating margin of 2-3%, which is primarily comprised of rental revenue received from tenants on very low to moderate incomes.

Planning settings that are too onerous will increase the subsidy required to make social and affordable housing schemes viable (including the costs to government) or reduce the amount of housing that can be delivered.

It is therefore critical that the new Housing SEPP strikes the right balance between driving improvements to housing outcomes and supporting the feasibility of new social and affordable housing.

CHIA NSW comments on the proposed Housing SEPP

CHIA NSW welcomes the release of the draft Housing SEPP. Consolidating existing housing-related SEPPs will help simplify the current state planning policy framework and provide additional clarity to CHPs, developers, and the community on requirements.

While some of the proposals will support the supply of affordable and diverse housing through NSW, CHIA NSW has concerns about several aspects of the draft Housing SEPP. Key concerns are outlined below. Additional comments on the draft SEPP are provided in Attachment 1.

Common definition of affordable housing

CHIA NSW supports a consistent definition being used for affordable housing across environmental planning instruments. However, CHPs have concerns that the geographic basis proposed to be used to set household income benchmarks would unfairly impact CHPs and tenants in some areas.

Incomes vary significantly across regions and using broad statistical areas to define eligibility thresholds will not sufficiently reflect this. In some locations, the proposed definition will result in people in housing need being unable to access affordable housing. Underestimating median incomes could also impact the feasibility of affordable housing by limiting the mix of rents that can be charged.

For example, using the 'Rest of NSW Statistical Region' results in thresholds which are too low for some major regional locations. While the Central Coast is included in the Greater Sydney statistical area, the Illawarra Shoalhaven Region is not. As illustrated in the table below, applying the proposed definition will result in benchmark rates that are too low for the Illawarra Shoalhaven, despite median rents being closer to some parts of Greater Sydney.

Table: Comparison of proposed benchmarks

	Campbelltown LGA	Illawarra Shoalhaven
Median household income	\$1,459	\$1,352
Benchmark income	\$1,750	\$1,168
Median rent	\$350	\$330
Benchmark rent	\$440	\$270

Notes: Data sourced from 2016 Census. Benchmark incomes and median rent for Campbelltown uses the 'Greater Sydney' statistical area and Illawarra Shoalhaven used the 'Rest of NSW' statistical area.

CHIA NSW recommends that the definition adopts a more granular approach to establishing median household incomes for different regions. Ideally, appropriate statistical areas should be specified for each region. At the very least, the draft SEPP needs to be amended to:

- Include the Illawarra Shoalhaven region in the Greater Sydney statistical area for the purposes of the definition; and
- Use the 'Whole of NSW' statistical region as the basis for income thresholds for remaining regional areas outside Greater Sydney, rather than the 'Rest of NSW Statistical Region'. This approach is consistent with that taken in the NSW Affordable Housing Ministerial Guidelines, published by the Department of Communities and Justice.

It is noted that the definition is intended to set a ceiling for affordable housing income limits and rents that can be charged. Consideration needs to be given to how the Housing SEPP will encourage affordable housing to be provided at a range of price points, to reflect the full range of housing needs.

In-fill affordable housing provisions

Development to which in-fill affordable housing provisions apply

The proposed accessibility thresholds for development to be eligible for the in-fill affordable housing concessions and FSR bonus are insufficient for regional areas. The draft SEPP requires development in the Newcastle and Wollongong regions to meet the same 'accessible area' requirements as sites in Greater Sydney. This includes applying the same service frequency for bus stops. In other locations the concessions are only available to sites within 400 metres walking distance from a B1, B2 or B4 zone.

This does not reflect the needs of regional communities and limits opportunities for new diverse and affordable housing as many regional sites will not meet these criteria. Public transport coverage and frequency in regional areas is lower than in Greater Sydney. Many sites will struggle to meet the weekend service level requirement. Yet, while the requirements for seniors housing in regional areas recognise this and exclude weekends from the access criteria, the same approach is not taken under the proposed in-fill affordable housing provisions.

Additionally, in regional areas there is very little land available that is within 400m of a B1, B2 or B4 zone. For example, one CHP is currently delivering 280 homes across several regional cities and have only been able to secure land that meets the accessibility requirement for 18 of the 280 homes, despite all 280 homes being located within 500 metres of a bus stop and in proximity to town centres. The proposed criteria exclude well located land in other zones that have good levels of access to transport and services.

It is CHIA NSW's strong recommendation that the draft SEPP be amended to enable broader application of the in-fill affordable housing concessions and FSR bonus to development by not-for-profit CHPs. This needs to include:

- For sites outside Greater Sydney, excluding weekends from the frequency test for bus services under the definition of 'accessible area'.
- Applying the in-fill affordable housing concessions to all sites in regional areas that are in proximity to transport services or town centres, regardless of zone.

Density bonus for in-fill affordable housing

CHIA NSW supports the retention of the existing FSR bonus available for in-fill affordable housing available under Division 1 of the Affordable Rental Housing SEPP (ARHSEPP). Affordable housing developments are not feasible without additional incentives and subsidies, and the density bonus has been essential to developing new housing in locations with good access to transport and services.

However, it can be difficult for social and affordable housing developments to achieve the full FSR bonus due to the impact of other planning controls, e.g. height restrictions, even where the variation from planning controls is marginal and the overall planning outcomes are consistent with the objectives of the local area.

To counter this, CHIA NSW recommends that:

- The 3.8 metre height bonus proposed for 'vertical villages' be applied to development in medium and high-density locations that include at least 50% affordable housing. This will assist with achieving the FSR bonus and will help offset increases to development standards proposed as part of the draft Housing SEPP, such as increased deep soil requirements.

- An Industry Working Group be established to jointly prepare guidelines for in-fill affordable housing that address how developers can achieve the best development and housing outcomes and address community concerns.

Changes to development standards

Many CHPs rely on the in-fill affordable housing concessions to deliver new social and affordable housing. The proposed increases to minimum dwelling sizes for non-apartment housing forms will have significant impacts on building costs for CHPs. In regional areas, many social and affordable housing developments are medium density housing forms. It has been estimated that the proposed increases in minimum dwelling size requirements could increase the cost of construction by \$20,000 to \$40,000 per 1 bedroom and 2-bedroom dwelling respectively.¹ This cost increase will impact the feasibility of delivering affordable housing, which is already marginal in many regional areas, and/or reduce the amount of homes that can be delivered.

The proposed dwelling sizes are inconsistent with the standards adopted for new social housing development under the Land and Housing Corporation (LAHC) Dwelling Requirements, which development under Division 6 of the ARHSEPP is required to meet. Good amenity outcomes can still be achieved under the current minimum dwelling sizes. For example, CHPs can achieve Silver Level certification under the Livable Housing Australia Design Guidelines.

CHIA NSW is also concerned about the proposal to increase the minimum dimension for deep soil zones from 3 metres to 6 metres. The rationale for this change is unclear. It will reduce the developable footprint and impact yield, particularly on smaller sites in urban areas. A blanket 6 metre requirement is also inconsistent with the approach taken in the Apartment Design Guide, which applies a lesser requirement to smaller sites. Retaining the current 3 metre minimum dimension enables a greater degree of design flexibility, while still supporting the growth of larger trees, particularly adjacent to street setbacks and rear setbacks that can offer soil connectivity, supporting large tree canopy and tree longevity.

CHIA NSW strongly recommends:

- Retaining the current ARHSEPP minimum dwelling sizes and deep soil requirement for development by not-for-profit CHPs.
- As part of a unified housing design guide, developing guidance that demonstrates how standards could be applied more flexibly to support feasibility and respond to the specific needs of social and affordable housing tenants, whilst still achieving good amenity outcomes.

Retention of affordable housing

The proposed 15-year timeframe for retaining in-fill affordable housing will provide more certainty to CHPs managing the properties and ensure the public benefit of affordable rental housing is maintained for a longer period.

CHIA NSW is concerned about the removal of existing ARHSEPP provisions that require conditions of consent to be imposed and a restriction to be registered on title mandating retention of the affordable housing and its management by a registered CHP for the prescribed period. Unlike for boarding houses, co-living housing and seniors housing, these requirements are not proposed to be replaced by prescribed conditions of development consent under Division 8A of the *Environmental Planning and Assessment Regulation 2000* (EPA Regulation).

¹ CHP sourced data. August 2021.

Without transparent monitoring and registration requirements, developers and subsequent owners have limited motivation to comply with the affordability requirements for the full 15 years. Recent research by CHIA NSW highlighted the extent of non-compliance. It found that as many as 30% of projects completed by private developers did not comply with the ARHSEPP requirements.

CHIA NSW's view is that the NSW Registrar of Community Housing is well-placed to maintain a database of approved and completed affordable housing dwellings and to confirm that registered CHPs are managing those dwellings. While this is proposed for boarding house development, the draft Housing SEPP has not extended this requirement to in-fill affordable housing.

This mechanism would enable the Registrar to confirm the properties are meeting the affordability requirements for the full 15-year affordable housing period and enable the Registrar to provide advice on the total number of affordable housing dwellings made available through the in-fill affordable housing provisions. This would create a transparent and accountable system for all parties, at minimal cost to the Office of the Registrar, planning authorities, and developers.

CHIA NSW recommends the EPA Regulation be amended to include prescribed conditions of consent for in-fill affordable housing by private developers, that require:

- the dwellings proposed to be used for the purposes of affordable housing will be used for the purposes of affordable housing for the prescribed period;
- all accommodation that is used for affordable housing be managed by a registered CHP. This should include requiring evidence of draft management agreements with a CHP;
- a restriction on title to be registered for the designated affordable housing properties; and
- requiring notice of the development to be given to the Registrar of Community Housing, as per the requirement for boarding houses.

Boarding houses provisions

Permissibility in the R2 zone

CHIA NSW is concerned by the proposals to remove boarding houses as a mandatory permitted use in the R2 Low Density Residential zone and restricting them to accessible locations even where a local environmental plan (LEP) continues to permit them. This will reduce opportunities for supply of affordable housing options in established communities, especially in regional areas where the supply of higher density land is often limited. When combined with the requirements for boarding houses to be 100% affordable in perpetuity, the proposals could also impact the feasibility of this form of housing, given the higher cost of land in higher density locations.

It is understood this proposal is a response to community concerns over the perceived impact of higher development on low density areas. CHIA NSW is concerned councils will turn to outright prohibition to manage community opposition to boarding houses, instead of managing the concerns in more productive ways. More appropriate ways of managing development impacts would involve limiting the size of boarding houses in low density zones, as the current ARHSEPP does, and developing design guidelines to facilitate boarding house design that is more in keeping with the established character of low-density neighbourhoods.

It is noted that the LAHC will retain the ability to develop boarding houses of up to 12 rooms in R2 zones, regardless of LEP restrictions. These provisions support the efficient delivery of new social and affordable housing models in mixed communities.

Through Future Directions for Social Housing in NSW and the NSW Housing Strategy, the NSW Government has committed to leveraging the benefits of CHPs to develop new social and affordable

housing. The LAHC boarding house provisions should be extended to all social housing providers, including not-for-profit CHPs. CHPs are highly regulated and, like LAHC, share the objective of ensuring appropriate and affordable housing for low income and disadvantaged households.

CHIA NSW recommends that:

- The Housing SEPP be amended to allow all social housing providers, including not-for-profit registered CHPs, to deliver boarding houses of up to 12 rooms in the R2 zone.
- An appropriate design framework be prepared for CHP delivery of boarding houses in R2 zones to ensure local outcomes are supported.

Density bonus for boarding houses

CHIA NSW has concerns about the proposal to replace the current ARHSEPP FSR bonuses for boarding houses with a single 25% bonus. While this represents a welcomed increase for sites with an existing FSR above 2.5:1, many sites on which residential flat buildings (RFBs) are permitted are subject to a lower FSR. On these sites, the proposed FSR bonus represents a reduction in potential yield. For example, a site with an existing FSR of 1:1, the 25% bonus represents an additional 0.25:1, compared to 0.5:1 available under the current provisions of the ARHSEPP. The rationale for this change is unclear.

CHIA NSW notes that the draft Housing SEPP is not proposing to change the FSR bonus available to in-fill affordable housing, which includes an addition 0.5:1 for sites with an FSR of 2.5:1 or less. Unlike for boarding houses, this bonus is not limited to sites on which RFBs are allowed, and the affordable housing delivered is only required to be retained for 15 years.

The density bonus has been critical to enabling CHPs to deliver housing options for low and very low-income individuals in locations close to transport and services, which have higher land costs. The combination of new affordability requirements, being a reduction in operational revenue, and the reduced FSR bonus will significantly reduce the development feasibility of boarding houses.

CHIA NSW notes the work of the Boarding House Working Group and the concerns these councils have detailed. Given the significant impact the reduction in FSR will have on the overall supply of affordable housing, CHIA NSW recommends the following:

It is recommended that:

- The existing FSR bonus of 0.5:1 for boarding houses on sites with an FSR of 2.5:1 or less be retained.
- The density bonus be extended to land on which medium density housing is permitted, in addition to RFBs. This would be more consistent with the approach for in-fill affordable housing and will better support the feasibility of boarding houses as a 100% affordable housing product.
- As part of the development of design guidelines, work be undertaken on design solutions that support better outcomes for boarding house developments to address community concerns with bulk and scale, while minimising the negative impact on housing supply.

Development standards for boarding houses

CHIA NSW is concerned that several of the proposed development standards and design requirements for boarding houses will deliver poor design outcomes, including:

- New minimum communal living area size requirement of 30sqm, plus 2sqm for additional boarding rooms in excess of 6.
- Increasing the minimum communal open space requirement from 20sqm to a minimum of

20% of the site area.

- Increasing the bicycle parking requirement from 1 space per 5 rooms, to 1 space per room.
- Maximum room size of 25sqm.

It is understood the rationale for some of these proposals is to provide additional certainty, offset the smaller size of rooms in boarding houses, and address concerns from stakeholders about some operators delivering substandard accommodation. However, the basis for the specific numerical standards proposed is unclear. These requirements will impose unnecessary restrictions and additional costs on the delivery of boarding houses by not-for-profit CHPs.

Flexibility in design requirements is needed to respond to the specific needs of a scheme. For example, a lower amount of communal space may be needed where larger boarding rooms are provided, where living rooms directly interface with communal open space, or where the site is located close to high quality green space.

CHIA NSW strongly recommends that:

- Existing ARHSEPP requirements for communal living rooms, deep soil, communal open space, and bicycle parking be retained for boarding house development by not-for-profit CHPs.
- Instead of arbitrary numerical requirements being inserted into the SEPP, design requirements should be covered in the detailed design guidance to be prepared by DPIE. This guidance should demonstrate how standards could be applied more flexibly to support feasibility and respond to the specific needs of social and affordable housing tenants, whilst still achieving good amenity outcomes.

Requirement for boarding houses to be 100% affordable in perpetuity

Although retaining boarding houses as a purely affordable housing product is intended to support more diverse and affordable housing options for very low-income households and improve community acceptance of this housing type, CHIA NSW questions whether this is the best means to achieve these outcomes.

CHPs have used the ARHSEPP boarding house provisions to deliver a range of innovative and strategically designed projects. While not-for-profit CHPs seek to retain their new housing stock for the long-term, it can be challenging for CHPs to secure finance for new projects if there is a restriction on future use of the asset. Mandating retention of boarding houses as 100% affordable housing in perpetuity will place additional feasibility pressures on projects and limit the opportunity for a diverse tenant mix.

CHIA NSW recommends:

- The draft Housing SEPP be updated to require retention of boarding houses as affordable housing for a defined period of time. Applying a minimum 15–20 year timeframe will provide flexibility and match the requirements for in-fill affordable housing.
- Alternate measures be investigated to support the ongoing availability of affordable housing beyond the 15-20 year period. This could include securing a commitment from boarding houses operators to reinvest in affordable housing in the area, should an asset need to be recycled in the future.

Addressing community perceptions

The term 'boarding house' is poorly understood in the community and confused with assisted boarding houses and traditional boarding houses. There are concerns that continuing to apply the term boarding house to the affordable form of co-living housing will do little to change community resistance to this form of development.

Further improvements to community perceptions would be assisted by replacing the term boarding house with a new term. This could be "affordable co-living" or "micro-apartments". CHIA NSW notes that the term co-living housing has been introduced to support private developers to continue to deliver a housing type similar to new generation boarding houses. Similarly, enabling community housing providers to deliver an "affordable co-living" housing type would improve community support for housing that is genuinely delivering a community benefit and a well-designed housing product.

CHIA NSW recommends that:

- The draft Housing SEPP be amended to change the name of boarding houses to "affordable co-living" to reduce confusion and community opposition.
- Establish an Industry Working Group to develop a framework for good design outcomes for affordable co-living that address community concerns.

Co-living housing provisions

The introduction of co-living as a housing type has the potential to help distinguish the different small dwelling housing options and address community concern about boarding houses. Under the current proposals, there is little to distinguish boarding houses from co-living housing apart from the affordability requirement and the need for an on-site manager.

The consultation material produced by DPIE to support the exhibition of the draft SEPP suggests it is intended to apply a maximum room size to co-living housing, as per boarding houses. However, the Housing SEPP consultation draft does not include any such requirements. Given the potential role of co-living housing as a bridge between new generation boarding houses and studio apartments, CHIA NSW recommends that the room size for co-living rooms be in the range of 25sqm to 35sqm.

The draft Housing SEPP proposes a requirement for a workspace for an on-site manager in all co-living buildings. The experience of CHIA NSW's members is that the requirement to have an onsite manager is often an unnecessary expense. Good tenancy and property management is sufficient to support community cohesion, address resident concerns, manage common area, and ensure good facility and asset management. CHIA NSW recommends that the requirement for an onsite manager should be limited to larger co-living schemes of more than 30 private rooms. If necessary, this could be a concession reserved for co-living housing provided by registered CHPs that are highly regulated to ensure quality property and tenancy outcomes.

Under the proposals, a FSR bonus is available to co-living housing until August 2024. This bonus does not require the inclusion of affordable housing in schemes. CHIA NSW believes this presents a missed opportunity to encourage more diverse and mixed housing. CHIA NSW recommends that the in-fill affordable housing FSR bonus be made available to co-living housing that includes a component of affordable housing. This would enable the delivery of projects that better meets local housing needs by providing accommodation to a broad mix of tenants at different stages of their housing journey. It would help overcome one of the limitations of restricting boarding houses to a purely affordable housing model. An incentive approach would allow these outcomes to be delivered but would not impede private market development and investment.

Summary of CHIA NSW recommendations for co-living housing:

- Allow co-living rooms to be between 25sqm and 35sqm.
- Amend the onsite manager requirement to only require it for co-living housing schemes of more than 30 rooms.
- Extend the in-fill affordable housing density bonus to co-living housing to enable integrated housing projects to be delivered that meet a diversity of housing needs. The affordable housing provided should be required to be retained for at least 15 years and managed by a registered CHP.

Seniors housing provisions

Appropriateness of definition of seniors

There are concerns that the proposed definition for seniors will unnecessarily limit access to accommodation and care services for older people in need. In particular, Aboriginal community housing providers have expressed concerns that the proposed definition does not adequately reflect the profile of clients that receive seniors housing services. Aboriginal people are prioritised as 'elderly' for many government programs from 55 years; however, for many day-to-day health needs and other aspects of life, they are considered older people at 45-50 years.²

The rationale provided for changing the age threshold from 55 years to 60 years is to align the definition with the current preservation age for accessing superannuation. However, this is inconsistent with the age threshold for older people adopted in Government strategies, including the NSW Homelessness Strategy and NSW Housing Strategy.

The proposed change will mean fewer people will be able to access the accommodation options provided by seniors housing, pushing more people onto the waiting list for social housing. CHIA NSW notes that the NSW Government's 2021-22 Intergenerational Report has predicted that if those who retire without owning a home require social housing at a similar rate to today's retirees, this would increase demand for social housing by 68,000 households by 2060-61 – more than double the current social housing waiting list.

It is recommended:

- The current definition for seniors be maintained while a review of the definition be undertaken to ensure it adequately reflects the range of services provided by seniors housing providers. This review needs to be undertaken in consultation with providers, including Aboriginal housing providers.

Seniors housing forms permitted in the R2 zone

CHIA NSW does not support aspects of the draft Housing SEPP that would prohibit seniors housing in the R2 Low Density Residential zone, other than residential care facilities. As drafted, this restriction would override LEPs that may permit other forms of seniors housing. The rationale for this is unclear. This prohibition does not currently exist under the existing Seniors Housing SEPP.

Such an approach will reduce opportunities for the supply of a broad range of seniors housing in established communities. This includes regional areas, where the supply of higher density land is often limited, and communities benefiting from the independent living model of serviced delivery, such as clients served by Aboriginal community housing providers.

² NSW Government (2021) *Ageing Well in NSW: Seniors Strategy 2021-2031*.

This is contrary to the principle of ageing in place, which is one of the guiding principles of the NSW Seniors Strategy³. It is also inconsistent with emerging industry best-practice that seeks to deliver integrated seniors housing projects that co-locate a full range of accommodation and service types to provide a continuum of aged care.

CHIA NSW recommends that:

- The Housing SEPP be amended to allow all forms of seniors housing in the R2 zone, as per the current Seniors Housing SEPP.
- Appropriate design guidelines be prepared for all forms of seniors housing, to support good design outcomes in low density environments.

New development approvals pathway

The planning approvals process represents a significant cost for CHPs. Despite proposals being fully compliant with planning requirements, CHPs have experienced unnecessary delays and protracted approvals processes across NSW.

While the proposed state significant development (SSD) pathway for seniors housing is supported, the proposals need to go further to improve efficiency and reduce delays in the approvals process for all forms of community housing.

The proposed criteria seniors housing proposals need to meet to qualify for the SSD pathway are too restrictive. Specifically, the requirement that schemes need to include a residential care facility component that comprises at least 60% of the development's value. All forms of seniors housing make a vital contribution to meeting the housing needs of NSW residents and generate economic benefits. The SSD pathway needs to be available regardless of the inclusion of a residential care facility component.

CHIA NSW would also support the NSW Government expanding the SSD pathway to other forms of affordable housing, and to implement other reforms to streamline approvals for community housing, reflecting the critical importance of increasing the supply of affordable housing in NSW.

CHIA NSW recommends:

- The SSD pathway applies to all forms of seniors housing over \$20 million (\$30 million in Greater Sydney), regardless of whether they include a residential care facility component.
- Larger affordable housing schemes, over \$50 million in value, be subject to the SSD pathway, consistent with the threshold for market rate build-to-rent housing.
- Introducing a streamlined approvals pathway for low-impact community housing development. While a range of mechanisms may be used to deliver this outcome, complying development provisions and a Code of Practice outlining design and development standards, similar to the Education Establishments and Child Care Facilities SEPP, would be an effective approach. Review by DPIE or LAHC could be included in the process to improve transparency and accountability.

³ NSW Government (2021) *Ageing Well in NSW: Seniors Strategy 2021-2031*.

Attachment 1 - Additional comments on the draft Housing SEPP consultation draft

Section	Comment	CHIA NSW recommendation
Section 3. Aims of the Policy	The draft excludes the current ARHSEPP objective to “ <i>to facilitate an expanded role for not-for-profit-providers of affordable rental housing.</i> ” This is inconsistent with Future Directions for Social Housing in NSW and the NSW Housing Strategy, which commit to growing and leveraging the benefits of the community housing sector.	Retain the current ARHSEPP objective.
Section 12 Affordable housing (definition)	The geographic basis proposed to be used to set household income benchmarks is too broad and would unfairly impact CHPs and tenants in some areas. Discussed in main body of submission.	Adopt a more granular approach to establishing median household incomes for each region. Refer to main body of submission.
Chapter 2, Division 1 In-fill affordable housing		
Subsection 15(1)(d)	The proposed accessibility thresholds for the in-fill affordable housing concessions and FSR bonus are insufficient for regional areas. Discussed in main body of submission.	Amend the draft SEPP to enable a broader application of the in-fill affordable housing concessions and FSR bonus to development in regional areas. Refer to main body of submission.
Subsection 15(2)	The proposed definition of residential development at subsection 15(2) excludes shop top housing. In some zones, shop top housing is the only mandatory permitted use. Excluding shop top housing from the application of the in-fill affordable housing provisions limits opportunities for affordable housing provision in locations close to transport, jobs, and services.	Amend the draft SEPP to include shop top housing in the list of development to which the in-fill affordable housing provisions apply. The landscaped area and deep soil zone requirements that apply to shop-top in-fill affordable housing will need to be tailored so that they are appropriate to this form of development. The Apartment Design Guide requirements could be applied.
Sections 17 (and sections 23, 48, 64, 96, 97 and 100) - Non-discretionary development standards	The SEPP is not clear on how the non-discretionary standards should operate in instances where another planning instrument contains less onerous standards that could be applied to the proposed development. Additional	Amend the draft SEPP to clarify that where another planning instrument applies less onerous standards for the matters covered by the non-discretionary standards, the less onerous standards must be applied.

Section	Comment	CHIA NSW recommendation
	clarity needs to be provided to avoid confusion and uncertainty.	Amend the draft SEPP to clarify that a consent authority must not refuse consent to development on any of the grounds covered by the non-discretionary standards if they are complied with.
Subsection 17(2)(d)	Increasing the minimum dimension for deep soil zones from 3 metres to 6 metres is not supported. Refer to main body of submission.	Amend the draft SEPP to retain a minimum dimension of 3 metres for deep soil zones, consistent with the ARHSEPP.
Subsection 17(2)(i) and (j)	Increasing the minimum floor areas for non-apartment development is not supported. Refer to discussion in main body of this submission. Clarity is also required on the definition for floor area, as none is provided in the draft SEPP and definitions differ across planning instruments/design guides.	Amend the draft SEPP to retain the current ARHSEPP minimum dwelling size requirements for affordable housing development by not-for profit CHPs. Develop guidance for efficient design of in-fill affordable housing as part of a unified housing design guide. Provide a consistent definition for floor area. The area occupied by wardrobes, kitchens, fixed storage and internal stairs and corridors needs to be included in this calculation for the purposes of meeting the draft Housing SEPP minimum dwelling size requirements.
Section 19	Clarity is needed as to how inconsistencies between the requirements of the Apartment Design Guide and draft SEPP are to be treated.	Amend the draft SEPP to clarify that where inconsistencies existing between the SEPP and the provisions of the Apartment Design Guide, the least onerous provision is to be applied.
Section 20	CHIA NSW is concerned about the removal of existing ARHSEPP provisions requiring conditions of consent and a restriction on title mandating retention of the affordable housing and its management by a registered CHP. Discussed in main body of submission.	Amend the EPA Regulation to include prescribed conditions of consent for in-fill affordable housing, including requirement for notice of the development to be given to the Registrar of Community Housing. Refer to recommendations in main body of submission.

Section	Comment	CHIA NSW recommendation
Chapter 2, Division 2 - Boarding houses		
Naming convention	Refer to comments in the main body of submission regarding the naming of boarding houses.	Rename boarding houses to “Affordable Co-living”. Refer to recommendations in main body of submission.
Section 22	CHIA NSW is concerned about changes to the permissibility of boarding houses in the R2 zone. Discussed in main body of submission.	Amend draft SEPP to allow all social housing providers to develop boarding houses of up to 12 rooms in the R2 zone. Refer to main body of submission for further recommendations.
Subsection 23(2)(a)	CHIA NSW does not support proposed changes to the FSR bonus for boarding houses. The FSR bonus should also be applied more broadly. Discussed in main body of submission.	Retain the current ARHSEPP FSR bonus of 0.5:1 for boarding houses on sites with an FSR of 2.5:1 or less. Expand the FSR bonus to cover sites on which medium density housing is permitted. Refer to main body of submission for further detail.
Subsection 23(2)(c) and (d)	It is unclear what landscaping standard applies where a LEP/DCP does not apply one for multi-dwelling housing or RFBs.	Amend the draft SEPP to clarify that the Apartment Design Guide/Low Rise Housing Diversity Design Guide applies where no relevant local control exists.
Subsection 23(2)(f) and (g)	The proposed minimum communal living area size requirement is arbitrary and will add unnecessary additional costs to the delivery of boarding houses by not-for-profit CHPs. While the provision of communal living areas is important in larger schemes, they are not always well utilised by tenants, especially if larger boarding rooms are provided. The focus should be on qualitative approach through design guidance. The size of living areas needs to be determined by consideration of range of factors including sizes of boarding rooms, and the integration of living areas with outdoor space.	Retain requirement for provision of at least one communal living area for boarding houses of 6 or more boarding rooms. Amend the draft SEPP to remove the numeric requirement and provide guidance for the design, siting, and sizing of communal living rooms in the forthcoming design guidance.

Section	Comment	CHIA NSW recommendation
Subsection 23(2)(h)	The proposal to replace the current ARHSEPP 20sqm requirement for communal open space with one based on a minimum of 20% of the site area is too onerous. It will reduce the developable footprint on site and impact yield, particularly when combined with the proposed communal living area requirement. The proposal is also inconsistent with the approach proposed through the new Apartment Design Guide, which is moving away from a requirement based on an arbitrary percentage of site area to one based on unit mix and occupancy, for greater design flexibility and correlation to actual need.	Amend the draft SEPP to retain the current ARHSEPP communal open space requirement for boarding houses. Explore a potential qualitative standard, based on the needs of expected occupants, as part of the preparation of the design guidance for boarding houses.
Subsection 23(2)(l)	The proposed increase in bicycle parking requirement from 1 space per 5 boarding rooms to 1 space per boarding seems onerous, particularly when compared to current rates applied in urban areas with relatively high bike use, such as the City of Sydney. CHIA NSW recognises the importance of supporting active transport. However, like car parking, over-supply of bike parking is an impost that in effect reduces social housing providers' available investment for housing supply. The experience of our members is that bicycle parking spaces provided in schemes are often under-used.	For social housing providers, retain the current ARHSEPP requirement of a minimum of 1 space per 5 boarding rooms.
Subsection 23(3)	CHIA NSW supports the proposed definition of social housing provider used in this Division, which excludes registered CHPs which are not registered with the <i>Australian Charities and Not-for-profits Commission Act 2012</i> . This definition should be used throughout the Housing SEPP.	Adopt this definition as the common definition of social housing provider through the Housing SEPP.

Section	Comment	CHIA NSW recommendation
Section 24 – Standards for boarding houses	CHIA NSW supports the removal of the current ARHSEPP requirement for an on-site boarding house manager.	Proposal supported.
Subsection 24(1)(a)	CHPs have raised concerns with the application of the requirement for boarding houses to be compatible with the character of the local area. While the intent of this provision is supported, clear guidance needs to be established to avoid this provision being misused by councils to refuse schemes where there is community opposition due to stigma with the term boarding houses.	Establish an Industry Working Group to develop a framework for good design outcomes for affordable co-living that address community concerns with boarding houses.
Subsection 24(1)(b)	There is concern that the maximum boarding room size of 25sqm presents a barrier to achieving Universal Design principles.	Review the maximum boarding room size limit as part of the preparation of detailed design guidance for boarding houses.
Subsection 24(1)(h)(ii) and (iii)	It is unclear what minimum lot size requirement applies to boarding house where none is specified for multi-dwelling houses or RFBs in a LEP/DCP.	Amend the draft SEPP to clarify that where no minimum lot size is prescribed in a LEP or DCP, none is to be applied.
Subsection 24(1)(i)	It is unclear what setback requirements apply where none is specified for multi-dwelling houses or RFBs in a LEP/DCP.	Amend the draft SEPP to clarify that where no setback requirement is proposed, the relevant controls in the Apartment Design Guide or Low-Rise Housing Diversity Design Guide apply.
Section 25 – Must be used for affordable housing in perpetuity	Mandating retention of boarding houses as 100% affordable housing will place additional feasibility pressures on new development and make it harder for CHPs to secure finance. Refer to discussion in main body of submission.	Amend the draft SEPP to require retention of boarding houses as affordable housing for 15-20 years, consistent with in-fill affordable housing. Investigate alternate measures for securing longer term provision of affordable housing. Refer to detailed recommendations in body of submission.
Division 3 – Boarding houses – Land and Housing Corporation	It is noted that LAHC will retain the ability to develop boarding houses of up to 12 rooms in R2 zones.	Amend the draft SEPP to allow all social housing providers to develop boarding houses in the R2 zone.

Section	Comment	CHIA NSW recommendation
Chapter 3, Part 3 – Co-living housing		
Section 63	The intent of this section is not clear. CHIA NSW does not support a blanket prohibition being imposed on co-living housing in all R2 zoned land, even where an LEP permits this use. This also contradicts other sections in the draft SEPP which prescribe standards for co-living housing in the R2 zone. Refer to main body of submission for further discussion.	Amend the draft SEPP to remove reference to “other than Zone R2 Low Density Residential” in section 63.
Subsection 64(2)	Consistent with in-fill affordable housing, a higher density bonus should be available where at least 20% of the floorspace is provided as affordable housing. Refer to main body of submission for further discussion on this matter.	Amend the draft SEPP to extend the in-fill affordable housing FSR bonus to co-living housing, provided the affordable housing that is provide is retained for 15 years and managed by a registered CHP.
Subsections 64(2)(c), (d), (e), (h), (i), (j)	Refer to comments above relating to the proposed development standards for communal living areas, communal open space, landscaping, and cycle parking for boarding houses.	Concessions need to be provided for social housing providers delivering co-living housing which includes a component of affordable accommodation. As per boarding houses, clarity needs to be provided as to what development standards apply when local planning instruments are silent.
Subsection 65(1)(b) and (c)	Refer to comments above relating to proposed minimum lot size and landscaping requirements for boarding houses.	Amend the draft SEPP to clarify that where no minimum lot size is prescribed in a LEP or DCP, none is to be applied. Also clarify that where no setback requirement is proposed, the relevant controls in the Apartment Design Guide or Low-Rise Housing Diversity Design Guide apply.
Subsection 65(1)(g)	The experience of CHIA NSW’s members is that the requirement to have an onsite manager is often an unnecessary expense. Refer to main body of submission for further discussion on this issue.	Amend the draft SEPP to require a workspace for on-site manager for co-living housing schemes of more than 30 rooms.

Section	Comment	CHIA NSW recommendation
Chapter 3, Part 4 – Seniors housing		
Section 67	Section 67 needs to include reference to 'equivalent land use zones' to capture sites to which a non-standard LEP may apply. This is consistent with the approach taken in other parts of the draft SEPP.	Amend the draft SEPP to insert "or equivalent land use zones" into section 67.
Section 72 – Definition of gross floor area	The proposed change to the definition of 'gross floor area' in this section which will better align it with the Standard Instrument LEP definition. However, clarity is needed on the definition to be applied to 'gross floor area' and 'floor area' when used in other parts of the Housing SEPP.	Amend the draft SEPP to specify in the Dictionary that the definition of gross floor area is as per the Standard Instrument LEP, unless otherwise specified.
Section 72 – Definition of seniors	CHPs are concerned with the proposed definition of seniors. Refer to body of submission.	Amend the draft SEPP to retain current definition of seniors.
Subsection 74(2)(c)(ii)	There appears to be a drafting error in this subsection, when compared with the equivalent provision at subsection 40(4) of the SEPP (Housing for Seniors or People with a Disability) 2004.	Correct subclause to read: <i>"(ii) exceeding 2 storeys if the building is adjacent to a boundary of the site."</i>
Subsection 74(3)	Subsection 74(3) should operate similarly to subsection 74(2)(c) and only apply the prescribed height limits to land in a residential zone on which RFBs are not permitted. Maximum height limits on land on which RFBs are permitted typically exceed 11.5 metres. The Housing SEPP should not apply more onerous height controls than allowed under an LEP.	Amend the draft SEPP so that subsection 74(3) only applies to land to which subsection 74(2)(c) applies.
Subsection 74(4)	The equivalent provision at subsection 40(5) of the SEPP (Housing for Seniors or People with a Disability) 2004 exempts development applications made by social housing providers from the lot size, street frontage and height	Redraft subsection to clarify that development applications made by LAHC and other social housing providers, including not-for-profit CHPS, are exempt from all development standards in section 74.

Section	Comment	CHIA NSW recommendation
	controls prescribed in the SEPP. It is not clear if that is the intent of this subsection.	
Subsection 76(1)(a)(ii) and subsection 76(1)(b)(ii)	It is not clear why the application of provisions regarding the development of registered clubs and other special uses for seniors housing has been limited to sites adjoining residential zones. The equivalent provisions in the current Seniors Housing SEPP apply to sites adjoining 'land zoned for urban purposes' which could include business zones in town centres (B1, B2 and B4 zones) which permit residential uses. Centres are suitable locations for seniors housing and should be included in the application of section 76.	Expand subsections to include business zones.
Subsection 76(1)(d)	CHIA NSW does not support restricting seniors housing in the R2 zone to residential care facilities. Refer to discussion in main body of submission.	Amend the draft SEPP to delete subsection 76(1)(d).
Subsection 83(1)	It is not clear why the location and access requirements for residential care facilities exclude the option of providing on-site access to facilities and services, as per independent living units. This is contrary to the intent expressed in the summary documents available alongside the draft SEPP. The draft SEPP needs to provide flexibility for how location and access requirements can be met to account for the needs of different delivery models and different geographic contexts.	Amend the draft SEPP to allow residential care facilities to provide on-site access to services and facilities, be located close to off-site services and facilities, or have access to them via a transport service.
Subsection 87(a)	Further clarity is needed on how the requirement to 'recognise' that residential care facilities typically require a different building form to other residential development is to be applied.	Amend the draft SEPP to clarify that consent authorities must recognise the function and form differences of seniors housing when assessing development applications in residential locations.

Section	Comment	CHIA NSW recommendation
Subsection 87(e)	It is not clear what is meant by the term “existing building line”. In locations with an established character, the aim may be to maintain the prevailing building line. However, in precincts undergoing change, maintaining the existing building line may not be consistent with the desired future character.	Amend the draft SEPP to clarify that setbacks need to be applied according to the desired character of an area.
Subsection 87(f)	As above. Requiring planting that is similar to other plants in the street may not always be compatible with the desired future character of an area.	Amend draft SEPP to make this subsection clearer.
Subsection 89(a)	The draft SEPP proposes new requirements for seniors housing development to provide residents with adequate daylight and not adversely impact daylight access to neighbouring buildings. These are broad design principles which will require design guidance to assist with interpretation and ensure they are applied consistently by consent authorities.	Introduce detailed design guidance to ensure the consistent application of these design principles. Revise subsection 89(a)(ii) to specify that development should maintained reasonable access to <i>living areas and private open space</i> in neighbouring buildings.
Subsection 96(2)(a)-(c)	While the increasing the height limit for hostels and residential care facilities is supported, this subsection should only apply to development on sites where RFBs are not permitted, consistent with other provisions relating to seniors housing. Land on which RFBs are permitted typically have height limits greater 11.5 metres and FSRs over 1:1. The SEPP should not prescribe more onerous controls in these locations than local planning instruments allow.	Amend the draft SEPP to clarify that where more generous height or FSR provisions apply under a relevant planning instrument, the higher controls apply.
Subsection 96(2)(f)	As outlined above, increasing the minimum dimension for deep soil zones from 3 metres to 6 metres is not supported.	Amend the draft SEP to retain the current 3 metre requirement for deep soil zones under the Seniors Housing SEPP.

Section	Comment	CHIA NSW recommendation
Subsection 96(2)(g)(h)	The reduction to car parking requirements is supported.	No change recommended.
Subsection 97(2)(a)-(c)	As above, while increasing the height limit for independent living units is supported, the SEPP should not prescribe more onerous controls than local planning controls allow.	Amend the draft SEPP to clarify that where more generous height or FSR provisions apply under a relevant planning instrument, the higher controls apply.
Subsection 97(2)(f)	As outlined above, increasing the minimum dimension for deep soil zones to 6 metres is not supported.	Retain the current 3 metre requirement for deep soil zones under the Seniors Housing SEPP.
Section 98	Division 8 of the draft Housing SEPP is aimed at increasing seniors housing in centres with higher density land uses. These locations include local centres (B2 zone) and mixed-use zones (B4 zone) where RFBs are not a mandatory use under the Standard Instrument LEP.	Amend the draft SEPP to expand the application of Division 8 to include land on which development for the purposes of shop-top housing is permitted, or the B2 and B4 zones.
Subsection 99(2)	Consideration needs to be given to the impact of the proposed changes to the FSR bonus for vertical villages. Substituting the existing 0.5:1 bonus available under the Seniors SEPP for a 15%-25% bonus will reduce the bonus available on many sites. This will diminish the effectiveness of the incentive, particularly when combined with the proposed new minimum lot size requirement of 2,000sqm. The feasibility of this minimum lot size requirement needs to be tested.	Amend the draft SEPP to retain the existing 0.5:1 bonus for sites with lower FSRs, such that the bonus available is not lower than that currently available under the Seniors Housing SEPP. Review the proposed 2,000sqm minimum lot size requirement to ensure that it is feasible and does not disincentivise the development of vertical villages.
Subsection 99(b)	The proposed building height bonus is supported and will support achievement of the FSR bonus.	Amend the draft SEPP to include a height bonus as part of other FSR bonuses available for infill affordable housing, boarding houses, and co-living housing.

27 August 2021

NSW Department of Planning, Industry and Environment

Housing Policy Team
4 Parramatta Square,
12 Darcy Street,
PARRAMATTA NSW 2150

By online submission

To Whom It May Concern

City of Canada Bay submission to the Proposed Housing SEPP

The City of Canada Bay Council (CCBC) commends the NSW Government on the release of the proposed Housing SEPP to facilitate housing choices and statutory certainty for affordable housing.

This submission contains CCBC's response to the Proposed Housing SEPP. It acknowledges that some concerns raised about the Housing Diversity SEPP Explanation of Intended Effects (EIE) have been addressed and it reiterates some concerns that have not been addressed, or that the Proposed Housing SEPP has introduced.

It is requested that the NSW Government respond to the issues raised before the proposed Housing SEPP is finalised.

If you have any questions in relation to this submission, please contact Council's Strategic Planning Team on 02 9911 6266 or by email to strategicplanning@canadabay.nsw.gov.au.

Yours sincerely,



Paul Dewar
Manager, Strategic Planning

Attachment A – City of Canada Bay Council submission to the Proposed Housing SEPP

This is a submission by the City of Canada Bay to the Proposed Housing SEPP. It follows Council's earlier submission to the Housing Diversity SEPP EIE (dated 4 September 2020).

- Council acknowledges the changes that the Department has made to the Housing SEPP to address concerns raised about boarding houses, to make them affordable in perpetuity and to be managed by a CHP, and to remove boarding houses as a mandated use in the R2 Low Density Residential zone. The City of Canada Bay is supportive of these changes.

It is requested that the Department confirm that boarding houses will be removed by the Department of Planning, Industry and Environment as a permissible use in the R2 Low Density zone for those Councils that have requested the removal of this land use, or whether those Councils will be required to submit individual planning proposals to achieve this outcome.

- Concerns regarding build-to-rent which have not been addressed in the final *State Environmental Planning Policy Amendment (Build-to-rent Housing) 2021*. This SEPP will be rolled-into the Housing SEPP when the SEPP is finalised. Specific concerns are:
 - permitting this typology in the B3 Commercial Core zone. This will have the effect of diluting the commercial focus of this zone.
 - Enabling build to rent housing to convert to market housing after a specified period.
 - assessing developments valued over \$100M as State Significant, as this will remove Council's role in the assessment process.

It is requested that Build-to-rent Housing be removed as a permissible use in the B3 Commercial Core zone, remain as rental housing in perpetuity and for the assessment threshold for build to rent to be increased.

- Concern is raised in relation to infill affordable housing only being required to be retained for 15 years, rather than in perpetuity. Whilst it is noted that the timeframe has been increased from the current 10 years to 15 years, this is still insufficient to create long term housing stability for long-term and whole-of-life renters. Where proponents benefit from incentives to deliver affordable housing, this should be aligned with a consequential requirement to deliver a genuine and long-term public benefit.

It is requested that infill affordable housing remain affordable in perpetuity.

- Concerns was raised regarding the 20% Floor Space Ratio bonus for boarding houses proposed in the EIE. Council therefore notes with concern the further increase in the FSR bonus to 25%. It is difficult to see how developments will satisfy the local

character compatibility requirement where development comprises an additional 25% floor space above the Floor Space Ratio applying to all other development in a precinct. This will be further compounded by there being no accompanying definition or test for local character.

It is requested that the bonus floor space for boarding houses be removed or significantly reduced. It is also requested that a local character definition and test be included in the final Housing SEPP.

- Concerns are raised regarding LAHC being permitted to carry out development for up to 60 dwellings, without consent and which can include market housing. Note that these concerns relate to the current Proposed Housing SEPP provisions and do not relate to any broader Housing SEPP review that may occur in 24 months' time.

Given that LAHC already develop market housing in order to off-set the cost of the affordable housing component, Council objects in the strongest terms to the lack of transparency around this approach. This will have the effect of allowing the LAHC to develop market housing that is not subject to development assessment/consent, in addition to:

- exempting the LAHC from retaining affordable infill housing for 15 years. This will enable market housing to be developed on public land without an obligation to provide affordable housing and, where that housing is provided, enable that housing to be sold in the future.

The draft SEPP provides significant flexibility for LAHC to deliver affordable housing without any obligation to provide that outcome; and

- exempting LAHC from retaining boarding houses that are subject to a Site Compatibility Certificate being provided as affordable housing in perpetuity and from the requirements that they are managed by a Community Housing Provider.

This will have the effect enable LAHC to deliver boarding houses that are developed on land that is not zoned for residential purposes and then sold as market housing.

The draft SEPP provides significant flexibility for LAHC to deliver boarding houses without any obligation to provide affordable housing.

Simply because a government agency is developing land should not mean that standard planning processes and requirements should not be applied. A consequence of provisions in the draft SEPP is that the stated intent and objectives of the policy will not be realised.

It is requested that either the provisions relating to LAHC be removed and independently exhibited, or that:

- **there be an upper limit of 20 dwellings able to be developed by the LAHC without development consent for in-fill affordable housing;**
- **that all infill affordable housing developed without development consent be required to be maintained as affordable housing in perpetuity, and**

- **that all boarding houses developed under a Site Compatibility Certificate by the LAHC be retained as affordable housing in perpetuity.**
- Concerns are raised in relation to the granting of Site Compatibility Certificates that would enable registered clubs in the RE2 Private Recreation zone to be developed for residential purposes, but with no certainty that Clubs are retained on the site. In this circumstance, the supposed public benefit, which comprises the existence of a registered club that services the community is lost and development has been permitted that is otherwise prohibited.

It is requested that provisions for SCCs be removed from applying to registered clubs or as a minimum, be strengthened to require the Club to continue to operate as a registered Club after an SCC is issued.

Regulatory, Planning and Assessment.MBisson/PMcCarthy
Phone: 02 4974 2000
Reference: ECM # 7085626

30 August 2021

Housing Policy Team
NSW Department of Planning, Industry and Environment

Electronic submission via NSW Planning Portal

Dear Housing Policy Team

SUBMISSION ON THE HOUSING SEPP CONSULTATION DRAFT (PHASE 3)

Thank you for the opportunity to provide feedback on the consultation draft Housing SEPP, Environmental Planning and Assessment Regulation amendment and Standard Instrument Order as part of Phase 3. The City of Newcastle (CN) previously provided feedback in response to the Housing Diversity SEPP EIE on 9 September 2020 (attached). CN continues to welcome reform that will deliver a more responsive and equitable housing framework for communities across the State.

Our previous submission highlighted matters that required further refinement and consideration prior to being adopted. This submission will address unresolved concerns and highlight remaining or new matters that are believed to require additional refinement prior to the final Housing SEPP being implemented.

It is noted that the consultation draft excludes the provisions for caravan parks and manufactured home estates, the newly made provisions relating to LAHC social and affordable housing provisions, secondary dwellings in rural areas and BTR, however, these provisions will be included in the final Housing SEPP. CN understands that these matters will be subject to future review of the Housing SEPP and look forward to the opportunity to provide further comment.

The feedback and commentary included herein is based on the consultation draft Housing SEPP and CN's housing needs as identified in the Newcastle Local Housing Strategy (LHS), Local Strategic Planning Statement (LSPS) and extensive experience of CN's Regulatory, Planning and Assessment Team.

CN's LHS has been adopted by Council and endorsed by DPIE and aims to achieve the following housing vision:

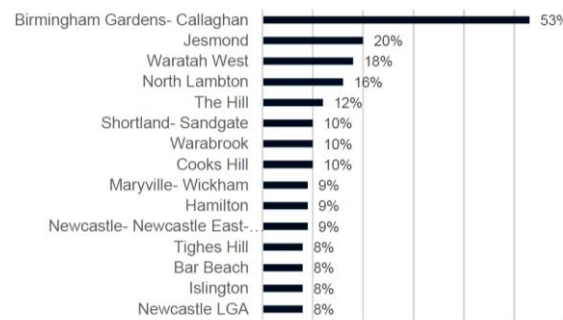
All residents of City of Newcastle will have access to housing that meets their needs, in a community where they have access to employment, facilities and services. As we plan for our growing community, what we love about our City will be maintained and improved for future generations.

Importantly, the evidence report that informed the LHS highlights significant local need for additional purpose-built student housing (PBSH), affordable rental housing, housing for those with disability and adaptable and accessible housing for aging in place.

This submission has been prepared by CN's Regulatory, Planning and Assessment Team and generally follows the structure of the consultation draft Housing SEPP. Comments relating to the Standard Instrument Order and amendments to the Regulation are included where relevant.

Submission on Draft Housing SEPP	
Topic	City of Newcastle Comment
Boarding houses	<p>Definition of boarding houses resulting in standards set for a 'building' rather than a site or room</p> <p>The reference to a 'building' in the definition of 'boarding house' has created ongoing issues at CN and should be revised. Applications consisting of multiple buildings on one site are problematic. Each individual building is a boarding house under the SEPP – both current and proposed. While there is often good design rationale for multiple buildings, boarding houses are not required to be separated if they are less than 3 storeys or less in height. This causes a range of subsequent issues including poor internal amenity and bulk and scale impacts on adjoining properties. Also, the definition allows a proposal to circumvent controls for communal living rooms (CI30(1)(a) and boarding house manager (CI30(1)(e) by splitting the boarding rooms into multiple smaller boarding houses.</p> <p>Importantly, the recent amendments regarding Clause 30AA that have been carried into clause 34 (1)(e) can be negated by any application where each boarding house is a building with only 12 rooms within the R2 zone. It does not limit the number of boarding house 'buildings' proposed, as defined, containing 12 rooms each. CN often receives proposals which consist of 20+ boarding rooms over multiple buildings. It is further noted that applicants may also additionally propose to subdivide the land within the R2 zone and then develop for multiple boarding houses.</p> <p>Requirements for all occupants, not just adults</p> <p>CN supports the updated reference to "residents" rather than "lodgers", but requests reference is made to the total occupancy and not just adults. In a recent LEC case, it was accepted that lodgers are only those paying for the room and therefore excludes the number of children as occupants. This is unsatisfactory as it has ramifications for the rooms size criteria and the resulting amenity for residents. The relationship between adults and children should also be addressed. This should also be a consideration for the co-living definition.</p> <p>Consideration for a "family room"</p> <p>A question which further arises regarding children, is the relation to the adults in the room. In a boarding house arrangement, it is recommended that unrelated adults should not be able to share a room with a child. While it might seem this is unlikely, concern is raised that this is already occurring – the need for affordable accommodation for families is a critical issue in CN.</p> <p>A concept of a 'family room' is suggested where an adult and two children or two adults and a child might be able to share a room as a family unit (possibly allowing an exception to Clause 24 (1)(b). While this might seem very small (even in a 25sqm room), the alternative is splitting a family or the costs of different accommodation.</p>

Submission on Draft Housing SEPP	
Topic	City of Newcastle Comment
	<p>Boarding Houses in the R2 Zone In CN 33% of the boarding houses are currently in the R2 zone, the R2 zone providing an appropriate location for affordable housing. However, the planning concessions provided to boarding houses in the R2 zone through the Housing SEPP will continue to permit developments of an inappropriate scale and design for this zone.</p> <p>CN requests the removal of permissibility for boarding houses in the R2 zone from the Draft Housing SEPP. Councils would then be able to retain this as a permissible use in the LEP and develop their own design guidelines through their DCPs for boarding houses in the R2 zone. While no longer a mandated use in the R2 zone boarding houses will continue to be permissible under the SEPP if within 400m from B2, B4 or equivalent zones.</p> <p>Retaining the name, changing the definition may come with more problems than it solves Community resistance to new boarding houses is a common barrier to their approval. The addition of co-living will help to address this issue for co-living applications but is likely to further direct community opposition to applications for traditional boarding houses. CN suggests a complete rebranding of boarding houses accompanied by a public awareness campaign to educate the community about the vital role of boarding houses in NSW.</p>
Co-living housing	<p>CN welcomes the co-living definition but does not support the restriction on this land use type in the R2 Zone. Posing this restriction through the SEPP fails to acknowledge the variations in councils' zoning. In CN the R2 zone is an open zone permitting most residential land uses including RFBs.</p> <p>CN has a large student population needing adequate affordable housing much of which is currently provided by boarding houses, and in the future co-living. As stated above, much of this housing is within the R2 zone.</p> <p>It can be seen in Figures 1 and 2 that the location of educational institutions plays a key role in determining where the demand for student accommodation arises, and accordingly where many boarding houses are currently found. The removal of the option for accommodation appropriate to students from the R2 zone, Figure 3, will greatly reduce the potential for appropriate and affordable student accommodation near educational institutions in CN.</p>



(Source: adapted from .id community profile 2018)

Figure 1: Newcastle's suburbs with the highest proportion of people attending University (2016)

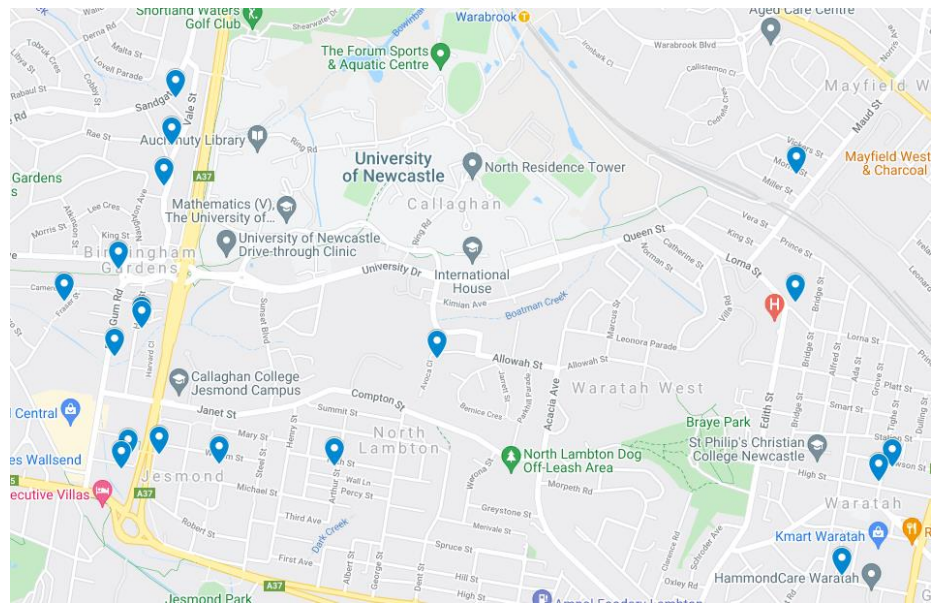


Figure 2: Boarding houses in proximity to Newcastle University

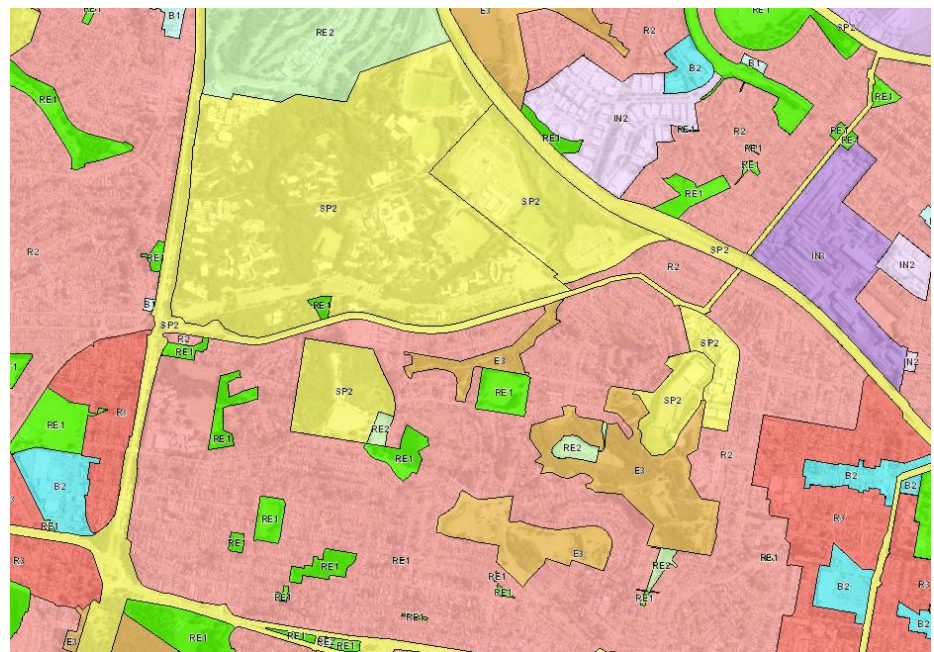


Figure 3: Land use zoning of area accommodating boarding houses near University of Newcastle

Submission on Draft Housing SEPP	
Topic	City of Newcastle Comment
Housing for seniors and people with a disability	<p>Housing for Seniors and People with a Disability There is no reference to people with a disability in the new title for this section, noting that it is lost through the consolidation of the SEPPs. As this type of housing is not only for seniors it is warranted that reference to housing for people with a disability is included in the title to better recognise them in the SEPP.</p> <p>Removal of Site Compatibility Certificates The introduction of prescribed zones and removal of Site Compatibility Certificates (SCCs) is cautiously considered as a positive step in regard to creating certainty for the community and simplifying the planning system.</p> <p>CN do raise concern that the removal of SCCs will make it easier for development applications to be lodged in relation to land which may be inappropriate. Previously this could be considered by the relevant panel which would have prevented a development application from being lodged if the site was considered not suitable. The panel's decision could not be appealed by the applicant. CN is therefore concerned that these matters, usually considered at SCC stage, will be pushed into to the development assessment process, potentially leading to increased development assessment timeframes and more appeals. To help avoid this it is considered necessary that the information required to be submitted by the applicant to address Clause 25, such as cumulative impact assessments, be carried over to the new SEPP.</p> <p>Seniors housing in RE2, SP1, RU5 and R2 zones Clause 76 requires the consent authority to be satisfied that <i>"at least 50% of the site adjoins a residential zone"</i>. Clarification on what this means is required as it is not clear if this refers to the perimeter or site area, or if this is the perimeter or site area of the existing site or the seniors housing development site. It's also noted that there is no clarity regarding the zoning of road reserves leading to uncertainty for how this clause would apply to sites with road reserves zoned RE2 surrounding the site, with residential zoned land adjoining the road reserve.</p> <p>CN raise specific concern that RE2 zoned land in the LGA does not have a maximum FSR or HOB control under the LEP. Matters such as potential bulk and scale were generally considerations included in the SCC process (existing Clause 25(5)(b)(v)). Concern is therefore raised that the move to prescribed zones and no stringent requirements for bulk and scale considerations in the SEPP will lead to overbearing development adjoining low density residential zones and open space. Further concern is also raised that there are no requirements to retain usable open space, such as for sport or recreation, as part of development on RE2 zoned land. The retained reference to 'open space' in the Schedule 4 Environmentally Sensitive Land is not specific enough to protect sporting field and the like from development.</p> <p>The SP1 zone applies to land in Newcastle LGA subject to the Three Ports SEPP. Hospitals are a permitted use and parts of the SP1 zone adjoin residential zoned land making it theoretically possible to develop seniors housing (currently prohibited) within the Newcastle Port lease area. The relationship between the Housing SEPP and Three Ports</p>

Submission on Draft Housing SEPP	
Topic	City of Newcastle Comment
	<p>SEPP should be identified to ensure the aim of the Three Ports SEPP, such as <i>"to allow the efficient development, re-development and protection of land at Port Botany, Port Kembla and the Port of Newcastle for port purposes"</i>, are not deteriorated by the move to prescribed zones.</p> <p>Registered Clubs The EIE noted the intention to clarify the conditions relating to the proposed inclusion of a registered club as a component of senior's housing development. This requirement was supported as the full extent of the development, including traffic generating development such as registered clubs, should be included for consideration by councils at SCC stage. CN maintains the position that these matters should be considered even with the removal of SCCs and relevant provisions included in the SEPP to allow for the assessment of these cumulative impacts.</p> <p>CN also maintains that broader consideration should be given to reducing the scale of on-site registered clubs and requiring that they remain part of the site. In this regard, the subdivision provisions and / or the ability to subdivide of registered clubs should not be permitted. The SEPP appears to provide a mechanism for the development of standalone clubs once the development is complete.</p> <p>Access to Services CN supported the update to the location and access to facilities provisions, however, identified that the minimum services required needed to be clarified. CN maintains that the SEPP could account for the transition to certain on-line services and telehealth, so there may be an emerging need for NBN availability to rooms, in amongst others, as a criterion for "access" moving forward.</p> <p>CN also maintains that the capacity for local commercial and medical services to adequately service residents should be a consideration. For example, 2000 aged care residents relying on one GP in a small commercial centre would appear to be inappropriate. Additional requirements could be included for applicants to demonstrate that local services are capable of adequately servicing residents or that supplementary on-site services are provided to take the load off local services that are at or over capacity and should be required to be submitted with the DA.</p> <p>Environmentally Sensitive Land The update to Environmentally sensitive land in Schedule 4 includes reference to <i>Land identified in another environmental planning instrument as follows or by a similar description— flood planning</i>. Existing Schedule 1 only identified land in a floodway and high flooding hazard area as environmentally sensitive land which aligned with the Flood Plain Development Manual used by councils and reflected in LEP and DCP controls. The term flood planning is broad and further consideration of the new required 'Flood Planning' and optional 'Special flood considerations' clauses in LEPs should be considered so that the SEPP interfaces coherently with the amendments to LEPs and new flood prone land package. Further clarification of 'open space' and 'natural wetland' should also be considered so there is less ambiguity.</p>

Submission on Draft Housing SEPP	
Topic	City of Newcastle Comment
	<p>The clarification of other terms to interface with existing EPIs is considered positive. While they are noted as being significantly less broad, site suitability can be considered as part of development assessment.</p> <p>Increased Bonuses CN does not raise particular concern to the increased bonuses for vertical villages. However, detail should be provided in the SEPP to clarify how bonuses are applied when there are other bonuses permitted in LEPs in order to prevent local FSR and building height bonuses being applied to the bonuses already provided under the Housing SEPP. This should be done wherever bonuses are offered under the SEPP.</p>
Retention of existing affordable rental housing	<p>It is noted that Part 3 remains unchanged since the commencement of the amendments came into effect in February 2021. While the amendments are a positive step towards maintaining affordable housing, CN maintains concern that there is no stringent requirement for replacement accommodation to be provided within the same area. It is again recommended that provisions be included requiring that alternative accommodation or replacement affordable rental housing be provided within their established support networks and communities such as the same or neighbouring suburb to ensure such levies provide benefit for the effected community.</p> <p>CN also requests that the document "<i>Guidelines for Retention of Existing Affordable Rental Housing October 2009</i>" are updated, or replaced, for the benefit of both applicants and consent authorities. Wider communication with the development industry regarding the changes to Part 3 may also be helpful in this regard.</p>
Revised definition of affordable housing	<p>CN supports the addition of a definition for affordable housing to the Act, standardising the range of definitions currently used. However, the revised definition of Affordable housing is unclear and should be adjusted to separate the definitions for 'affordable housing' and 'very low to moderate income households'.</p> <p>A suggested revision to the definition is as follows:</p> <ol style="list-style-type: none"> (1) Affordable housing is housing for which very low to moderate income households pay no more than 30% of their gross income in rent. (2) In this Policy, a household is taken to be a very low income household, low income household or moderate income household if the household— <ol style="list-style-type: none"> (a) has a gross income within the following ranges of percentages of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) or the Rest of NSW (Greater Capital City Statistical Area)— <ol style="list-style-type: none"> (i) very low income household—less than 50%,

Submission on Draft Housing SEPP																																					
Topic	City of Newcastle Comment																																				
	<p>(ii) low income household—50—less than 80%, (iii) moderate income household—80—120%</p> <p>(b) is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under the Scheme.</p> <p>Further to the above, additional consideration should be given to the accessibility of housing for different income brackets. In CN there is no rental or purchase product affordable to very low income renting households in need of housing in the future.</p> <p>CN also wishes to highlight the potential issues of grouping CN in with the 'Rest of NSW' given the very different household income profiles, cost of housing and resulting incidence of rental stress.</p> <p>There were substantially less households in the LGA on very low incomes, as defined above, than for Rest of NSW (18.3% compared with 20.5%), and also for low incomes (17.9% compared with 21.7%) and for moderate incomes (16.7% compared with 18.2%). In total, 53% of households in the LGA were very low, low or moderate incomes compared with 60% for Rest of NSW, which is not surprising given the higher median income. Despite the apparent affluence of the CN population relatively, Figure 4 shows the far higher rates of housing stress experienced by CN residents compared with Rest of NSW.</p> <div><p>Rental Stress 2016</p><table><thead><tr><th></th><th colspan="3">Newcastle (C)</th><th colspan="3">Rest of NSW</th></tr><tr><th></th><th>Very Low</th><th>Low</th><th>Moderate</th><th>Very Low</th><th>Low</th><th>Moderate</th></tr></thead><tbody><tr><td>Severe Housing Stress</td><td>45</td><td>26</td><td>3</td><td>46</td><td>17</td><td>2</td></tr><tr><td>Moderate Housing Stress</td><td>29</td><td>46</td><td>49</td><td>35</td><td>44</td><td>32</td></tr><tr><td>Not in Stress</td><td>25</td><td>28</td><td>48</td><td>19</td><td>39</td><td>65</td></tr></tbody></table></div> <p>Figure 4: Housing Stress among Very Low, Low & Moderate Income Renting Households (%)</p> <p>We are concerned that this grouping may result in an oversimplification of the high need for affordable housing in CN.</p>			Newcastle (C)			Rest of NSW				Very Low	Low	Moderate	Very Low	Low	Moderate	Severe Housing Stress	45	26	3	46	17	2	Moderate Housing Stress	29	46	49	35	44	32	Not in Stress	25	28	48	19	39	65
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SEPP Affordable Housing (Revised Schemes)	70	Affordable Housing Contributions Schemes are the primary mechanism for Councils to facilitate the provision of much needed affordable housing. Despite this, the process is convoluted and expensive and the outcomes unpredictable and often inadequate.																																			

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	<p>An alternative approach would be to set a contribution rate that can be applied across the LGA without Council's having to lodge multiple planning proposals justifying different rates for different areas. This approach is supported both by Council and industry as it provides greater clarity.</p> <p>In the absence of a revision to the SEPP CN requests further support to local government to prepare and implement AHCSs by:</p> <ul style="list-style-type: none"> • Resourcing the implementation of strategic planning efforts required to prepare and implement an AHCS. • Better clarity on DPIE's expectations to support AHCSs. • State Government recognising the complexity of AHCSs. Only 4-5 Councils have been able to work through the AHCS requirements to achieve a clause in their LEP enabling such contributions. • Helping regional councils address the difficulty to capture adequate value uplift to enable successful AHCSs. Smaller value uplifts associated with lesser density increases in regional areas make AHCSs less effective.

In summary, CN acknowledges the importance of facilitating the delivery of more diverse and affordable housing types and the benefit that the home building sector can have in assisting the economic recovery of NSW following the COVID-19 pandemic. CN look forward to the opportunity to provide comment on Phase 4 changes or further review of other matters in relation to the Housing SEPP such as build-to-rent and short-term-rental accommodation in the future.

If you require any further information, please contact Patricia McCarthy, Urban Planning Section Manager on (02) 4974 2879 or pmccarthy@ncc.nsw.gov.au.

Yours faithfully



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9 September 2020

Housing Policy Team
NSW Department of Planning, Industry and Environment
Electronic submission via NSW Planning Portal

Dear Housing Policy Team

SUBMISSION ON THE HOUSING DIVERSITY SEPP EIE

Thank you for the opportunity to provide feedback on the Explanation of Intended Effect (EIE) for the proposed Housing Diversity SEPP. The City of Newcastle (CN) welcomes reform that will deliver a more responsive and equitable housing framework for communities across the State.

CN supports many of the proposed reforms that address concerns with the existing housing SEPPs particularly relating to boarding houses and seniors housing. This submission highlights matters that require further refinement to ensure the final Housing Diversity SEPP delivers the desired outcomes with due consideration for local housing needs.

The feedback and commentary included herein is based on CN's housing needs identified in the draft Local Housing Strategy (LHS), Local Strategic Planning Statement (LSPS) and extensive experience of the development assessment and regulatory teams. In addition to feedback on the proposed reforms, additional matters are raised in relation to the existing SEPPs that could be incorporated into the overall reform package (Attachment A).

As you are aware, councils are in the process of preparing and finalising Local Housing Strategies that address local housing needs. At the time of writing, CN's draft LHS is on public exhibition and aims to achieve the following housing vision:

All residents of City of Newcastle will have access to housing that meets their needs, in a community where they have access to employment, facilities and services. As we plan for our growing community, what we love about our City will be maintained and improved for future generations.

Importantly, the evidence report that informed the draft LHS highlights significant local need for additional purpose-built student housing (PBSH), affordable rental housing, housing for those with disability and adaptable and accessible housing. These housing groups represent some of the most vulnerable groups within our community, each having specific locational and design requirements that differs across all Local Government Areas.

Given the significance of the reforms it is recommended that an opportunity to review and comment on the draft written instrument be provided to ensure the intended outcomes are achieved through the Housing Diversity SEPP. This submission has been prepared by CN's Urban Planning and Assessment Teams and follows the structure of the EIE.

INTRODUCING NEW HOUSING TYPES

Generally, the introduction of new land uses requires in-depth research and input from practitioners to test their appropriateness in the context of the broader planning system. The

EIE acknowledges the significant issues related to boarding houses and seniors housing (existing defined terms) and demonstrated work with councils to understand the true impacts of these forms of development. A similar, more rigorous approach could be adopted prior to the introduction of the new housing terms including a review of the draft instrument. CN would welcome the opportunity to contribute to any further review and refinement of the proposed land uses.

BUILD-TO-RENT

The proposed introduction of Build-to-rent (BTR) raises several issues that must be addressed. The public benefit of BTR has not been demonstrated sufficiently, the proposed inclusion of BTR in the B3 Commercial Core undermines the State and local strategic framework and its potential impacts on the function and role of the Newcastle City Centre will be irreversible. These matters are further outlined below.

The EIE notes that there is a “growing need for secure, long term rental options” within the current housing market and recommends the introduction of BTR as the proposed remedy. Whilst there may be a place for BTR within the housing mix in the future, many of the uncertainties experienced by renters prior to, and exacerbated by, COVID require immediate reform. In this regard, it is recommended that the State consider reviewing tenancy rights for existing rental stock under the *Residential Tenancies Act 2010* to address issues raised regarding security of tenure, time-restrictions on rent increases and further simplifying the tribunal process.

From a land use perspective, CN objects to the proposed inclusion of BTR within the B3 Commercial Core zone. The EIE fails to demonstrate any benefit nor has it considered the significant implications from its introduction into the B3 zone. Land zoned B3 Commercial Core represents a very small portion of CN and introducing an exclusively residential land use will undermine the aims of the established State and local strategic framework including the Newcastle Urban Renewal Strategy, which recommended removal of residential flat buildings from the B3 Zone, Greater Newcastle Metropolitan Plan (GNMP), Newcastle LSPS (LSPS) and the objectives of the B3 zone.

The GNMP aims to support the “emerging commercial hub” around the Newcastle Interchange as part of the Hunter Region’s ‘Metro Heart’. Specifically, Action 1.2 of the GNMP states (emphasis added):

*1.2 Hunter Development Corporation will reinforce the role of the city centre in providing professional, financial and office employment by **increasing commercial floor space** in the West End to enable growth and relocation of businesses.*

Action 14.2 of the LSPS seeks to implement the recommendations of the Newcastle Employment Lands Strategy (November 2019) prepared by SGS Economics, which highlighted the following for the Newcastle City Centre:

*The **western end should build on its current commercial role through additional commercial development with supporting retail and services. This area should be the primary destination for commercial development in the Newcastle LGA in the foreseeable future.** Some retail development is appropriate, this would improve amenity and the competitive offer of the CBD for commercial office development. Retail activity should focus on providing services to local workers and visitors rather than replicating the retail offer in other parts of the City.*

CN has substantial theoretical capacity under NLEP 2012 to accommodate residential land uses in other locations that meet the BTR criteria stated in the EIE, without cannibalising commercial floor space capacity and undermining the established strategic framework.

Importantly, introducing BTR effectively zones the land residential and will erode existing commercial capacity and the ability for agglomeration economies to form for our key sectors, currently health and education, and any emerging industries. Developers will target B3 zoned land due to its lower land value and the proposed 50% reduction on land tax, whilst providing a product that isn't more affordable than other rental properties. Existing commercial buildings, including offices, hotels and serviced apartments, could also be converted to BTR further reducing their commercial function and the capacity for our commercial centres to provide space for knowledge-intensive and emerging industries in the longer term.

The proposed ability to strata BTR buildings after a 15-year period is not supported. Strata subdivision removes the benefits of BTR outlined in the EIE (single ownership, asset recycling, longer term leases) and dislocates long-term residents (min. 3-years) to relocate to an area outside their established community. Also, sites developed for BTR are in "well-located areas, close to transport and amenity" and should continue to be available for subsequent institutional investment. There may be a market for older BTR buildings that require lower investment and provide more affordable rents due to their age relative to other rental stock.

Finally, BTR residents should have access to well-designed apartments with good amenity. BTR is a form of apartment designed for long-term occupancy and should be subject to SEPP65 to provide "a better living environment for the residents". The design considerations under SEPP65 and the Apartment Design Guide (ADG) aim to improve the efficiency of apartments, increase solar access and natural ventilation and the provision of adequate private open space and balconies. These design considerations are now, more than ever, fundamental to personal and community health and wellbeing. The case for requiring compliance with SEPP65 is further strengthened by the proposal to permit future strata subdivision of these buildings.

BTR HOUSING IN REGIONAL AREAS

Over the past six years there has been a general downward trend for vacancy rates in CN. As of July 2020, the vacancy rate for the Hunter Region sits at 0.9%¹ which is well below the REINSW supply/demand benchmark (3%), indicating a lack of adequate supply. This medium-term trend suggests that there is scope to provide additional rental stock with the option to include smaller-scale BTR as part of the rental market.

However, further consideration is required to develop appropriate locational and design guidelines as well as tenancy rights and disposal mechanisms. Finalisation of the LHS and preparation of local character statements provide a great opportunity to dovetail with this work. CN recommends that the Department convene a group of regional councils to discuss the opportunities for smaller scale BTR. As demonstrated above, the extent of the issues related to BTR requires careful consideration and should be developed in consultation with councils in the finalisation and implementation of the LHS. CN welcomes any opportunity to contribute to this work.

BTR RECOMMENDATIONS

- Consider additional reform to the *Residential Tenancies Act 2010* targeted at providing secure, long-term rental options.
- Remove BTR from B3 Commercial Core zoned land.

¹ ['Residential Vacancy Rates – Hunter Region'](#) – SQM Research (2020)

- BTR must be subject to SEPP65 and the ADG.
- A working group of regional councils be convened to discuss opportunities for smaller scale BTR in regional areas.

PURPOSE-BUILT STUDENT HOUSING

CN welcomes the introduction of Purpose-built student housing (PBSH) as a land use and believes that it could provide a range of direct and indirect benefits. Student housing needs to differ from other forms of specialised housing with an emphasis on function, affordability and accessibility to public transport, educational establishments and adequate services being the key drivers of design and location.

There is significant demand for student housing in CN with the University of Newcastle, attracting both domestic and international students. The future expansion of the University of Newcastle, in addition to Hunter TAFE and the future Nihon University campus, will increase the demand for PBSH, as well as alternative housing options for students in CN.

As previously noted, CN's draft LHS highlights a need for PBSH and it is expected that further work will be commenced following its adoption in determining appropriate locational requirements and design guidelines. PBSH needs clear parameters regarding its function, ownership, ongoing management and occupancy. The proposed development standards recommend a minimum room size of 10m² but notes that there may be scope for smaller rooms where a developer can "demonstrate that a smaller area has adequate internal amenity". This standard should not be discretionary as it will ultimately result in disagreements about what constitutes adequate amenity and shared facilities provided to offset smaller room sizes. It is recommended that the development standard be a minimum without scope for variation.

It is also recommended that SEPP65 apply over a prescribed threshold to ensure that adequate amenity and living standards are maintained for students and appropriate building separation is provided between PBSH buildings.

PBSH RECOMMENDATIONS

- Development standard for room size be a non-discretionary minimum without scope for variation.
- SEPP65 apply to PBSH over a prescribed threshold.

CO-LIVING

The introduction of co-living as a new land use is supported as distinct from the updated boarding house land use. Separating the land use out of the boarding house category better reflects that this is not an 'affordable' housing type but rather another housing option with demand in the current housing market. CN notes that "new generation boarding houses" (co-living) have been a popular form of development often providing accommodation for students and lone-person households.

Under the definition, it is unclear what a 'private room' is being compared to if it is not self-contained with kitchen and bathroom facilities, the alternative could be large open dorm rooms. The term 'rooms' is confusing when it refers concurrently to the 'dwelling' and the 'room size' and should be further clarified. The proposed co-living definition should also specify "total occupancy" based on all occupants, not just "adults".

CO-LIVING RECOMMENDATIONS

- Refine the definition to clarify the term ‘rooms’ and for co-living to refer to total occupancy.

1. SEPP (Affordable Rental Housing) 2009

Boarding houses

The proposed changes to the boarding house definition and accompanying provisions are generally positive and will accurately reflect the intended role of boarding houses in supporting our community. Not mandating their inclusion within the R2 zone is also a positive amendment that allows councils to “opt in” in circumstances where boarding houses may be appropriate in lower density areas with high accessibility. Additional information is requested regarding the timing for councils to decide to include/exclude boarding houses in the R2 zone.

Definition

The inclusion of the affordability requirement for the buildings to be managed by a registered CHP is a significant change and one which CN believes will provide a substantial public benefit.

The definition refers to a ‘building’ and applicants often submit applications consisting of multiple buildings on one site, pointing to the fact that each individual building is a boarding house under the SEPP. While there will often be good design rationale to support multiple buildings, boarding houses are not required to be separated which will cause a range of subsequent issues including poor internal amenity and bulk and scale impacts on adjoining properties. Also, the definition allows a proposal to circumvent controls for communal living rooms (CI30(1)(a)) and boarding house manager (CI30(1)(e)) by splitting the boarding rooms into multiple smaller boarding houses.

Importantly, the recent amendments regarding Clause 30AA are readily negated by any application where each boarding house is a building with only 12 rooms within the R2 zone. It does not limit the number of boarding house ‘buildings’ proposed, as defined, containing 12 rooms each. CN often receives proposals which consist of 20+ boarding rooms over multiple buildings. It is further noted that applicants may also additionally propose to subdivide the land within the R2 zone and then develop for multiple boarding houses.

Furthermore, the reference to “lodgers” in the definition needs to be updated to “residents” and refer to total occupancy, not just adults. In a recent LEC case, it was accepted that lodgers are only those paying for the room and exclude the number of children as occupants². This is unsatisfactory as it has ramifications for the rooms size criteria and the resulting amenity for residents. This should also be a consideration for the co-living definition.

Affordable rental rates mechanism

The proposed alternative affordable requirement by requiring affordable rents for a minimum of 10 years (after which they revert to market rates) is not supported as an alternative to the updated definition. This proposal should be further investigated with CHPs who have well-established approaches to the recycling or divestment of their portfolios whilst considering retaining social connection for longer term residents. Whilst market rates for older stock may provide a more affordable option for certain renters, boarding houses should remain rent-controlled by CHPs and available for households on very low to moderate incomes.

FSR bonus

The proposed change to a percentage-based bonus removes the inconsistencies of the current FSR bonus arrangement. The nominated 20% bonus will result in more modest boarding

² Paragraph 125 of [Buman v Newcastle City Council \[2020\] NSWLEC 132](#)

house development with a bulk and scale more aligned with the surrounding densities and character.

The discrepancy between the recommended 10% by Councils requires further explanation. The viability rationale in the EIE provides no evidence base to indicate how the 20% was determined nor does it outline any case studies to support it. Whilst all forms of affordable housing are supported there have been poor streetscape and amenity outcomes as a result of boarding houses under the current ARHSEPP. Providing a quantum of housing should not come at the expense of quality outcomes in the built environment.

LAHC boarding houses

Furthermore, it is noted that whilst boarding houses will no longer be mandated in the R2 zone they will still be permissible when developed by or on behalf of LAHC on Government-owned land up to a maximum of 12 rooms.

Additional feedback on the existing ARHSEPP provisions for boarding houses has also been prepared and should form part of this reform package (Attachment A).

Group homes

The proposed approval pathway for the conversion of existing dwellings into group homes should be further detailed. The EIE implies that it may be possible to convert existing dwellings into group homes as exempt development. At the very least, this should be complying development to ensure that the group home conversions satisfy minimum requirements in line with the needs of residents. It is recommended that Aged and Community Services Australia be consulted in developing appropriate standards and an approval pathway.

Amendment of Part 3

The proposed amendments to Part 3 of the ARHSEPP are supported, albeit long overdue. The ability for councils to levy contributions to offset the loss of existing affordable rental housing is a valuable mechanism to provide alternative affordable accommodation. However, it is noted there is no requirement for replacement accommodation to be provided within the same area resulting in displacement of residents from their established community. It is recommended that provisions be included requiring that alternative accommodation or replacement affordable rental housing be provided within their established support networks and communities.

Removing the 28 January 2000 date, clarifying where the burden of proof lies in demonstrating the low-rental status of buildings and nominating the 5-year period prior to lodgement will simplify the evidence gathering and assessment process. Importantly, the definition for 'low-rental dwelling' will need to be explicit regarding the trigger within the 5-year period. Based on the wording in the EIE it appears that "low-rental at any time within the 5 years preceding the lodgement" would include the rents falling below the median for a single quarter. CN requests that this be clarified either within the definition or in an update to the accompanying guidelines.

Secondary dwellings

CN has no land zoned rural, however, the following comments are provided on the current provisions for secondary dwellings.

The use of 'total floor area' under Clause 22(3)(b) often leads to debate as it is not defined and is different from 'gross floor area'. The inconsistencies are further exacerbated by the complying development controls addressing 'floor area', making it unclear when an assessment can rely on the terms within the schedule. In some instances, secondary dwellings will include carports, decks and awnings which contributes to overall density and the provision of adequate landscaping and setbacks. This matter should be addressed within the update to the provisions to provide consistency in calculating floor space and managing the overall bulk and scale of secondary dwellings.

Delivery of social housing

The expedited delivery of social housing is supported by CN, particularly considering the significant need across Australia to tackle homelessness and housing stress amongst very low and low-income households. The Australian Housing and Urban Research Institute (AHURI) identifies a need for 727,300 additional social housing dwellings over the next 20 years³. Many of the benefits associated with social housing include “preventing homelessness, protection from domestic violence, social inclusion, [and] educational attainment” and that it should be viewed as a form of social infrastructure⁴.

As such, the proposal to promote partnerships between NSW LAHC and other social housing providers to deliver integrated development, comprising private, affordable and social housing, is supported. Further consideration should be given to other examples of development that provides a mix of tenure and subsidised housing and whether there is evidence that a certain mix of housing types within the same development provides better social outcomes in the longer term.

Additional details are required regarding the ongoing management of these buildings, particularly with a mix of public and private ownership within a single building.

Self-assessment/approval provisions

As noted above, the significant need and public benefit from the delivery of social housing is one of the critical housing issues facing the country. Therefore, the proposed provisions to expand the type and number of dwellings (8.5m and under) that LAHC can self-assess from 20 to 60 is supported provided the updated urban design guidelines to be prepared require consideration of local character and context. The guidelines should require consideration of both existing and desired future character as expressed in the zone objectives of the LEP, and the priorities and actions of the LSPS and LHS. It is requested that councils be provided with an opportunity to review and provide feedback on the guidelines.

2. SEPP (Housing for Seniors or People with a Disability) 2004

Update Schedule 1

The current wording under Schedule 1 – ‘Environmentally sensitive land’ should be retained as it is intentionally broad to risk the development of seniors housing proposals on sensitive or constrained land. However, further consideration should be given to the term ‘coastal protection’ and whether it captures all terms used under the SEPP (Coastal Management) 2018, as not all areas should be excluded for seniors housing.

Location and access to facilities provisions

CN supports the update to the location and access to facilities provisions, however, the minimum services required needs to be clarified. The availability of medical and other support services is especially important for resident wellbeing many of which are provided including those provided ‘on-site’. The SEPP could account for the transition to certain on-line services and telehealth, so there may be an emerging need for NBN availability to rooms, in amongst others, as a criterion for “access” moving forward.

Another important consideration is the capacity for local commercial and medical services to adequately service residents. For example, 2000 aged care residents relying on one GP in a small commercial centre would appear to be inappropriate. Additional requirements could be included for applicants to demonstrate that local services are capable of adequately servicing residents or that supplementary on-site services are provided to take the load off local services that are at or over capacity.

³ [‘Social housing as infrastructure: rationale, prioritisation and investment pathway’](#) – AHURI, 2019

⁴ [‘The case for social housing as infrastructure’](#) – AHURI, 2019

Site Compatibility Certificates (SCC)

The proposed extension for the validity of SCCs to five years is supported, acknowledging the scale and complexity of DAs for seniors housing development. However, it would be helpful to understand how far progressed the assessment process has been for DAs that have had an SCC lapse and the reasons for the delay. The delays experienced in assessment timing may be attributed to a poorly resolved scheme or an incomplete application with unsatisfactory DA documentation.

CN notes that whilst the extra time afforded is consistent with SCCs for the development of RFBs by public authorities or social housing providers, there needs to be provision for a requirement to lodge a DA within a reasonable period following issue of a SCC.

Registered clubs

The EIE notes the intention to clarify the conditions relating to the proposed inclusion of a registered club as a component of senior's housing development. This requirement is supported as the full extent of the development, including traffic generating development such as registered clubs, be included for consideration by councils at SCC stage.

Broader consideration should be given to reducing the scale of on-site registered clubs and requiring that they remain part of the site. In this regard, the subdivision provisions and/or the ability to subdivide off registered clubs should not be permitted. The SEPP appears to provide a mechanism for the development of standalone clubs where they should remain an ancillary use to a senior's development.

Parking concessions

The proposed clarification of parking concessions seems reasonable, provided that a seniors housing development satisfies the accessibility requirements stipulated in the SEPP. However, it is noted that demand for private vehicle usage will remain for a number of residents and the new LAHC development model is untested and therefore CN cautions providing unfettered flexibility in the provision of on-site car parking.

We would be happy to elaborate on our submission. Should you have any questions, please contact Dan Starreveld, Senior Urban Planner on 4974 2964 or email dstarreveld@ncc.nsw.gov.au.

Yours faithfully



Michelle Bisson
MANAGER GOVERNANCE

Attachment A – Additional feedback on existing SEPPs

Attachment A – Additional Feedback on existing SEPPs

SEPP (Affordable Rental Housing) 2009

Clause	Feedback
CI4 & 29(2)e) Parking and “Accessible Area”	<p>Concerns are raised regarding the extent of parking provided for boarding houses based on the <i>accessible area</i> definition. The context of the accessible area within SEPP(ARH) may be appropriate within Sydney (e.g. inner or middle ‘ring’ suburbs) where public transport is more developed and / or retail / commercial facilities are more likely to be within a reasonable walking distance.</p> <p>In areas within the outer ring or away from Sydney (e.g. Newcastle), the <i>accessible area</i> definition may be technically met by a proposal but doesn’t generally meet the transport needs of residents. While meeting the <i>accessible area</i> definition may allow access to one desired location/element such as university, employment and retail / commercial services, it often leaves residents needing other alternatives to access all intended locations.</p> <p>Typically, this results in boarding house sites having many more cars, resulting in unreasonable on-street parking impacts where residents can afford the options (e.g. often students). Alternatively, residents may need to rely on multiple bus trips or walk long distances. It is noted that the parking rate change for non-social providers housing is a positive step in this respect.</p>
CI 4 Social Housing Provider	Within the definition subclause c) and g) should be provided more clarity to avoid debate.
CI 25/CI30(1)a)	<p>The <i>communal living room</i> definition clearly infers a level of amenity for future residents as an intention and is a mandatory component for a boarding house with more than 5 rooms. Nothing within the SEPP details the quality or especially size of the facilities(s) – there is no scaling of the communal room based on the size of the boarding house. The reference to usability is that a communal room be ‘available to all lodgers’ – this has been found to be insufficient in the LEC to achieve real increases in the size of communal rooms.</p> <p>While the clauses may be appropriate for boarding houses of 5-10 rooms, this becomes increasingly problematic once the size of the development increases (e.g. 20 or more rooms) – especially when the boarding rooms have no or limited kitchen/bathrooms facilities.</p> <p>It is suggested that the <i>communal living room</i> criteria be made scalable to the size of the development (e.g. the size of the communal room should increase as the number of rooms increase). Additionally, the size of the communal living room(s) could be differentiated based on whether the boarding rooms are self-contained or not – larger minimum requirements for <i>communal living rooms</i> where the boarding rooms have no or limited facilities.</p>
CI 29(b) – Front Setback Landscape Area	This subclause needs to be further developed regarding minimum requirements. It is suggested that the clause needs to:

Clause	Feedback
	<p>i) where there is a front setback required in the zone/area (e.g. existing building line), that the boarding house complies with the setback and that it be appropriately landscaped, OR</p> <p>ii) where there isn't a front setback required, a boarding house may be at zero/near zero setback (i.e. needs to address what's appropriate to be located at ground floor at zero setback – not boarding rooms, maybe communal living area or mixed use boarding house with commercial premises at ground floor.</p> <p>This clause should be clear that the front setback can't be used for the landscape area for the 'residents' open space etc.</p>
CI29 c) – Solar Access	<p>This is potentially a very limited test as the <i>communal living room</i> does not have an area requirement and hence this clause could be met by one window achieving the numerical criteria. Additionally, none of the boarding rooms are required to achieve numerical solar access – this should place greater emphasis on the communal living room having adequate solar access.</p>
CI29 d) – Private Open Space	<p>The private open space needs to be positioned to achieve at least 2 hours of sunlight on 21 June between 9am and 3pm. What is the <i>private open space</i> – it is undefined and as a result, applications have been received proposing covered areas with walls on 2-3 sides. Other than the possible landscaping at 29c) above, there does not appear to be any requirement for landscaping.</p> <p>The private open space is not scalable to the size of the development – it is static at 20m²/ 3 metres wide regardless of 5 boarding rooms or 50 rooms. This is especially onerous where the proposal is a large boarding house development with relatively small rooms (no individual facilities) and proposed <i>communal living room</i> are also undersized.</p> <p>Also, manager's open space should include solar access and design/position requirements (e.g. should be located directly accessible from the proposed managers accommodation).</p>
CI29 e) Parking	<p>See comments above discussing <i>accessible area</i> definition.</p>
CI 29 f) vs CI30 c)	<p>Lodgers and Room Sizes. The SEPP internally appears to be somewhat inconsistent or contradictory. The language used most of the time is 'lodger' but at CI30c) the reference is 'adult lodger'. This leads to confusion regarding the desired occupancy and outcome. Specifically, the question arises regarding adult vs children within boarding houses proposals in terms of rooms sizes, facilities, access to open space, separate toilets (or overall design etc.).</p> <p>The amenity of future residents is a concern (especially if rooms are not self-contained and potentially crowded). There is also the issue of separation of non-related adults from children. Considering that</p>

Clause	Feedback
	at times residents of boarding houses can be from vulnerable groups, the potential conflicts should be better addressed.
CI30(1)(b)	At times proposals will have the full 25m ² plus a separate bathroom and relatively large kitchen towards 35m ² (size of a studio / bedsit / small apartment). While there is nothing wrong with this per se – these designs are typically more aimed at providing small dwellings than boarding rooms and avoiding legislation such as SEPP 65 and the ADG.
CL30(1) (b) vs 30(1)e)	There needs to be clarity regarding the boarding house manager. Additionally, subclause e) refers to boarding room or dwelling for the site manager – it needs to be clarified that this is not subject to the 25m ² limit (reference to dwelling certainly infers that the boarding house manager is excluded).
CL 30(1)h) vs 29(2)e)	It is queried why bicycle and motorcycle parking is a development standard, yet car parking is a 'do not refuse clause'. Potentially they should be the same one way or another.
CI 30A – Character 'tests'	<p>The introduction of Clause 30A to the SEPP is positive, although further controls need to be developed within the other clauses to assist in this respect.</p> <p>Applicants attempt to pursue designs that fill an allotment with large 'long single boxes' that are built to the height standard, setback and building envelope limits and are only broken up by the limited parking and landscape requirements (some of which are partly reflective of the DCP controls).</p> <p>As boarding houses don't need to meet as many other requirements (e.g. landscaping, parking, setbacks, ventilation & BCA etc.) they are able to be much more basic designs. Council may be able to attempt to address these issues by separate DCP controls, but difficulties often arise where applicants argue the DCP controls are in conflict and inconsistent with the SEPP (ARH).</p> <p>It is further noted that applicants often expect to achieve the 'bonus FSR' under Clause 29(1)c) which conflicts with Clause 30A. It is suggested that boarding houses should be subject to design controls/SEPP 65 (even if specific design elements are developed for boarding houses) when the size and scale exceeds a nominated threshold.</p>

SEPP (Housing for Seniors or People with a Disability) 2004

Clause	Feedback
CI4/4A – Land to which Policy applies	<p>The clause needs to be simplified and clarified (esp. considering Sch1 is being reviewed). Rather than clauses adding and subtracting permissibly, most of which don't address current zone terms, just state its permissible in zones X, Y & Z, or where land use A, B and C are allowed.</p> <p>Are the zones adjoining urban purposes appropriate anymore? Is the associated with a registered club even appropriate? The clause is now a rewrite of 20 years of changes and is overtly convoluted. It is further noted that the Standard instrument has a senior's definition which adds to the confusion around 'seniors housing'.</p>
CI 5/ Schedule 1	Needs to be clarified considering significant amount of planning legislation change.
Clauses 11 RCF, 12 Hostels & 13 Infill self-care & CI42 – Reasonable Access	<p>Provision of services needs to be clarified such that these are generally available as a direct part of the overall complex and not a 'hire in' on an individual basis at user cost (usually at a higher costs). Infill self-care appears to be at greatest risk of this as hostels and RCF's typically provide an integrated service (i.e. its managed as 'one service' even if its parts are subject to separate contracts). It's likely inappropriate for individual residents to be managing a series of different services they need (e.g. cooking, cleaning, personal care, nursing etc.) and it's not really being provided by the 'development'.</p> <p>CI42 'reasonable access' to services is a very low bar for applicants and a hard element for an assessment planner to improve. The DPIE should clarify the expectations for 'reasonable access'. An applicant demonstrating that all these services exist (at residents' own cost and management) really doesn't appear achieve very much.</p>
CI 23 – Registered clubs	Seems to clearly indicate that clubs and senior housing shouldn't be together.
CL24/25 – Site compatibility certificates	SCCs needs to either be broadened in terms of the listed considerations (i.e. statutory requirements) or made more merit based. There should be scope for unusual positive or negative aspects to be considered in determining the issuing of the SCC (e.g. does the developer pursuing SCC currently have compliance action against them for illegal works, is the operator in serious breach of conditions for another aged care site).
CI 26 - Location and access to facilities	Partly discussed above. Clarification whether any of the clauses are permissibility / prohibition criteria? E.g. is 400m to a bus stop a merit criterion, development standard or prohibition. Its potentially a big flaw in the SEPP (esp. considering the SEPP is otherwise very generous where its permissible).

Clause	Feedback
CI43 - Availability of facilities and services	Clarification is required regarding what constitutes certain services. For example, can applicants satisfy the criteria with access to a public bus service, private bus service, aged care-owned bus service?
CI48/49/50 – Standards that can't be used to refused certain development	FSR rate is often relatively high in terms of surrounding character. FSR / Height consistent with zones would provide better built form outcomes. Developments should also be required to address local DCP setback/building envelope controls to deliver better desired future character outcomes.
CI55 - Residential care facilities for seniors required to have fire sprinkler systems	Clarification that this can be addressed by appropriate conditions and is not a prohibition to determination (e.g. you don't need a full design at DA).
Clarification on definitions.	It appears that several definitions now appear to rely on the standard instrument e.g. landscape area. A subclause at the end of Clause 3 stating this would be beneficial. Landscaping in the SEPP had relied on a very poor definition which significantly impacted the outcomes.

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

29 August 2021

Our Reference: URB/20/211

City of Ryde Council Submission: Review of State Environmental Planning Policy (Housing) 2021

I write in response to the Department of Planning, Industry and Environment's (the Department's) request for feedback on draft *State Environmental Planning Policy (Housing) 2021* (the draft Housing SEPP) currently on public exhibition from 31 July to 29 August 2021. City of Ryde Council Staff (Council) have reviewed the exhibited material and provide a detailed submission in **Attachment 1**

Council welcomes efforts to simplify the planning system and to deliver suitable housing outcomes and help improve housing affordability.

These are significant concerns for our local community, and it is important they are directly included and involved in this process of improving the system.

Council has reviewed the draft Housing SEPP and support material and a detailed submission is included in **Attachment 1**. The primary concerns raised are the:

- Incompatibility of the development standards for boarding houses and co-living housing.
- Introduction of 'prescribed zones' to permit seniors housing.
- Provisions (or lack of) to keep all types of housing allowed under the draft Housing SEPP affordable, and the inconsistent provisions that apply to development led by the LAHC.
- Ensuring good design for vertical villages, particularly due to the increase in FSR bonuses.

We welcome the opportunity to work collaboratively moving forward to ensure changes in policy deliver on the State Government's commitment to delivering sustainable, productive and liveable communities across Greater Sydney.

If the Department has any questions regarding any of the matters raised in this submission, please contact Sonia Jacenko, Senior Strategic Planner, at the City of Ryde on 9952 8105 or soniaj@ryde.nsw.gov.au.

Regards,



Liz Coad
Director City Planning and Environment

City of Ryde Submission

**City of Ryde Council Submission: Review of State
Environmental Planning Policy (Housing) 2021**

Submission Date: 29 August 2021

Introduction

The City of Ryde Council (Council) has prepared this submission with a review of the following consultation material available on the NSW Planning Portal:

- Draft Housing SEPP consultation draft
- Draft Environmental Planning and Assessment Regulation amendment
- Draft Standard Instrument Order
- FAQs and Plain English Supporting Document.

Comments have been made on the proposed changes that are most pertinent to the City of Ryde. The absence of a comment in response to a draft provision or clause infers neither support nor objection.

The submission has been structured in the following manner:

1. Overview

- a. Content of draft Housing SEPP
- b. Changes since the exhibition of the Housing Diversity EIE
- c. Affordable housing vs diverse housing
- d. Definition for student house

2. Boarding Houses

- a. Permissibility
- b. Development standards – Non-discretionary (Clause 23)
- c. Development standards – Discretionary (Clause 24)
- d. Affordability of boarding houses
- e. Self-assessment of boarding houses by LAHC

3. Co-living

- a. Permissibility
- b. Development standards

4. In-fill Affordable housing

5. Seniors Housing

- a. Permissibility
- b. Development for vertical villages
- c. Environmentally Sensitive Lands
- d. State Significant Development (SSD) Pathway for seniors housing

1. Overview

1a. Content of draft Housing SEPP

The draft Housing SEPP proposes to update and consolidate the following State Government housing-related SEPPs into a single instrument:

- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP);
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP);
- State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) (SEPP 70);
- State Environmental Planning Policy No 36 – Manufactured Home Estates (SEPP 36); and
- State Environmental Planning Policy No 21 – Caravan Parks (SEPP 21).

Council welcomes planning reform to simplify the planning system, improve transparency, and remove ‘red tape’ caused by inconsistencies in legislation and duplication across policies. Council is also supportive of a planning framework that delivers suitable housing outcomes and helps improve housing affordability.

However, changes to key housing policies in the consolidation process need to ensure qualitative local outcomes are not inappropriately compromised in the pursuit of simplicity. While it is acknowledged that improved simplicity and usability is important, oversimplification brings a new set of risks, potentially just as damaging as overcomplication.

It is Council’s view that creating an all-encompassing housing related policy that is appropriate for all LGAs across NSW must be limited to those matters that are minimally affected by local conditions and the differences between communities and their places. It is important to ensure application of State-wide policy does not prevent necessary local responses to the place-based variances in the built environment across the state and LGAs.

This is to ensure that any housing reforms are successful in achieving the intention and objectives of the draft Housing SEPP; and do not have unacceptable, unintended, adverse impacts on local communities and economies. This has the added benefit of ensuring sufficient planning authority remains with local communities, particularly in relation to land use permissibility. Council acknowledges some positive improvements to the proposal in this regard, particularly in relation to the permissibility of Boarding Houses in R2 Low Density zones. However, a number of concerns are retained from Council’s submission to the Housing Diversity EIE.

As no report summarising submissions received in relation to the EIE has been provided as part of the consultation material, it is unclear how those concerns have been understood or assessed. Further, it is unclear how they compare with other communities affected by the proposed changes. This limits the ability for Council to provide refined feedback and to ensure our communities concerns have been understood. It also reduces the transparency of the process and is a missed opportunity to build confidence in the reform process and the system in general. Council would strongly recommend that a submissions outcome report be published in relation to the feedback received to the EIE.

While this opportunity to provide further comment on the remaining elements of the previously exhibited materials, it is disappointing that some of the proposed changes that were outlined in the Housing Diversity EIE have already been implemented. Council’s submission in **Appendix 1** strongly opposed the introduction of Build to Rent (i.e. residential accommodation) in the B3 Commercial Core as it is inconsistent with the objectives of the B3 zone. Council reiterates the inappropriateness of introducing residential accommodation into the commercial core.

Varying from the exhibited EIE, the draft Housing SEPP also proposes to transfer the existing SEPP provisions for caravan parks, camping grounds and manufactured home estates, as well as the group homes in their current form. The consultation material advises that a comprehensive review of these provisions will be carried out in late 2021. Council trusts that Councils, key stakeholders and the community will be consulted on any proposed changes to these provisions in due course.

1b. Changes since the exhibition of the Housing Diversity EIE

The FAQ that accompanies the draft Housing SEPP very briefly outlines the changes made to the proposed SEPP following the exhibition of the EIE in mid-2020. The FAQ comments that the Housing SEPP “has changed in a number of ways since the exhibition of the Housing Diversity EIE”; however, this is not adequately explained in the FAQ or summary document. Furthermore, as no Consultation Outcomes Report has been published it is unclear how the feedback has informed the draft SEPP and how the concerns raised in the submissions are proposed to be addressed. The ‘list’ of changes the FAQ outlines are included below in Table 1, along with a response from Council:

Change from EIE	Council Response
The Housing SEPP will consolidate five SEPPs instead of the originally-proposed three;	Given this involves transferring the existing controls in their current form from the additional two SEPPs (<i>State Environmental Planning Policy No 36 – Manufactured Home Estates</i> ; and <i>State Environmental Planning Policy No 21 – Caravan Parks</i>) into the Housing SEPP, this is considered to be a non-policy, administrative change and does not generate reform in policy.
The policy has been made in phases, with some provisions (such as those for build-to-rent housing) being made in advance of the Housing SEPP consultation draft, and others (such as those for group homes) to be reviewed after the making of the Housing SEPP;	As above, this is only considered to be a process and administrative change; it is not a change or update to the proposed housing policies sought comment on in the EIE. Council retains its objections to Phase 1 and 2 and is disappointed responses to key concerns raised in submissions during the EIE exhibition have not been provided as part of this current exhibition. As discussed in Appendix 1 , Council had (and continues to have) strong concern with changes relating to the LAHC self-assessment for social and affordable housing as it would further undermine Councils’ planning powers. The introduction of BTR in the B3 Commercial Core was strongly opposed as it would undermine the objectives of the zone.
A number of proposed provisions set out in the EIE have changed, and some additional provisions relating to the housing types covered by the EIE have been introduced or amended; and	This is general and provides limited detail on the changes to the proposed provisions.
A separate definition of, and provisions for, student housing is no longer being included.	Council’s feedback in Appendix 1 asserted that a new definition for ‘student housing’ had no merit if the accompanying built form and planning controls mirrored those of boarding houses. The current ARHSEPP for boarding houses deliver poor built form outcomes that negatively impact on local traffic, parking, amenity and local character. The proposed controls in the EIE for student housing were considered more problematic than boarding houses and were not supported on planning merits. These objections are retained.

Table 1: Council response to ‘changes’ in the SEPP

It is Council's view that for the consultation process to be fulsome and transparent, a Consultation Outcomes Report should be released prior to the finalisation of any changes so Councils, communities, and stakeholders can consider the responses. In the absence of this information, the potential for this round of feedback to further improve outcomes is limited.

1c. Affordable housing vs diverse housing

The draft Housing SEPP categorises the different housing types as follows:

Affordable Housing (Chapter 2)

- Infill affordable housing
- Boarding houses
- Boarding houses – Land and Housing Corporation
- Supportive accommodation
- Residential flat buildings – social housing providers, public authorities and joint ventures

Diverse housing (Chapter 3)

- Secondary dwellings
- Group homes
- Co-living housing
- Seniors housing

Part 1 Clause 3 of the current ARHSEPP outlines that the primary aim of the policy is the delivery of affordable rental housing across the state. The housing types included in Diverse Housing (Chapter 3) of the draft SEPP are currently referenced in Part 2 of the ARHSEPP as 'new affordable rental housing' (except Seniors Housing, which is governed by its own SEPP). Council understands that one of the objectives is to consolidate a number of housing related policies into one SEPP. This is supported in principle provided the process does not undermine the objectives and aims of the existing SEPPs. It is Council's view that further consideration is required to ensure the changes do not result in outcomes that are inconsistent with the aims of the SEPPs.

The draft Housing SEPP proposes to categorise certain housing types as 'diverse' to provide "*greater clarity for all stakeholders on the housing types that are required to be used for the purpose of affordable housing under the proposed SEPP.*" Council is concerned that the 'diverse' housing types (which from our assessment would deliver compromised habitable spaces, room sizes, and amenity) can be progressed under state planning policy and bypass Council LEPs and place-based bespoke planning controls without adequately addressing any housing affordability requirements. This provides a path for developers to intensify development in areas often where the infrastructure cannot accommodate an increase in population and undermine local evidence-based planning, without necessarily achieving supply of more affordable products to the market. There is significant risk of abuse of FSR bonuses, with the draft provisions leaving approval bodies unable to prevent low-quality proposals with small private and communal rooms and poor urban design to maximise the number of rooms, which will be rented out at or above market prices.

Division 5 of the draft Housing SEPP relates to residential flat buildings (RFBs) delivered by social housing providers, public authorities and joint ventures. Clause 39(1) (which is a translation of Clause 38(1) of the current ARHSEPP) includes the requirement that at least 50% of the dwellings within the development must be used for affordable housing for 10 years. However, this is not required for development on land owned by the LAHC or to a development application made by a public authority. This means only development delivered by a social housing provider on private land is required to deliver at least 50% of dwellings for affordable housing purposes; and the LAHC and public authorities have no binding commitment to deliver affordable housing in their developments. While Council acknowledges the need for all developers, public and private, to have a level of flexibility to ensure that the mix of housing within a project suits the local needs as well as the wider housing portfolio, there is also a need to provide transparency so that the community can be in no doubt that public authorities are providing a leading example.

Further, the affordable housing challenge facing metropolitan Sydney in particular, requires permanent solutions and the 10-year provision requirement is considered to be unhelpful in this regard, leaving communities with additional densities and associated infrastructure challenges, while deferring rather than actually addressing the affordable housing challenge. Whilst this has been transferred from the current

ARHSEPP, if the state housing policies are being overhauled and reviewed, this presents an opportunity for improvement.

It is Council's view, supported by available research, that having a mix of housing tenures (i.e. social, affordable and private) in one development can assist in social cohesion and the delivery of mixed and balanced communities. LAHC should lead by example and commit to the delivery of a minimum percentage of affordable housing in their RFBs. In addition, providing a mixture of social and affordable housing in LAHC developments will help deliver on the strategic priorities of the Future Directions for Social Housing in NSW policy that aims for “*more opportunities, support and incentives to avoid and/or leave social housing*” and “*better social housing experience*”. Providing more opportunities for affordable housing has the added benefit of providing more opportunities for those in social housing to transition into other tenures.

Unlike the new provisions included in the Regulations for boarding houses, there are no provisions for RFBs as to what constitutes affordable housing and how affordability will be maintained. Whilst the draft SEPP requires the affordable housing component to be managed by a registered community housing provider, it is recommended that the same provisions that apply to boarding houses, whereby the community housing provider needs to apply the Affordable Housing Guidelines and demonstrate to the satisfaction of the Registrar of Community Housing that the dwellings are being used for the purposes of affordable housing. The new Housing SEPP also has removed the requirement for a restriction to be registered on the land title under 88E of the *Conveyancing Act 1919* to ensure that the nominated affordable housing dwellings will be retained for 10 years as affordable housing. That means there is no legal mechanism securing the use of the dwellings for affordable housing. It is strongly recommended that this be reinstated in the draft SEPP to ensure the sufficient protection is provided for these dwellings. The update to the Regulations requires this of Boarding Houses, and it should be applied for any affordable housing.

1d. Definition for student housing

The draft Housing SEPP no longer proposes to introduce a separate definition or development standards for student housing. This is supported given Council's view (see **Appendix 1**) that a new definition for 'student housing' had no merit if the accompanying built form and planning controls mirrored those of boarding houses from the ARHSEPP (which deliver poor built form outcomes that negatively impact on local traffic, parking, amenity and local character). Following assessment, the proposed controls in the EIE for student housing were considered more problematic than those of boarding houses and were not supported on planning merits (see **Table 1** in **Appendix 1**).

Whilst the definition of student housing has been removed, the new Housing SEPP proposes for off campus student housing developers to use co-living housing planning provisions. The consultation material asserts that this approach recognises the similarities between co-living and student housing typologies and responds to concerns expressed by both educational establishments and private sector developers. As discussed below under 'Co-Living Housing', given the similarity to the development standards for Boarding Houses it is unclear how this change adds value, given the issues identified below.

2. Boarding Houses

2a. Permissibility

Following the exhibition of the Housing Diversity SEPP EIE in mid-2020, the Department contacted Council in April 2021 regarding the permissibility of boarding houses. It stated that while many councils indicated support to remove boarding houses from the R2 zone, some councils indicated that they would like to continue allowing for new boarding house development in the R2 zone in their respective LGA. On 27 April 2021, Council emailed the Department reaffirming its position made in the EIE to remove boarding houses from the R2 zone and is pleased to see that boarding houses are now proposed to be prohibited. This is a welcome improvement to the proposal and will assist local communities in ensuring land use align with desired future character and available infrastructure at a local level.

2b. Development Standards – Non-discretionary (Clause 23)

Table 2 includes a comparison of the current proposed development standards within the draft Housing SEPP against the development standards within the ARHSEPP. Additional scrutiny was applied in this review given these are the development standards that cannot be used to refuse development approval of a boarding house if met.

Clause 23(2) Housing SEPP	Current ARHSEPP	Council Comment
(a) for development on non-heritage land in a zone in which residential flat buildings are permitted—a floor space ratio not exceeding—	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus—	Support simplifying the land exemptions regarding heritage affectations and boarding house development in zones that permit RFBs. The definition of 'non-heritage land' included in the draft SEPP includes all the heritage affectations included in the current ARHSEPP.
(i) the maximum permissible floor space ratio for residential accommodation on the land, and	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	Whilst the bonus percentage has increased, Council supports the requirement that the additional FSR must be used for the purposes of a boarding house. Whilst Clause 28 requires boarding houses developed by the LAHC to comply with Clause 23(2) and 24(1) relating to development standards, Clause 25 does not require LAHC to retain the boarding house as affordable housing in perpetuity. As discussed below in 'Affordability of boarding houses', this is not supported. The same requirements should apply to all boarding houses, especially where a bonus FSR is permitted. The additional GFA will result in a larger built form, and even with design standards, will likely result in development that is incompatible with local character and amenity. The
(ii) an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house,	(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	

Clause 23(2) Housing SEPP	Current ARHSEPP	Council Comment
		community 'trade off' of this larger built form is that it is to be used for affordable housing purposes. However, if the SEPP does not protect its use for a boarding house in perpetuity, then it will eventually result in the larger building being used for other forms of residential accommodation, and not delivering on the intention of the SEPP.
(b) if paragraph (a) does not apply—a floor space ratio not exceeding the maximum permissible floor space ratio for residential accommodation on the land,	A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than— (a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	No change; Council supports FSR needing to be in accordance with the LEP. This will help with managing development compatibility with local character and amenity.
Not included in the draft Housing SEPP.	(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or	The current ARHSEPP allows boarding houses in R1-R4 residential zones, and B1, B2 and B4 centre zones. These zones permit residential accommodation, therefore the removal of this clause is inconsequential. The FAQ states that as a definition for student housing (i.e. 'new generation' boarding houses) is no longer a proposed use, the development standards for co-living housing (Chapter 3 Part 3) is to be used for student housing / 'new generation' boarding houses. The suitability of this is discussed below under 'Co-Living Housing'. Otherwise, it is Council's understanding that on campus student accommodation (for example, at Macquarie University) will be facilitated through State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
(c) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,	(b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	No objection is raised.
(d) for development on land in Zone R4 High Density	(b) landscaped area if the landscape treatment	The rationale for this change has some logic (i.e. deliver comparable landscaping

Clause 23(2) Housing SEPP	Current ARHSEPP	Council Comment
Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument,	of the front setback area is compatible with the streetscape in which the building is located,	for typical building outcomes in that zone to help boarding houses contribute positively to the streetscape). In this instance the Apartment Design Guideline would apply under SEPP 65, which is considered a suitable approach.
(e) at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area,	(c) solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	No change; this is considered appropriate.
(f) for a boarding house containing 6 boarding rooms— (i) a total of at least 30m ² of communal living area, and (ii) minimum dimensions of 3m for each communal living area (g) for a boarding house containing more than 6 boarding rooms— (i) a total of at least 30m ² of communal living area plus at least a further 2m ² for each boarding room in excess of 6 boarding rooms, and (ii) minimum dimensions of 3m for each communal living area,	A discretionary development standard is included that says “if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,” communal living room means a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room.	Introducing a minimum square metre size for a communal living room, which increases per additional room, as a non-discretionary development standard is an improvement from the current ARHSEPP. This will help ensure all boarding houses are delivering a consistent level of space and amenity and help improve the living experience. However, the minimum room size in the draft SEPP has been moved to a discretionary development standard. Whilst a minimum square metre communal living space is required, this cannot be at the expense of room sizes. Both communal spaces and room sizes should be non-discretionary development standards to deliver appropriate amenity.
(h) communal open spaces— (i) with a total area of at least 20% of the site area, and (ii) each with minimum dimensions of 3m,	(d) private open space if at least the following private open space areas are provided (other than the front setback area)— (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,	Council does not have an objection to the proposed communal open space clause. The requirement to provide 20% of the site area, with minimum 3mx3m dimensions, may result in multiple communal spaces which often is more suitable to the layout of a boarding house compared to providing one large space. However, Council recommends the clause be amended to ensure the front setback cannot contribute to the communal open space where the amenity impacts to neighbours are unacceptable. The use of the front setback as open space often can direct lodgers to socialise towards the street impacting on noise and amenity for surrounding residents. This can result in complaints and contributes to community concern around the suitability of boarding houses where the wider streetscape is not designed to accommodate such uses in the front

Clause 23(2) Housing SEPP	Current ARHSEPP	Council Comment
		<p>setback. In addition, if the front setback is used as open space in such settings, it does not provide enough landscaping to meet the character requirements.</p> <p>Council notes that the requirements for open space for a boarding house manager has also been removed, in addition to the requirement to have a boarding house manager. This is not supported and discussed further below.</p>
<p>(i) for development carried out by or on behalf of a social housing provider—</p> <p>(i) in an accessible area—at least 0.2 parking space for each boarding room, or</p> <p>(ii) otherwise—at least 0.4 parking space for each boarding room</p>	<p>(e) parking if—</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p>	<p>The parking provisions have not changed in the Housing SEPP. As raised in the EIE submission, the existing parking controls are not suitable. Insufficient parking is provided onsite which forces lodgers to park on local streets and causing additional congestion (see Appendix 1 for more detail). The parking provisions need to be revised to ensure suitable onsite parking is provided. This would assist in maintaining local character and in managing community opposition to these forms of development.</p>
<p>(j) if paragraph (h) does not apply— (i) for development within the Greater Sydney region—at least 0.5 parking space for each boarding room, or</p> <p>(ii) otherwise—at least 1 parking space for each boarding room,</p>	<p>(e) parking</p> <p>(ii) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>See comment above.</p> <p>It is believed that Clause 23(2)(j) refers to the incorrect subclause when outlining parking rates for development within Greater Sydney. It currently refers to Clause 23(2)(h) which relates to communal open space. Clause 23(2)(i) is the correct reference as it refers to boarding houses provided by a social housing provider, and when this is not the case, then Clause 23(2)(j) applies.</p> <p>Council notes that the requirement for staff parking has been removed, in addition to the requirement to have a boarding house manager. This is not supported and is discussed further below.</p>
<p>(k) at least 1 motorcycle parking space for every 5 boarding rooms,</p>	<p>These are currently discretionary development standards.</p>	<p>The inclusion of motorcycle and bicycle parking requirements within the non-discretionary development standards is supported. This is consistent in encouraging alternative and active transport as per state and local planning and transport policy.</p>
<p>(l) at least 1 bicycle parking space for each boarding room</p>		

Clause 23(2) Housing SEPP	Current ARHSEPP	Council Comment
The proposed SEPP has moved this to being discretionary standard.	f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least— (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.	Council recommends the clause be reinstated as a non-discretionary development standard. This will help ensure all boarding houses are delivering a consistent level of space and amenity and help improve the living experience. As discussed above, both communal spaces and room sizes should be non-discretionary development standards to deliver appropriate amenity. Having room size as a discretionary standard is particularly problematic if the consent authority is not Council (i.e. in the instance where the LAHC or public authority is self-assessing boarding houses). This can result in room sizes being reduced to deliver as many rooms as possible in order to deliver maximum return in investment. This is not supported.
Not included in the draft Housing SEPP.	(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	As the minimum room size has been moved to a discretionary standard, Council is of the opinion that this existing clause has been removed in the draft Housing SEPP to remove any reference to rooms having private facilities, in efforts to support the shift towards delivering boarding houses where lodgers rely on communal facilities only.

Table 2: Comparison of proposed and current non-discretionary development standards for boarding houses

It is noted that the draft Housing SEPP removes the Maximum Height of Building (HOB) control from the non-discretionary development standards for boarding houses. Council is of the understanding that the HOB permitted under the relevant EPI (in the case of Ryde, the RLEP 2014) would continue to apply.

2c. Development Standards – Discretionary (Clause 24)

Table 3 includes a comparison of the current proposed development standards within the draft Housing SEPP against the development standards within the ARHSEPP. Development consent may be granted if the consent authority is satisfied that the development meets the development standards.

Clause 24(1) Housing SEPP	Current	Comment
(a) the design of the development will be compatible with the character of the local area, and	30A Character of local area A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	The draft SEPP amends clause numbers and is considered a non-policy change; no objection is raised.
(b) no boarding room will have a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of more than 25m ² , and	(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,	The draft SEPP amends clause numbers and is considered a non-policy change; no objection is raised.
(c) no boarding room will be occupied by more than 2 adult residents, and	(c) no boarding room will be occupied by more than 2 adult lodgers,	The draft SEPP amends clause numbers and is considered a non-policy change; no objection is raised.
(d) adequate bathroom, kitchen and laundry facilities will be available within the boarding house for the use of each resident, and	(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Other than the inclusion of the word 'laundry' there is no substantial change, and no objection is raised.
(e) for a boarding house on land in Zone R2 Low Density Residential or an equivalent land use zone—the boarding house will not have more than 12 boarding rooms, and	30AA Boarding houses in Zone R2 Low Density Residential A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.	No objection is raised.
(f) for a boarding house on land zoned primarily for commercial purposes—no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits the	(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another	The draft SEPP amends clause numbers and is considered a non-policy change; no objection is raised.

Clause 24(1) Housing SEPP	Current	Comment
use, and	environmental planning instrument permits such a use,	
(g) for a boarding house containing at least 6 boarding rooms—the boarding house will have at least 1 communal living room, and	(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	Council has no objection to increasing the number of rooms that trigger the inclusion of a communal living room from five to six. Most boarding houses have a minimum of six rooms, therefore this change is considered reasonable.
(h) the minimum lot size for the development is not less than— (i) for development on land in Zone R2 Low Density Residential—the minimum lot size requirements for manor houses under a relevant planning instrument, or 600m ² , (ii) for development on land in Zone R3 Medium Density Residential—the minimum lot size requirements for multi dwelling housing under a relevant planning instrument, (iii) for development on other land—the minimum lot size requirements for residential flat buildings under a relevant planning instrument,	Current development standards do not include a minimum lot size for boarding houses.	No objection is raised to the minimum lot sizes.
(i) the front, side and rear setbacks for the development are not less than— (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument,	Current development standards do not include setbacks for boarding houses.	No objection is raised.
(j) if the boarding house exceeds 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide,	Current development standards do not include Apartment Design Guide (ADG) compliance for boarding houses.	Council supports the ADG requirement for building separation for boarding houses above three storeys. However, it is requested that the clause be updated to reflect the principles of SEPP 65. This will help mitigate design concerns and may

Clause 24(1) Housing SEPP	Current	Comment
		help community perception around boarding houses.
<p>(k) the development has a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least the following for each boarding room—</p> <p>(i) for a boarding room intended to be used by a single resident—12m²</p> <p>(ii) otherwise—16m².</p>	<p>Current SEPP includes the below as a non-discretionary development standard.</p> <p>(f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least—</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p>Council recommends the clause be reinstated as a non-discretionary development standard. This will help ensure all boarding houses are delivering a consistent level of space and amenity and help improve the living experience. As discussed above, both communal spaces and room sizes should be non-discretionary development standards to deliver appropriate amenity.</p> <p>Having room size as a discretionary standard is particularly problematic if the consent authority is not Council (i.e. in the instance where the LAHC or public authority is self-assessing boarding houses). This can result in room sizes being reduced to deliver as many rooms as possible in order to deliver maximum return in investment. This is not supported.</p>
The draft Housing SEPP proposes to remove the requirement for a boarding house manager.	(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on-site dwelling will be provided for a boarding house manager,	Council agrees with this provided community standards for boarding houses with capacity to accommodate less than 20 lodgers, such as ensuring noise and any anti-social behaviour is managed and communal areas are maintained, will be met by Plans of Management that are implemented by Community Housing Providers or the LAHC.

Table 3: Comparison of proposed and current discretionary development standards for boarding houses

2d. Affordability of boarding houses

As per its submission in **Appendix 1**, Council supports the amendment to the definition of a boarding house to include mean a building “*used to provide affordable housing*”. However, the submission commented that the EIE did not contain information around what constitutes ‘affordable’ or how rents would be protected from market pressure. The EIE outlined that the Department was considering only requiring the building to be used for affordable housing for 10 years, after which time it could then be subject to full market prices. This was not supported. The affordability challenge facing metropolitan Sydney requires more permanent solutions and the provision of incentives for temporary affordable increases densities and associated infrastructure challenges, while only deferring and not addressing the affordability challenge.

Clause 25 of the draft Housing SEPP requires boarding houses to retain affordable housing rates in perpetuity. The supporting draft Environmental Planning and Assessment Regulation amendment includes the requirements to enforce affordable housing rates and implement the SEPP. These require boarding houses to be managed by a registered Community Housing Provider (CHP) that must apply rents in line with the NSW Affordable Housing Ministerial Guidelines. Registered CHPs are overseen by the Registrar of Community Housing, who monitor rents to ensure boarding houses remain affordable. Council supports these requirements and recommends that a regular audit of all boarding houses be implemented to ensure sufficient checks are being carried out to ensure rents remain affordable. However, these requirements do not apply to development on land owned by the LAHC or to a development application made by a public authority.

The requirement for boarding houses to be protected and retained for affordable housing in perpetuity should be a requirement of all boarding houses; irrespective of the landowner or developer. This will help ensure the intention of Clause 25 is met and boarding houses are affordable. The affordable housing challenge facing metropolitan Sydney in particular, requires permanent solutions and the temporary requirement is considered to be unhelpful in this regard, leaving communities with additional densities and associated infrastructure challenges, while deferring rather than actually addressing the affordable housing challenge. Whilst this has been transferred from the current ARHSEPP, if the state housing policies are being overhauled and reviewed, this should be reassessed.

2e. Self-assessment of boarding houses by LAHC

Clause 28 of the draft SEPP allows the LAHC to self-assess boarding houses where the use is permitted with consent under the relevant EPI. The FAQ states this is to “*facilitate ongoing supply of social housing to meet the needs of vulnerable residents by eliminating the time delays and costs associated with external approval of these proposals*”. Firstly, boarding houses are a type of residential accommodation to be used for affordable housing purposes, not social housing. Secondly, the draft Housing SEPP does not require the registered community housing provider managing a boarding house developed by or on behalf of the LAHC to charge rents aligned with the NSW Affordable Housing Ministerial Guidelines. It also does not require the boarding house to be used for affordable housing in perpetuity. As discussed above, the requirement for boarding houses to be protected and retained for affordable housing in perpetuity should be a requirement of all boarding houses; irrespective of the landowner or developer. This will help ensure the intention of Clause 25 is met and boarding houses are affordable.

As raised in Council's submission to the EIE, allowing the LAHC to self-assess boarding houses is not supported due to the implications this will have on streetscapes and amenity of local neighbourhoods. Councils have an in depth understanding of the local planning issues and community concerns of their LGA and therefore are the appropriate consent authority to assess the site-specific merits of boarding houses (particularly built form).

3. Co-living housing

3a. Permissibility

The draft Housing SEPP and Standard Instrument Order includes a new land use definition and planning provisions for 'co-living housing'. Co-living is:

a building or place that:

- a) *has at least 6 private rooms, some or all of which may have private kitchen and bathroom facilities, and*
- b) *provides occupants with a principal place of residence for at least 3 months, and*
- c) *has shared facilities, such as a communal living room, bathroom, kitchen or laundry, maintained by a managing agent, who provides management services 24 hours a day.*

The EIE explained that the boarding house provisions of the ARHSEPP are currently being used to develop co-living developments commonly known as 'new generation' boarding houses. The EIE advised that a new land use is required to facilitate 'new generation' boarding houses.

Part 3 Clause 63 states that development:

Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument, other than Zone R2 Low Density Residential.

The draft Standard Instrument Order proposes to include co-living housing into the Land Use Table in Direction 5 to allow councils to insert it into other zones as they see fit. Considering this, Council's interpretation is that co-living is not permissible in the R2 zone unless a Council includes it in their LEP. Being 'new generation' boarding houses, Council supports keeping co-living housing out of the R2 zone for the reasons discussed within the submission to the EIE at **Appendix 1**. This relates to the building typology being similar to a residential flat building and site compatibility, local character, amenity, traffic and built form issues.

3b. Development standards

The co-living development standards (non-discretionary and discretionary) are very similar to those that apply to boarding houses. As discussed above under 'Boarding Houses', Council has concerns with a number of the development standards and request they be revised. The current issues caused by boarding houses under the current controls of the ARHSEPP will continue to be perpetuated under the draft Housing SEPP (in addition to Tables 2 and 3, **Appendix 1** discusses these in more detail).

The few differences between the development standards of boarding houses and co-living housing are included below in Table 4:

Co-living Housing	Boarding Houses	Comment
A 10% FSR bonus on non-heritage land in a zone which permits RFBs is allowed if the additional floor space is to be used only for the purposes of co-living housing. However, in August 2024 the restriction relating to heritage affected land is being removed, and the bonus can be achieved on all land that permits RFBs, irrespective of whether it is heritage affected or not.	A 25% FSR bonus on non-heritage land in a zone which permits RFBs is allowed if the additional floor space is to be used only for the purposes of a boarding house.	There is no rationale or explanation as to why the restriction relating to heritage affected land is being removed on August 2024. Any bonuses, like boarding houses, should only be permitted on non-heritage land to protect heritage values.

Co-living housing will contain an appropriate workspace for the manager, either within the communal living room area or in a separate space.	No provisions are included for a manager in a boarding house.	As discussed in 'Boarding Houses', Council agrees with this provided community standards for boarding houses with capacity to accommodate less than 20 lodgers, such as ensuring noise and any anti-social behaviour is managed and communal areas are maintained, will be met by Plans of Management that are implemented by Community Housing Providers or the LAHC.
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Table 4 – Differences between co-living and boarding houses under the proposed SEPP

The consultation material states that *“defining co-living housing as a separate housing type provides developers with a pathway for development of a similar product but introduces some new standards to ensure resident amenity and to differentiate this housing type from boarding houses, residential flat buildings, and serviced apartments.”* However, there is no affordability requirement for this housing type. This will likely result in developers maximising FSRs (including the 10% FSR bonus), maximising the number of rooms with the minimum size (or less as this is a discretionary development standard), resulting in a development with poor amenity, being delivered at market rates. This fails to achieve the purpose of the SEPP and perpetuates the affordability crisis, while simultaneously undermining objectives seeking to deliver high quality housing. It is recommended that the proposed FSR bonus be removed and the development standards be reviewed as discussed in sections 2b and 2c of this submission.

4. In-Fill Affordable housing

The draft Housing SEPP proposes that any additional incentive floor space allow by the bonus must be used for affordable housing purposes. This is supported by Council.

However, the draft SEPP has removed the requirement for a restriction to be registered on the land title under 88E of the Conveyancing Act 1919 to ensure that the affordable housing dwellings will be retained for 15 years as affordable housing. That means there is no legal mechanism securing the use of the dwellings for affordable housing. It is strongly recommended that this be reinstated in the draft SEPP to ensure the sufficient protection is provided for these dwellings. The update to the Regulations requires this of Boarding Houses, and it should be applied for any affordable housing.

Further, it is noted that if the development is on land owned by the LAHC or is within a development application made by a public authority, that the requirement for the housing to be used for affordable housing for 15 years is not applicable. As discussed in this submission, a consistent approach to the protection of affordable housing is required (irrespective of the landowner or applicant) to ensure the intentions of the SEPP are delivered.

5. Seniors Housing

5a. Permissibility

Current

The current Seniors Housing SEPP permits seniors housing on certain categories of land subject to proponents first obtaining a Site Compatibility Certificate (SCC). Site compatibility certificates (SCCs) were predominantly used for 'land that adjoins land zoned primarily for urban purposes', land zoned special use, a registered club site, and vertical village applications. The intention of the SCC is to ensure seniors development is broadly compatible with surrounding land uses (even on land where it would otherwise be prohibited by the zoning).

Council in its submission to the EIE explained how the SCC process has limited planning merit. The SCC generates a myriad of planning issues as the SCC process sidesteps the Planning Proposal process

required to ensure such permissibility questions are answered in accordance with the strategic objectives and priorities established in the planning framework. A Planning Proposal involves a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework (including the Ministerial Directions), and community consultation to ensure any changes to the land use permissibility of a site is suitable.

The current process under the Seniors Housing SEPP does not adequately address these considerations as part of the SCC process and, therefore, results in development applications being assessed on a site where the land use is not permitted. This results in unsuitable development outcomes, often not in public interest.

Proposed

The draft Housing SEPP removes the need for the SCC process by introducing 'prescribed zones' where seniors housing is permissible with development consent. The prescribed zones are Residential zones (R1-R4) and Business zones (B1-B8), RE2 Private Recreation, RU5 Village, SP1 and SP2 (Hospital).

The consultation material states that the prescribed zones were chosen following a review of the zones where the Seniors SEPP currently applies (see above) and where permissible in LEPs. The draft Housing SEPP includes some restrictions on prescribed zones, for example, at least 50% of land adjoining sites zoned RE2 and SP1 must be residential prescribed zones for seniors housing to be permissible.

The consultation material states that the prescribed zones are being adopted to address the uncertainty over the definition of "land zoned primarily for urban purposes" and "land adjoining land zoned primarily for urban purposes". This is to remove the need for a technical assessment of sites by the applicant, council, and department officers. The prescribed zones are to deliver certainty and transparency for applicants, allowing applicants to proceed directly to the development application process, rather than seeking an initial assessment of a site compatibility for seniors housing.

This is strongly opposed by Council and has less planning merit than the current SCC process. Whilst Council opposes the SCC process, the prescribed zones approach has no assessment or framework to account for, and respond to, the site-specific place-based contexts of each site.

The land uses 'permissible with consent' in each zone of an LEP have been carefully considered in line with the objectives and aims of the zone and local planning priorities of an LGA. The 'prescribed zone' approach in essence undermines having land use zones, and makes them obsolete, given the draft Housing SEPP includes residential zones (R1-R4) and business zones (B1-B8), RE2 Private Recreation, RU5 Village, SP1 and SP2 (Hospital) as prescribed zones.

Council does not support the inclusion of prescribed zones. The change is likely to encourage poor design outcomes, incompatible development outcomes, increase the number of development applications for sites that do not have strategic merit, increase assessment timeframes, and can place additional pressure on the relevant consent authority to negotiate on development standards in order to determine the DA on a site where the use may not be permissible under the LEP.

Council specifically wants to raise concerns with permitting seniors housing on land zoned for RE2 Private Recreation. In the context of a registered club, allowing seniors housing on RE2 land can enable and accelerate the loss of recreational space. The provision of sufficient open and recreational space is crucial in delivering on the Greater Sydney Region Plan's commitment to delivering liveable, productive and sustainable cities. Private recreation space has an important role in the mix of recreation lands required to support the community. Once land is redeveloped for alternative uses (particularly residential uses which then further compounds the existing deficit in open and recreation space experienced across Sydney) the opportunity to protect and maintain this land for the future is lost.

In addition, permitting seniors housing in all business zones has the potential to undermine the economic and commercial function of that business zoned land. It risks sterilising floorspace within that zone for business and commercial uses to support the needs of the surrounding community. This is particularly concerning in the B3 Commercial Core, as prior to the recent 'steamrolled' inclusion of Build-to-Rent housing by the Department in the B3 zone, it did not permit any residential uses (as discussed throughout this submission).

It is recommended that a process that aligns with the Planning Proposal process is implemented to ensure the suitability of the land use be adequately assessed before a DA is lodged. This will also assist in streamlining the DA assessment process as adequate consideration of permissibility and compatibility has been carried out upfront before the DA is lodged.

5b. Development for vertical villages

As per Part 6 Clause 45 of the Seniors Housing SEPP, development for the purposes of a vertical village may be permissible if it is on land that RFBs are permitted under another EPI. The provisions for vertical villages have been broadly transferred into Chapter 3 Division 8 of the draft Housing SEPP with changes, including to the FSR bonus.

Under the draft Housing SEPP, development consent may be granted for development to which this Division applies if the development will result in a building with:

(a) the maximum permissible floor space ratio plus—

- (i) for development involving independent living units—an additional 15% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units, or*
- (ii) for development involving a residential care facility—an additional 20% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the residential care facility, or*
- (iii) for development involving independent living units and residential care facilities—an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes.*

The communication material states that the FSR bonus is to incentivise the development of vertical villages to help increase seniors' developments in centres with higher density land uses to increase options for people to 'age in place'.

The proposed FSR bonuses are a significant increase from the 0.5:1 FSR bonus currently permitted in the Seniors Housing SEPP. The receipt of this bonus was predicated on the requirement for at least 10% of the dwellings to be affordable (amongst other requirements). In addition to increasing the FSR bonus, the proposed Housing SEPP removes the affordability requirement for vertical villages, therefore the FSR bonuses are accessible without requiring a percentage to be affordable.

The communication material states this is because the Commonwealth Government bed licencing system provides funding to aged care providers for the accommodation of persons with limited financial capacity based on an assessment of income and wealth. Additionally, the Commonwealth Government provides residential aged care supplements to help with accommodation costs, and costs of meeting specific care needs.

At the time of writing this submission Council is unable to comment on the suitability of this statement and its implications on delivering affordable seniors housing. However, concern is raised on the extent of the FSR bonuses proposed in the draft Housing SEPP. Whilst nothing in the draft Housing SEPP affects the application of SEPP 65 Design Quality of Residential Apartment Development, vertical villages would benefit from specific design guidelines to ensure amenity and living experience for senior residents.

5c. Environmentally sensitive land

The draft Housing SEPP updates the provisions for environmentally sensitive lands to reflect the improvements made since the drafting and commencement of the Seniors SEPP in 2004. The consultation material states that the changes align the seniors housing provisions with the most recent environmental sensitive land constraint tools and mapping, including coastal protection, wetlands, flooding, and bushfire prone land.

Council has no objection to initiatives to simplify the NSW planning system and provide consistency in the interpretation and application of the SEPP by developers and consent authorities. Council acknowledges

'housekeeping' or administrative changes are often required to ensure the intended outcome or application of a planning policy is being achieved. Therefore, non-policy changes to improve the validity of the SEPP in relation to environmentally sensitive lands are encouraged.

The City of Ryde has a number of environmentally sensitive lands that are currently not contained within Schedule 1 and currently are under threat from development. To address this, a Planning Proposal has been prepared by Council to ensure these lands are protected in the future from development. As a result, this will limit the amount of land available for seniors housing; however, it is a necessary update to the schedule to protect these lands.

5d. State Significant Development (SSD) pathway for seniors housing

In response to NSW's aging population, the draft SEPP proposes to introduce a SSD pathway for residential care facilities. The SSD process is proposed to apply to developments with a proposed capital investment of \$30 million for Greater Sydney Region. This change in assessment process will further remove planning responsibilities from local councils, and is likely to result in developments that are out of character with the surrounding local area.

Submission to proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP)

City of Ryde

9 September 2020



Executive Summary

The population of New South Wales is growing; particularly across the Greater Sydney Region. As advocated in the Greater Sydney Region Plan, the transformation of Greater Sydney into a 'metropolis of three cities' made up of the Eastern Harbour City, Central River City and the Western Parkland City is crucial in delivering a metropolis that is productive, sustainable and liveable for the current and future population. This strategic framework envisages a city where residents can access their place of work, study or recreation within 30 minutes of their home. Therefore equal access to housing opportunities in key strategic locations and centres is critical in achieving this vision of a '30 minute city' and securing a prosperous future.

It is important the NSW Planning System is functioning to deliver on the vision and objectives of the broader strategic planning framework by ensuring the appropriate planning controls are in place to enable sustainable and suitable growth to meet the needs of the population.

The City of Ryde Council (Council) welcomes planning reform to simplify the planning system and its application to deliver suitable housing outcomes; improve transparency; and remove any 'red tape' caused by inconsistencies in legislation. This is particularly important in light of the COVID-19 pandemic with the State Government and Council's across NSW needing to work together to ensure the NSW Planning System is functioning to assist in the economic recovery of NSW through the residential development sector. However, Council considers it necessary to take a detailed evidence-based approach that recognises important place-based variation across the state to ensure reforms are successful in achieving the stated outcomes and do not have unacceptable, unintended, adverse impacts on local communities and economies.

Council welcomes the opportunity to comment on the proposed Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP) and is supportive of the overarching intention of the proposed SEPP to facilitate the delivery of affordable housing to meet the needs of the State's growing population. Council has an Affordable Housing Planning Proposal which seeks to deliver on this objective (discussed further within this submission), with housing affordability being an important planning consideration for Council. However, the proposed policy changes within the Housing Diversity SEPP would be further justified or validated through the provision of the evidence base that has informed the changes, along with examples of how the current legislation is not operating as intended. The need for this evidence base is particularly important in relation to the proposed new land use definitions (including Build-To-Rent) and in relation to the planning powers proposed to be awarded to the Land and Housing Corporation (LAHC).

The new Housing Diversity SEPP proposes to significantly increase the level of self-assessment LAHC can carry out for residential accommodation; removing these powers from local councils. This can result in unacceptable built form outcomes, implications on local streetscapes and amenity, and local traffic implications. In addition, many of the proposed changes are in response to the need to 'facilitate' LAHC's new hybrid housing model (i.e. a mixture of affordable, social and private housing in one development), which is to be delivered through the partnership of the State Government and the private sector. The EIE would benefit from discussion on the economic feasibility of this proposed model and the dwelling yield 'tipping point' for the private sector to engage in this sort of arrangement. Should this arrangement only be viable on sites with significant development capacity (i.e. sites with high FSR controls and subsequent Gross Floor Areas) to incentivise this housing model, then this needs to be established prior to the amendments being made to the planning controls. This is to manage bulk and scale, prevent overdevelopment, and the impact on the local community.

The City of Ryde is already exceeding the housing targets set by the North District Plan (as discussed further in this submission). If the delivery of social and affordable housing is closely linked to the delivery of a certain amount of private development under the proposed LAHC hybrid model, one planning problem (i.e. the provision of affordable housing) is being addressed by exacerbating another planning problem (i.e. overdevelopment not matched with adequate infrastructure to support growth).

Other concerns raised by Council within this submission relate to ensuring any affordable residential accommodation delivered under the new Housing Diversity SEPP deliver appropriate onsite parking to minimise impact on local streets, protect the local character and amenity of neighbourhoods, promote well design buildings with sufficient communal living and open spaces (where applicable), and importantly, will result in a good legacy of development for affordable housing purposes in perpetuity.

The 'Explanation of Intended Effect for a new Housing Diversity SEPP' has been reviewed by Council and informs the content of this submission. This submission has been prepared in response to the key proposed changes.

Rationale for new Housing Diversity SEPP

Increase housing supply to meet population growth

The EIE provides a high level discussion about the changing housing needs of NSW and anticipated population growth. It states that in Greater Sydney the population is expected to grow to 7.1 million by 2041 and that *"this population growth will need to be matched with increased housing supply so that all members of the community have access to accommodation that meets their needs"*.

Council agrees that housing needs to respond and 'keep up' with demand generated from growth. However no discussion has been included in relation to the current capacity of the planning controls in LEPs across Greater Sydney. For example, the City of Ryde Council is exceeding its dwelling targets, and additional development capacity under the planning controls is not required to meet the targets imposed by the State Government under the Northern District Plan. The North District Plan set a target of 7,600 dwellings in Ryde by 2021, and Council is on track to deliver 12,786 homes by 2021 (according to development approvals). This was made apparent during the preparation of the City of Ryde Local Strategic Planning Statement (LSPS), which is the 20 land use planning vision that responds to the State's regional planning framework and growth targets.

Given all Councils across NSW have been required to prepare a Local Strategic Planning Statement (LSPS) this 'stocktake' against State dwelling targets would be readily available to understand how Councils are currently performing and whether additional capacity under the planning framework is needed to meet the project population growth. In addition, growth in housing needs to be adequately matched with the delivery of critical regional and local infrastructure to ensure the vision for Greater Sydney to be productive, sustainable and liveable is achieved. Council's LSPS identified there is an existing deficit in infrastructure across the City of Ryde, and infrastructure delivery is important in achieving sustainable growth for the current and future population. Council welcomes the opportunity to work with the State Government in addressing the identified transport infrastructure gaps across the City of Ryde to ensure a prosperous future for the community.

To meet the needs of an ageing population and address housing affordability

The EIE explains that the population of NSW is ageing as well as growing. In 2016, over 2 million people in NSW were aged 55 or over. By 2036, the number of over 55s is projected to increase to more than 3.1 million. This means that demand for seniors housing in well-located areas, as well as the demand for smaller and more accessible homes, will continue to grow. In addition, the EIE outlines that housing affordability is a major issue particularly across 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 need to spend a greater proportion of their income on housing. This is discussed in greater detail in the *A Housing Strategy for NSW: Discussion Paper* (Discussion Paper) released in May 2020.

Council agrees the planning framework needs to respond to meet the needs of an ageing population, particularly as many people choose to 'age in place' to stay close to their local areas, established networks and known services. As flagged in the Discussion Paper, only about 10 per cent of people aged over 65 live in a retirement village or nursing home. Therefore, the supply of other affordable housing options needs to increase to house the majority of retirees. More broadly, action is needed to address the housing affordability issue experienced by all age brackets across Sydney to bridge the gap between income and housing expenses.

Council has been a strong advocate for affordable housing provision. As stated in the *City of Ryde Affordable Housing Policy 2016 – 2031* (Affordable Housing Policy), the City of Ryde Council intends to become a leading council in Sydney in the provision of affordable housing. The Affordable Housing Policy offers a comprehensive framework to advocate for, facilitate, provide and manage affordable housing in

Ryde LGA between 2016 and 2031. Council prepared a Planning Proposal to implement the vision and objectives of the Affordable Housing Policy by proposing to amend the Ryde LEP 2014 to include an affordable housing contributions clause. This would require developers to provide a minimum percentage of residential floor space for the provision of affordable housing as part of a development application or as part of a developer led site specific planning proposal that seeks to increase residential floor space. This amendment to the Ryde LEP 2014 has the potential to significantly increase the supply of affordable housing within the Ryde local government area.

Council forwarded the Planning Proposal to the Department of Planning, Industry and Environment (Department) on 12 September 2017 and has been awaiting a Gateway determination for the last three years. Given the intended outcome of the Planning Proposal aligns with the objectives of the proposed new Housing Diversity SEPP and addresses the housing concerns reported within the Discussion Paper, it is requested the Department issue the Gateway determination to allow Council to progress the Planning Proposal through to the next key milestone of public exhibition. Council welcomes the opportunity to discuss the Planning Proposal with the Department to address any outstanding issues preventing the release of a Gateway determination, and stresses the urgency in moving the proposal towards finalisation to allow Council to meet its affordable housing targets.

Out-dated policy

The EIE explains that State Government's housing-related SEPPs have been in place for some time and some provisions need to be amended or updated to reflect current conditions and community expectations. The new Housing Diversity SEPP seeks to consolidate existing State level housing-related planning provisions into a single instrument; and is in a format capable of being expanded and amended as future needs may require.

Council welcomes planning reform to simplify and streamline the planning system and its application to deliver suitable housing outcomes; improve transparency; and remove any 'red tape' caused by inconsistencies in legislation and the existence of multiple policies with the same objectives. This is particularly important in light of the COVID-19 pandemic with the State Government and Council's across NSW needing to work together to ensure the NSW Planning System is functioning to assist in the economic recovery of NSW through the residential development sector.

New Housing Diversity SEPP

Introducing new housing types

The EIE outlines that the Housing Diversity SEPP proposes to introduce new definitions and planning provisions for three new types of housing to improve housing stability and security. These include:

- build-to-rent housing;
- purpose built student housing; and
- co-living.

The EIE provides a description of the new housing types, along with proposed planning provisions. However, it does not include commentary around how the new SEPP will manage rental prices to ensure these housing options are truly affordable.

Purpose built student housing

The EIE explains that the State Government is proposing to introduce the delivery of build-to-rent (BTR) housing through the NSW planning system. BTR housing is purpose-built rental housing, held in single ownership and professionally managed. It is designed to attract institutional investment and provide for a more stable rental sector.

The EIE outlines that BTR has been an established housing sector in the United States and the United Kingdom, implying Australia should follow suite. However, the case for BTR housing in Australia would be

better substantiated with a discussion around the factors that which made this housing type viable overseas. This is to determine whether the market conditions in Australia are comparable and would also lead to their success. The success of a particular planning initiative is not universal, and is often linked to specific conditions in the market and urban environment. Therefore, a discussion around what has made these successful and what conditions are required to make the viable would better support the introduction of these uses.

The EIE outlines that BTR housing is generally:

- High density development:

Council recommends a clear definition is needed around what is perceived to be high density, and notes that this is inconsistent with the proposed location requirements discussed below which state that BTR housing will be permitted in R3 Medium Density zones where residential flat buildings are permitted.

- Situated in well-located areas, close to transport and amenity:

Council recommends a clear definition around what is a 'well-located area'. For consistency the definition of an 'accessible area' should be used.

- Funded by larger-scale institutional investors; and

Council queries the incentive for large-scale institutions to invest in this new housing model, and questions what is the minimum dwelling yield (and essentially, return on investment) that is needed to make these developments viable. The proposed definition says BTR is a building that contains at least 50 self-contained dwellings that are offered for long term private rent. However, it is not clear whether the development could then also include dwellings for private sale, which could potentially be the variable that makes the developments viable to the private sector. This needs to be established to determine the likely yield, bulk and scale of these developments, and their compatibility with established areas within a particular local government area. There is the potential for buildings to exceed the maximum permitted FSR controls for developers to have a viable development, which in turn, can cause issues with the local character of areas, result in inconsistent development patterns, and set poor assessment precedents.

- Focused on providing a good experience for tenants through the provision of on-site services and facilities, professional management and long-term leases.

Council queries how the planning system will work to provide a 'good experience' for tenants and what the minimum requirements are around on-site services and facilities. More information is required.

The EIE explains that *"there are currently no impediments in the NSW planning system to the development of new housing for rental purposes."* If this is the case, Council queries the necessity of introducing a new land use definition for BTR housing. There are many examples across Greater Sydney that demonstrate that the introduction of new planning controls alone often do not generate the envisaged land use pattern or change anticipated by plan or policy. The development market plays a significant role in the realisation of planning controls and the anticipated land use outcomes planned for an area. If the existing planning system allows for build-to-rent developments, and this is not yet occurring in the current market, what incentives need to be provided to the private sector for this type of development to be delivered via the introduction of a new land use definition? Often density bonuses or increases are required to incentivise land use change; such incentives require careful consideration of local conditions to ensure they do not result in excessive bulk and scale, amenity issues, traffic implications, and infrastructure deficiencies. The EIE would benefit from a more detailed discussion around what will economically make these developments viable, so that local Councils and communities can consider the local conditions and impacts. This would provide Council's with a better position to comment on the proposed new housing type.

Proposed planning provisions

Locational Requirements

The Housing Diversity SEPP proposes to make BTR housing a compulsory permitted use in the following zones relevant to the City of Ryde:

- B3 Commercial Core
- B4 Mixed Use
- R4 High Density Residential
- R3 Medium Density Residential (where residential flat buildings are permitted under an LEP).

The Ryde LEP 2014 does not permit residential accommodation within the B3 Commercial Core zone. Compulsorily making BTR a permitted use within this zone under the new Housing Diversity SEPP would be inconsistent with the objectives of the B3 zone which is to provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community; encourage appropriate employment opportunities in accessible locations; and to maximise public transport patronage and encourage walking and cycling. The introduction of residential accommodation by the means of BTR has the potential to threaten the commercial and employment status of Macquarie Park and undermine its identified strategic role in the Northern District Plan. Council strongly opposes the introduction of this use in the B3 zone.

The description of BTR provided in the EIE states that this housing type is “*situated in well-located areas, close to transport and amenity*”. The service and infrastructure profile of B3 centres can differ significantly from the profile required to support residential uses. The delivery of new infrastructure to these centres would be required to ensure proximity to schools, local services and varied open space, as well as to ensure access networks are appropriately designed to manage both commercial and residential uses. Implementing such a fundamental change to the makeup of B3 zones via a SEPP would significantly undermine local councils’ ability to manage the transition of currently specialised centres to accommodate a wider range of disparate uses.

In particular, DPIE has invested significant time and resources in the Macquarie Park Strategic Investigation, which acknowledges the need for a careful, evidence based approach to land use changes in strategic employment centres to ensure employment lands essential to our economic output and future growth, are not lost to residential uses. Macquarie Park is the largest non-CBD office market in Australia with an estimated \$3 billion in commercial property investment anticipated over the next decade. It is on track to becoming Australia’s fourth largest commercial precinct by 2030. It has a Gross Regional Product of approximately \$15.7 billion and is targeted to deliver 19,000 additional jobs by 2036. When the Strategic Investigation commenced, Macquarie Park was identified as Australia’s number one region for new patent registrations. This highly successful innovation ecosystem is too significant to risk through the imposition of blanket land use changes that have not been assessed in relation to their impact on the precinct. Furthermore, two significant Urban Activation Precincts have already been implemented at either end of the precinct ensuring there is significant residential capacity co-located with this significant employment centre.

The Strategic Investigation is looking at supporting the delivery of this targeted growth in Macquarie Park by creating multiple carefully planned sub-precincts supported by the necessary infrastructure. A blanket introduction of BTR across Macquarie Park’s commercial core would significantly undermine this investment in detailed evidence-based planning and potentially compromise delivery of crucial economic and employment growth. Council strenuously objects to this element of the proposed reforms and requests that the land uses in the B3 Commercial Core be left to local councils to manage as required on a case by case basis so that the ambitious but necessary employment targets set not just for Macquarie Park, but across the Eastern Economic Corridor are not inhibited.

It is concerning that this proposal could reach this stage apparently without consideration for the ongoing Strategic Investigation and without detailed consideration as to the impacts on a crucial strategic economic centre such as Macquarie Park.

More generally, sufficiently specific and detailed locational requirements should be imposed to ensure that BTR achieves this result. It is noted that proximity to stations or bus services is not sufficient in and of itself as service levels vary widely and a more detailed requirement should be considered.

Urban design testing is required to determine the likelihood of BTR developments being realised on land zoned B4 Mixed Use across the City of Ryde. This is due to the requirement of a BTR having a minimum of 50 dwellings, subdivision patterns within Ryde, and the Floor Space Ratio (FSR) controls ranging between 1.25:1 and 3.5:1 across B4 zoned land. There may only be select B4 zoned sites that have the potential to provide sufficient development capacity to accommodate this land use. In addition, land zoned R4 High Density Residential and R3 Medium Density Residential have subdivision patterns and FSR controls (which are between 0.5:1 and 1:1) that would likely prevent the realisation of BTR development in these zones as sufficient capacity to deliver the minimum of 50 dwellings may not be possible. The majority of land zoned R4 is currently strata subdivided, this coupled with small lot sizes and low FSRs, would also constrain the opportunity for BTR development. For example, if a BTR requires a minimum of 50 dwellings, and the average dwelling size of 100 sqm is applied, then a minimum of 5,000 sqm is required (not accounting for any additional Gross Floor Area required for any common areas and so forth). With an FSR of 1:1 which is common on R4 zoned land, that would require a minimum site area of 5,000 sqm which would be challenging based on subdivision patterns and strata ownership. It is also noted that design considerations such as setbacks may also impose limitations on the building envelope, and therefore the usage of the site.

The EIE notes that Councils are to determine the relevant height and FSR controls for BTR housing through their LEPs. The FSR controls across the City of Ryde have been carefully devised to ensure suitable development outcomes are delivered across the LGA that are compatible to surround land uses, provide an adequate built form transition between zones, and maintain the suburban character of the well-established neighbourhoods, while encouraging higher density around transport nodes better served by supporting infrastructure. The current planning controls have sufficient capacity to deliver, in fact exceed, the prescribed housing targets within the North District Plan as discussed above in this submission. Council has identified its priorities for reviews of its controls in its LSPS, which also commits to investigating options such as long-term rental homes to improve affordability (see Action H4.2 of Council's LSPS). It is Council's view that attempting to address these issues through blanket state-wide provisions is less likely to succeed and more likely to result in unintended adverse local outcomes. The local approach, allowing Councils to progress their recently endorsed plans through ongoing, prioritised local planning specified in LSPSs is preferred.

State Significant Development

The new Housing Diversity SEPP proposes that BTR housing would be assessed as State Significant Development (SSD) where the development has a capital investment value of \$100 million or more. It is proposed that developments within the City of Sydney local government area would be excluded from the SSD designation and would continue to be assessed by the City.

Council notes that no explanation as to why BTR developments in the City of Sydney Council would be excluded from the SSD designation is provided in the EIE. Secondly, residential flat buildings (RFB) with a \$100 million or more capital investment value are not included within Schedule 1 of *State Environmental Planning Policy (State and Regional Development) 2011*. Given BTR buildings effectively mirror the land use outcome of an RFB (just the tenure type varies), Council's should be assessing this form of development to ensure consistency in the built form outcomes. Therefore, Council does not support the SSD designation of BTR housing and it is recommended that Council assess development applications seeking this new type of residential accommodation to manage the issues discussed above in relation to permissibility, site constraints, and ensure built form is compatible with surrounding uses.

Design Guidance

The EIE outlines that *State Environmental Planning Policy No 65 - (Design Quality of Residential Apartment Development)* (SEPP 65) will be used for the assessment of development applications. It also advises that the Department will develop specific guidelines for BTR typology.

Council supports the usage of SEPP 65 during the assessment of development applications given BTR buildings closely mirror RFBs (based on the description included in the EIE). It would be beneficial if the EIE outlined broadly what the key differences in the building typologies are for Council's to understand the implications of this new development type. It is recommended that any bespoke design guidelines for BTR

building typologies should be drafted in collaboration with councils to ensure optimum design outcomes are inserted in SEPP 65.

Development Standards

Car parking

The Housing Diversity SEPP proposes to apply a minimum 0.5 car parking spaces per dwelling for BTR housing. It is also advised that where a lower maximum parking rate applies under a council's development control plan, this rate could be applied to BTR housing.

Council does not support the proposed minimum car parking rate of 0.5 spaces per dwelling. It is recommended that the parking rates for RFBs within the relevant local council's development control plan be applied to ensure consistency across these similar land use outcomes, and to manage local traffic issues. As discussed throughout this submission, BTR buildings essentially mirror the land use outcome of an RFB (just the tenure type varies). Therefore, the same amount of parking required for an RFB should be provided onsite for BTR developments, including an allowance for visitor parking. This is to mitigate any traffic implications on local streets due to insufficient parking being provided onsite.

The only exception for where a reduced car parking rate could be considered is where the building is located in an 'accessible area' with close proximity to well serviced public transport options. In addition, car and bicycle share schemes could be explored to help promote more sustainable travel.

Minimum lease terms

The EIE advises that BTR housing would be subject to minimum lease terms and would not be available for short-term rental accommodation. This is supported. However, given one of the catalysts for BTR housing is to help address the housing affordability issue across the Sydney Region, and home ownership rates in NSW are falling due to the widening gap between dwelling prices and incomes, consideration should be given to including a concession or 'out' clause in long-term leases to allow tenants to obtain homeownership if they are financially able.

Future subdivision

The EIE explains that BTR housing differs to a traditional residential flat building because it is held in single ownership, and as a result it is an asset that can be recycled at a later date. The new Housing Diversity SEPP proposes that BTR housing development cannot be strata subdivided for the first 15 years, with BTRs in a B3 zone being prohibited from subdivision in perpetuity.

The strata subdivision of a BTR development, in the medium or long term, undermines the intention of this housing typology. Based on the content of the EIE, the intention of BTR housing is to improve housing security and rental stability in the long term by offering fixed leases. Allowing the eventual subdivision of BTR developments is delaying the housing affordability issue, with the supply of housing for stable rent being removed from the market and existing tenants (or future tenants requiring this rental arrangement) needing to find alternative affordable accommodation. The transition of BTR to a strata-subdivided apartment development will in essence result in additional RFBs with dwellings for private ownership, reducing the amount of affordable housing and undermining the intention of this building typologies inclusion in the new SEPP.

Purpose-built student housing

The EIE explains that under the current planning framework, student housing does not have a separate definition and the boarding house provisions of the ARHSEPP, including their incentives, are used to develop student housing. Councils and communities raised concerns that the use of boarding house provisions to facilitate student housing were delivering poor development outcomes. Issues raised related to parking rates, compatibility with local character and the lack of affordability.

With the demand for student accommodation increasing, particularly for international students, the Department is proposing to introduce a new definition and planning provisions for student housing to

facilitate student housing whilst mitigating the concerns in relation to the application of the current boarding house provisions within the ARHSEPP.

New definition in the Standard Instrument

The Housing Diversity SEPP proposes a new definition for 'student housing' within the Standard Instrument LEP, and refers to a building that:

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

As the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 (Education SEPP)* allows for student accommodation within the boundaries of a school or university, it is proposed that both the new Housing Diversity SEPP and the Education SEPP rely on the new definition of 'student housing'. Council supports this change to help deliver consistency in the interpretation and application of land uses within the planning framework.

Council is of the opinion that the introduction of a new definition for 'student housing' would only assist in mitigating the concerns raised relating to traffic, parking, amenity and local character from the application of the boarding house provisions from the ARHSEPP if the accompanying planning provisions are crafted in a way to deliver a more localised and suitable development outcome. Introducing a new land use definition to distinguish student housing from boarding housing has no merit if the same planning issues that arise from a boarding house result from development approved as student housing. The local community is not concerned with the technical land use definition, more so the impact the development has on local streets and neighbourhoods.

Proposed Planning Provisions

Table 1 summarises the proposed planning provisions for student housing with a comparison to the boarding house provisions. Given the boarding house provisions have been applied to date for student housing, and the nature of the tenure and land use outcomes are similar, a comparison was deemed appropriate as part of the assessment of the proposed student housing controls.

Table 1: Planning controls for 'student housing' compared to 'boarding houses'

Planning control	Proposed for 'student housing'	Current and/or proposed for 'boarding housing'	Council comment
Zoning	Councils to determine permissibility for this use through their LEPs.	<p>The ARHSEPP permits boarding houses in:</p> <p>R1 General Residential; R2 Low Density Residential zone (only in 'accessible areas'); R3 Medium Density Residential; R4 High Density Residential; B1 Neighbourhood Centre; B2 Local Centre; and B4 Mixed Use.</p> <p>Boarding houses are also mandated in these zones in the Standard Instrument LEP,</p>	Council supports the proposal to allow Council's to determine the permissibility of student housing. However given the similarities between student housing and boarding housing, it is recommended that Council's also determine the permissibility of boarding houses within their LGA.

		<p>regardless of whether they are in an accessible area or not.</p> <p>The new Housing Diversity SEPP proposes to no longer mandate boarding houses in the R2 zone.</p>	
Height of Building (HOB)	HOB to be in accordance with LEP	Governed by Clause 29 Division 3 of the ARHSEPP which broadly translates to the HOB needing to be in accordance with an LEP.	Council supports HOB needing to be in accordance with the LEP. This will help with managing development compatibility with local character and amenity.
Floor Space Ratio (FSR)	FSR to be in accordance with LEP	Governed by Clause 29 Division 3 of the ARHSEPP which broadly translates to the FSR needing to be in accordance with an LEP.	Council supports FSR needing to be in accordance with the LEP. This will help with managing development compatibility with local character and amenity.
Car parking	No minimum spaces required	<p>0.2 spaces per room for development being carried out by, or on behalf of, social housing providers.</p> <p>0.4 spaces per room for development being carried out by, or on behalf of, social housing providers not in an accessible area.</p> <p>0.5 spaces per room for development <u>not</u> being carried out by or on behalf of social housing providers.</p>	<p>Council does not support the proposal for student housing to not provide any minimum amount of parking onsite. Given significant concern has been raised by the community in relation to insufficient parking being provided onsite for boarding houses (which as seen in the adjacent column, does require a minimum amount to be provided), the provision of no minimum parking (and having this as a non-refuse development standard) will likely cause traffic and parking issues on local streets and significant opposition from the community.</p> <p>The EIE explains that it is likely councils will permit student housing in areas that are in close proximity to educational establishments and the demand for on-site parking will be minimal. The permissibility of student housing most certainly should have an accessibility requirement to ensure they are located within a particular proximity to educational establishments or a well serviced transport hub that connects students to educational establishments. However, it is still not recommended to have no minimum car parking spaces. Car ownership amongst students, particular those in student accommodation, is still typical especially if they are from remote areas and need to drive home to visit family; or if they need a car for part-time/casual work.</p> <p>Council's LSPS outlines that the City of Ryde residents use their own car for approximately 70% of trips that they make; and almost 80% of people coming to Ryde</p>

			use their car. Council has identified this as an opportunity to collaborate with the State Government to advocate for improved sustainable transport links. However, in the interim, not providing any onsite parking for student accommodation is not recommended to prevent parking and traffic issues on local streets. In addition, car and bicycle share schemes could be explored to help promote more sustainable travel.
Bicycle parking	One space minimum per three bedrooms	At least one parking space for a bicycle for every 5 boarding rooms.	<p>Council supports the bicycle parking rate which is an increase from the boarding house standard. This promotes sustainable travel and will assist in accessibility.</p> <p>However, it is noted that a boarding room can have up to two occupants. Therefore depending on the tenure of a boarding house, this could result in less available spaces per resident.</p>
Motorcycle parking	One space minimum per five bedrooms	At least one parking space for a motorcycle for every 5 boarding rooms.	<p>The student housing rate is consistent with the boarding house rate.</p> <p>However, it is noted that a boarding room can have up to two occupants. Therefore depending on the tenure of a boarding house, this could result in less available spaces per resident.</p>
Room size	Minimum 10 sqm	12 - 25 sqm	<p>The EIE states that minimum room size for student housing is based on “<i>similar standards in other jurisdictions</i>”. This assertion would be supported by some examples to understand and assess the outcome of this room size.</p> <p>It also states that industry practice has found that rooms can have an area less than 10 sqm, and that room size is a discretionary development standard to allow developers to provide smaller rooms if they can demonstrate how they can still provide adequate amenity and offset the reduction in room size with shared facilities.</p> <p>Council does not support the introduction of a minimum room size of 10 sqm as this is considered too small to cater for the multifaceted aspects of student life. Such a small room size is likely to impact on mental health and impact on the overall wellbeing of a student who will likely be living in student accommodation for at least three to six months at a time. Council considers that the room sizes should mirror those of boarding houses to ensure sufficient amenity for this type of temporary accommodation. Even with increasing the</p>

			minimum room size to 12-25 sqm, adequate communal living space is also required to promote wellbeing. In addition, the minimum room size should not be a discretionary development standard. Rooms must comply with the standard, and also should be designed to promote solar access and ventilation.
Communal area (indoor)	15 sqm of communal living area for every 12 students	At least one communal living area if more than five boarding rooms.	<p>The proposed development standard of 15 sqm for every 12 students equates to 1.25 sqm per student. This is not considered adequate, especially with the proposed minimum room size of 10sqm (which, as discussed above, could be less given this is a discretionary development standard).</p> <p>Under the proposed controls, working with the assumption a developer provides a minimum room size of 10 sqm, this coupled with 1.25 sqm of communal space per student, equals to a student having 11.25 sqm to live, study and socialise in. This is not considered adequate and should be increased.</p>
Communal area (outdoor)	<p>In locations that are within 400 m of the relevant university, it may be possible to rely on the open space that is provided on campus.</p> <p>In other locations the new SEPP will recommend 2.5 m² of outdoor space per student.</p>	One area of at least 20 sqm with a minimum dimension of three metres.	The provision of sufficient open space is needed to support a growing, active and healthy community. It is also important to ensure long term quality of life. Council's LSPS identifies the opportunity to promote and increase open space across the LGA. Assuming student housing relies on existing open space is not supported by Council, and a minimum amount of open space should be provided onsite (irrespective to access to local open space) which is comparable to other housing types.

Design Guidelines

The EIE explains that new design guidelines for student housing could also be developed to accompany the new SEPP. Council supports the preparation of new design guidelines for student housing and considers this crucial in delivery good planning and design outcomes for students, particularly in relation to built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy. It is recommended that any design guidelines should be drafted in collaboration with councils to ensure optimum design outcomes and to deliver on the intention of the new SEPP.

Monitoring

The EIE states the Department will carefully monitor outcomes from the introduction of this new use, and the associated development standards, to ensure that new developments are meeting the needs of the student population and that local impacts are acceptable. Monitoring and evaluation is important to ensure the planning framework is delivering the intended planning outcomes. However, it is important the controls and

design guidelines are carefully prepared now to ensure a legacy of well-design student housing is constructed from the commencement of the new SEPP.

Co-living

The EIE explains that, like student housing, the boarding house provisions of the ARHSEPP are currently being used to develop co-living developments. These are commonly known as 'new generation' boarding houses. 'New generation' boarding rooms are typically self-contained, and have a private bathroom and kitchenette facilities, and evidence suggests there is significant demand for this type of living which is driven by affordability issues and growth in single person households.

The EIE advises that due to the new SEPP seeking to introduce an affordability requirement for boarding houses (which is discussion below in this submission), 'new generation' boarding houses would no longer be facilitated by the planning system. For this reason, a new land use is required to facilitate 'new generation' boarding houses.

New definition in the Standard Instrument

The Housing Diversity SEPP proposes a new definition for 'student housing' within the Standard Instrument LEP, and refers to a building that:

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

Proposed Planning Provisions

Table 2 summarises the proposed planning provisions for co-living with a comparison to the boarding house provisions. Given the boarding house provisions have been applied to date for 'new generation' boarding houses (now being referred to as co-living), and the nature of the tenure and land use outcomes are similar, a comparison was deemed appropriate as part of the assessment of the proposed co-living controls.

Table 2: Planning controls for 'co-living' compared to 'boarding houses'

Planning control	Proposed for 'co-living'	Current and/or proposed for 'boarding housing'	Council comment
Zoning	<p>A mandatory permitted use wherever residential flat buildings are currently permitted.</p> <p>In the context of Ryde, this would be the following zones:</p> <p>R4 – High Density Residential B4 – Mixed Use</p>	<p>The ARHSEPP permits boarding houses in:</p> <p>R1 General Residential; R2 Low Density Residential zone (only in 'accessible areas'); R3 Medium Density Residential; R4 High Density Residential; B1 Neighbourhood Centre; B2 Local Centre; and B4 Mixed Use.</p> <p>Boarding houses are also</p>	<p>The new SEPP proposes to allow Councils to determine the permissibility of student housing, which essentially is a variation of a traditional boarding house. Therefore, given 'co-living' (i.e. 'new generation' boarding houses) is another variant of the traditional boarding house, councils should also be able to determine their permissibility. This is to ensure the appropriate location of these land uses is determined to protect local character and amenity, and local streets and traffic.</p> <p>Should the new SEPP continue to mandate the permissibility of these land uses, the parking requirements need to be significantly amended to ensure sufficient</p>

	R3 – Medium Density Residential	<p>mandated in these zones in the Standard Instrument LEP, regardless of whether they are in an accessible area or not.</p> <p>The new Housing Diversity SEPP proposes to no longer mandate boarding houses in the R2 zone.</p>	parking is provided onsite to manage impact on local communities.
Height of Building (HOB)	HOB to be in accordance with LEP	Governed by Clause 29 Division 3 of the ARHSEPP which broadly translates to the HOB needing to be in accordance with an LEP.	Council supports HOB needing to be in accordance with the LEP. This will help with managing development compatibility with local character and amenity.
Floor Space Ratio (FSR)	FSR to be in accordance with LEP	Governed by Clause 29 Division 3 of the ARHSEPP which broadly translates to the FSR needing to be in accordance with an LEP.	Council supports FSR needing to be in accordance with the LEP. This will help with managing development compatibility with local character and amenity.
Car parking	0.5 spaces per room	<p>0.2 spaces per room for development being carried out by, or on behalf of, social housing providers.</p> <p>0.4 spaces per room for development being carried out by, or on behalf of, social housing providers not in an accessible area.</p> <p>0.5 spaces per room for development <u>not</u> being carried out by or on behalf of social housing providers.</p>	<p>The co-living parking requirement is an improvement of the boarding house parking requirement, as it requires 0.5 spaces per room (irrespective of whether it is within an accessible area or not).</p> <p>However, as discussed above in the assessment of the planning provisions for student housing, given significant concern has been raised by communities in relation to insufficient parking being provided onsite for boarding houses (and having car parking as a non-refuse development standard, which can allow a consent authority to issue an approval with less spaces) will likely cause traffic and parking issues on local streets and significant opposition from the community.</p> <p>As discussed above, car usage dominates 70% of journeys in Ryde LGA. Whilst there is the opportunity to improve sustainable transport links, in the interim, not providing sufficient onsite parking poses risk to generating parking and traffic issues on local streets. In addition, car and bicycle share schemes could be explored to help promote more sustainable travel.</p>
Bicycle parking	None	At least one parking space for a bicycle for every 5 boarding rooms.	Council recommends a minimum bicycle parking rate to help promotes sustainable travel and will assist in accessibility.
Motorcycle parking	None	At least one parking space for a motorcycle for every 5 boarding rooms.	Council recommends a minimum motorcycle parking rate to help promote alternative modes of travel.

Room size	30-35 sqm	12 - 25 sqm	<p>The EIE explains that the room size has been crafted to deliver a room that would sit between boarding rooms and studio apartments in terms of size (<i>Note: the SEPP 65 Apartment Design Guideline (ADG) has a requirement of a studio being 35 sqm</i>).</p> <p>This intention further supports the need to increase the parking requirements, and indicates the need to introduce a comparable parking rate to that of a studio/one bedroom apartment. In Council's Development Control Plan, that is 0.6 spaces per one bedroom dwelling (noting, there is not a control for studios).</p> <p>In addition, the minimum room size should not be a discretionary development standard. Rooms must comply with the standard, and also should be designed to promote solar access and ventilation. The ADG requirement for studio apartments that states that every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area should apply to ensure adequate amenity.</p>
Strata subdivision	Not permitted	Not permitted	Council supports this.
Communal living space (indoor)	Minimum of 20 sqm plus 2 sqm per room above 10 rooms.	At least one communal living area if more than five boarding rooms.	This is broadly supported however communal living spaces should be well ventilated and have adequate solar access. These requirements need to be embedded in a design guideline that holds significant weighting in the assessment to ensure sufficient amenity is delivered to communal spaces to ensure their usability.
Communal open space	25% of site area	One area of at least 20 sqm with a minimum dimension of three metres.	<p>The development standard of 25% is consistent with the ADG for apartment living. However, the EIE states that where all dwellings have private open space that exceeds the minimum requirements, a reduction in communal open space can be provided.</p> <p>This is not supported because the type and nature of the private open space (which is likely to be a titled/concrete balcony) is not comparable to the social and wellbeing benefits of open space that would be provided communally within a development. The ADG broadly requires communal open spaces to be at the ground level, co-located with deep soil, landscaped, and have a minimum dimension of 3m. It is recommended that these same</p>

			<p>requirements apply to ensure usable and functional open space is provided, and that no concession or reduction be granted to the 25% requirement in the event private spaces are larger than the 4 sqm requirement per dwelling.</p> <p>The provision of sufficient open space is needed to support a growing, active and healthy community. It is also important to ensure long term quality of life.</p>
Private open space	4 sqm per room	No requirement.	This is the balcony requirement for studio apartments within the ADG. This is supported.

Design Guidelines

The EIE states that building envelope controls for residential flat buildings under the relevant DCP could apply. Council supports this given the building typology is similar to an RFB. The EIE also explains that new design guidelines for co-living could also be developed to accompany the new SEPP. The proposed planning provisions within the new SEPP for co-living in some instances utilise the provisions with the ADG for studio apartments. For consistency, it is recommended that co-living then adopt all the requirements of the ADG for studio apartments for other design elements as well. Any bespoke or specific design guidelines for co-living that do not apply to studio apartments within the ADG should be drafted in collaboration with Councils to ensure optimum design outcomes and to deliver on the intention of the new SEPP.

Monitoring

The EIE states the Department will carefully monitor outcomes from the introduction of this new use and the resulting built form and local impacts. As stated above in response to the student housing provisions, it is important the controls and design guidelines are carefully prepared now to ensure a legacy of well-design co-living developments are constructed from the commencement of the new SEPP.

Updating existing provisions

Proposed changes to the boarding house provisions of the ARHSEPP

The boarding house definition is to be amended to require boarding house development to be affordable

As discussed above in relation to the proposed new land use definition for 'student housing' and 'co-living', the ARHSEPP provisions have been used to facilitate traditional boarding houses, and variants such as the 'new generation' boarding houses and boarding houses for student housing. It was expected that 'new generation' boarding rooms would be a more affordable housing option than a similar residential development due to their smaller size and shared facilities. However, the EIE explains that as part of a working group set up by the Department in mid-2019 to provide advice to the Minister about boarding houses, communities and councils raised concerns around the lack of affordability of boarding house rooms. A key recommendation was to change the definition of a boarding house to include the requirement for boarding house rooms to be affordable.

Council supports the amendment to the definition of a boarding house to mean an 'affordable rental building'. However, the EIE does not include any detail around what is meant by 'affordable' and how the Department proposes to mandate or control the affordability of rents from market pressure. The EIE requests for feedback on whether it would be appropriate to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, after which they could revert to market rates. Allowing boarding houses to revert back to market rates, whether in the medium or long term, undermines the intention of amending the definition to include the word affordable. Establishing a boarding house with affordable rental

prices, to eventually revert back to market prices, delays the housing affordability issue. Boarding houses should retain affordable rates in perpetuity to genuinely deliver on the intention of the new SEPP and to adequately address housing affordability.

Boarding house development will not be mandated in the R2 Low Density Residential Zone

Table 1 details the land use zones that the ARHSEPP currently permits boarding houses. Permitting boarding houses in R2 Low Density Residential zone is a contentious policy matter for councils and communities across Greater Sydney (which was reinforced as part of the working group set up by the Department in 2019 as explained in the EIE). The City of Ryde has a very clear position that boarding houses in the R2 zone present compatibility issues within the well-established low-density neighbourhoods of Ryde due to their quite often excessive bulk and scale, potential clustering in certain areas, and traffic and parking implications imposed on local streets.

The new Housing Diversity SEPP proposes to no longer mandate boarding houses in the R2 Low Density Residential zone. The City of Ryde strongly supports this amendment and will help address the fundamental incompatibility this land use poses on the R2 zone due to their bulk, scale and nature of use. However, the new SEPP states that provisions would be put in place to allow the Land and Housing Corporation (LAHC) to develop boarding houses on government-owned land in the R2 zone, regardless of whether an LEP allows or prohibits boarding houses in that zone. This is not supported as it will still raise the same planning issues, however should the Department progress this, LAHC should work with Councils closely to ensure an appropriate site specific built form is developed for the site to help mitigate community concerns. In addition, a radius should apply around a government owned site to prevent more than one boarding house being delivered within this area. This is to ensure a sufficient distance is enforced between boarding houses to prevent their clustering. This is only a real consideration for LGAs where the state government owns a significant amount of land.

Proposed 20% FSR bonus for boarding house development

The ARHSEPP currently permits an FSR bonus for boarding houses developed on land within a zone where RFBs are permitted. The new SEPP proposes to amend the bonuses as per Table 3:

Table 3: FSR bonuses for boarding houses developed in zones that permit RFBs

Current bonuses under the ARHSEPP	Revised bonuses under the new Housing Diversity SEPP
0.5:1 if the existing maximum floor space ratio is 2.5:1 or less	20% FSR bonus above the existing maximum FSR, regardless of whether the existing maximum FSR is above or below 2.5:1.
20% of the existing maximum floor space ratio (FSR), if the existing maximum floor space ratio is greater than 2.5:1.	

A review of the FSR bonuses arose as part of the discussions had by the working group set up by the Department in mid-2019 to review the boarding house controls. A reduction of the bonus to 10% for sites over 2.5:1 was recommended by the working group to better manage the bulk and scale of boarding houses. However, the Department determined that this reduction would impact on the viability of boarding house development. Whilst this comment is not linked directly to boarding house provision, these sorts of economic feasibility considerations need to be disclosed in reference to other land uses proposed under the new Housing Diversity SEPP. As discussed above in this submission in response to the proposed Build-To-Rent land use definition, and below in relation to the new LAHC hybrid housing model, the FSR/development incentives needed to make these housing models feasible need to be considered in planning policy to ensure appropriate planning outcomes compatible with local neighbourhoods are delivered under the planning framework.

Whilst not explicitly stated, it is inferred from the EIE that the FSR bonuses were introduced in the ARHSEPP in 2009 to incentivise boarding houses and make them viable. Any FSR bonuses should require compliance with certain design excellence provisions to support the delivery of the additional FSR and ensure a suitable built form outcome is delivered.

Car parking

The new Housing Diversity SEPP advises that the minimum car parking rates for boarding houses (as shown in Table 1) are to be retained. It is also noted that this is a development standard that cannot be used to refuse consent, allowing a council to accept a lower rate if it was considered appropriate. As stated in Table 1 and 2, the existing parking provisions have proven to be insufficient to meet the demand of tenants, with local streets being used to supplement the deficiency of spaces provided onsite. This has been received with significant opposition by the community. In the context of Ryde, as discussed previously in this submission, car usage dominates 70% of journeys in the LGA. Whilst there is the opportunity to improve sustainable transport links, in the interim, not providing sufficient onsite parking poses risk to generating (or exacerbating existing) parking and traffic issues on local streets.

The car parking rates for boarding houses require further review to manage local traffic issues. In addition, car and bicycle share schemes to help promote more sustainable travel could also be considered.

Proposed amendments to ARHSEPP provisions

Group homes

The ARHSEPP includes a complying development pathway for the development of new group homes. However, there is currently no exempt or complying pathway for converting an existing dwelling to a group home. A change of use from an existing dwelling to a group home currently requires development consent from councils. The EIE states that this adds additional costs and can cause lengthy delays due to varying development assessment timeframes.

The State Government is proposing to introduce a quicker and easier process to allow an existing dwelling to be used as a group home. The EIE does not explain what the new process is however it is inferred that this process will use the exempt and complying development process. This poses significant risk because existing dwellings are not fit for the purpose of a group home and there may be locational factors or site constraints that need to be carefully considered. Therefore a complete development assessment process should be administered to assess the suitability of an existing dwelling being converted into a group home. In addition, this would provide councils with the opportunity to assess local impacts on traffic, amenity, and neighbours.

Whilst not supported, should the exempt and complying assessment pathway be pursued by the Department, existing dwellings eligible for this pathway should be meet a specific criteria including (but not limited to) whether they are within an 'accessible area' (i.e. close to public transport) and provide a certain amount of on-site parking. In addition, the conversion of heritage items should be excluded from this process due to potential heritage impacts not being adequately assessed and poses risk to destroying the heritage fabric.

Amendment to Part 3 of the ARHSEPP

Under Part 3 of the ARHSEPP, Councils can levy monetary contributions as a condition of consent if they consider that approval of a proposed development would result in a loss of affordable housing on the land that is the subject of the application. The new Housing Diversity SEPP seeks to update the provisions of Part 3 of the ARHSEPP to improve and streamline the process for Council's in delivering the intent of Part 3.

At the moment, Council can only levy monetary contributions as a condition of consent if a building was used for low-rental affordable housing as of 28 January 2000 (which was a translation of *SEPP 10 – Retention of Low-Cost Rental Accommodation*). The EIE states that proving the use of a building for affordable housing is challenging due to limitations in access to rental data, and has demonstrated to be a cumbersome exercise for Councils to carrying out during the development assessment process.

The new Housing Diversity SEPP proposes to remove reference to 28 January 2000, and allow councils to levy monetary contributions to offset the loss of dwellings that were low-rental at any time within the five years preceding the lodgement of the new development application. Council supports this administrative change to the ARHSEPP as it will better facilitate the intention of Part 3, streamline the process as access to

data will be readily available for the five year period, and linking the requirement to the date of lodgement will ensure the ongoing currency of the clause.

In addition, the new Housing Diversity SEPP proposes to remove the onus from Council in proving the low-rental housing history, requiring the applicant to demonstrate the rental history of the building. Whilst this is supported in principle, the practical application of this is queried. What mechanisms will be put in place to ensure the applicant provides sufficient, valid and legitimate evidence? Requirements need to be embedded in the new Housing Diversity SEPP around the source of the rental ledger to ensure it is legitimate and has not been amended or manipulated in favour of the applicant to remove or reduce the monetary contribution payable to Council.

Secondary dwellings in rural zones

The ARHSEPP currently permits secondary dwellings in the residential zones (R1, R2, R3, R4, and R5) and does not allow secondary dwellings in any rural zones. Councils with rural zones are able to permit secondary dwellings in their LEPs through the application of Clause 5.4(9) of the standard instrument which requires the size not be greater than 60 square metres or by a predetermined percentage of the floor area of the principal dwelling. In response to concerns around the implication of a percentage based floor space control on rural character, the new Housing Diversity SEPP is proposing to allow Councils to set the maximum size for secondary dwellings in rural zones.

The City of Ryde believes councils should be able to set the maximum size of secondary dwellings across all zones; not just rural zones. This is to ensure secondary dwellings are sympathetic and compatible to the local character and urban context of each local government area. Providing the maximum size of a secondary dwelling at a state policy level is not appropriate for this reason, and Council's should have the ability to determine what size is suitable for their development context. In addition, secondary dwellings at a minimum should be commensurate in size to that of a two-bedroom apartment, which according to the ADG is 70 sqm.

Proposed amendments to seniors housing provisions

Update definitions & 'Schedule 1 – Environmentally Sensitive Land' in the Seniors SEPP

The new Housing Diversity SEPP proposes to update the definition of 'height', 'people with a disability' and 'AS 2890' in the Seniors SEPP to be consistent with the definitions of these terms within the Standard Instrument. It also seeks to update Schedule 1 – Environmentally Sensitive Land to be better aligned with current legislation and planning conditions following terms in the schedule being obsolete or debated in the Land and Environment Court.

Council is supportive of any initiatives to simplify the NSW planning system, improve transparency, and provide consistency in the interpretation and application of the SEPP by developers and consent authorities; and importantly help deliver consistent development outcomes. In addition, Council acknowledges 'housekeeping' or administrative changes are often required to ensure the intended outcome or application of a planning policy is being achieved. Therefore, non-policy changes to improve the validity of the SEPP is encouraged and supported.

The City of Ryde has a number of environmentally sensitive lands that are currently not contained within Schedule 1 and currently are under threat from development. To address this, a Planning Proposal has been prepared by Council to ensure these lands are protected in the future from development. As a result, this will reduce the amount of land available for seniors housing; however is a necessary update to the schedule to protect these lands.

Location and access to facilities provisions

It is proposed to amend the provisions for 'location and access to facilities' in the Seniors SEPP so that point-to-point transport, which includes taxis, hire cars and ride share services, cannot be used for the purpose of meeting the accessibility requirement. This is supported and will help ensure the intent of the accessibility requirement is met.

Site Compatibility Certificates

The Seniors SEPP permits seniors housing on certain categories of land subject to proponents first obtaining a Site Compatibility Certificate (SCC). The intention of the SCC is to ensure seniors development is broadly compatible with surrounding land uses (even on land where it would otherwise be prohibited by the zoning). The obtaining of an SCC is the first step in the development process for seniors housing, and is required before a development application (DA) can proceed to lodgement, assessment and determination.

The EIE explains that the new SEPP proposes to extend how long a SCC is valid for from 24 months to five years, provided that a development application is lodged within 12 months of the date on which the SCC is issued. The EIE states this is to accommodate the time needed to prepare and assess seniors housing proposals, and prevent the SCC lapsing before the DA has been determined.

As the current SCC process under the Seniors SEPP allows seniors housing proposals to proceed on land where seniors housing would otherwise be prohibited by the zoning, a myriad of planning issues arise as the SCC process sidesteps the Planning Proposal process usually required to ensure such permissibility questions are answered in accordance with the strategic objectives and priorities established in the planning framework. A Planning Proposal involves a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework (including the Ministerial Directions), and community consultation to ensure any changes to the land use permissibility of a site is suitable. The current process under the Seniors Housing SEPP does not adequately address these considerations as part of the SCC process and therefore results in development applications being assessed on a site where the land use is not permitted. This results in unsuitable development outcomes, often not in public interest.

Council does not support this proposed change to the validity of a SCC. The change is likely to encourage poor design outcomes, incompatible development outcomes, increase DA assessment timeframes, and can place additional pressure on the relevant consent authority to negotiate on development standards in order to determine the DA on a site where the use may not be permissible under the LEP. It is recommended that the SCC process be aligned with the Planning Proposal process to ensure the suitability of the land use be adequately assessed before a DA is lodged. This will also assist in streamlining the DA assessment process as adequate consideration of permissibility and compatibility has been carried out upfront before the DA is lodged.

In addition, a SCC application can be made on land that is used as an existing registered club. In essence, the SCC process then allows the registered club to significantly alter their land use permissibility without going through the Planning Proposal process. As described above, this has complications, and in the context of a registered club, can enable and accelerate the loss of recreational space for the community. The provision of sufficient open and recreational space is crucial in delivering on the Greater Sydney Region Plan's commitment to delivering liveable, productive and sustainable cities. Private recreation space has an important role in the mix of recreation lands required to support the community. Once land is redeveloped for alternative uses (particularly residential uses which then further compounds the existing deficit in open and recreation space experienced across Sydney) the opportunity to protect and maintain this land for the future is lost.

The EIE explains that the State Government is aware of instances where SCC applications have been made on land on which a registered club is no longer viable. The new Housing Diversity SEPP seeks to "reinforce" the requirement that if a SCC application is being made on the basis that the land is being used for the purpose of a registered club, the club must be a registered club at the time the SCC application is made. This does not address the fundamental issue outlined above relating to the loss of recreational space and the need for a proper land use assessment to be carried out which aligns with the Planning Proposal process.

Application of local development standards

The EIE outlines that the Seniors SEPP currently allows development for the purpose of seniors housing to be carried out 'despite the provisions of any other environmental planning instrument'. It is proposed to amend the SEPP provisions to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP. It is proposed that the development standards in the Seniors SEPP could be varied using clause 4.6 of the Standard Instrument LEP, but only to a maximum of 20%.

Council in principle supports the development standards within an LEP prevailing in the event of inconsistency with the SEPP. However clarity is sought on whether this is for all provisions within the Seniors Housing SEPP.

Amending the ARHSEPP and Seniors SEPP to support the delivery of social housing

The ARHSEPP and the Seniors SEPP contain provisions to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC) and other social housing providers. To align with Government priorities set out in *Future Directions for Social Housing in NSW* and the draft *Discussion Paper on the NSW Housing Strategy*, changes are proposed under the new Housing Diversity SEPP to enable LAHC to partner with the private sector to deliver new housing projects which deliver a mix of private, affordable and social housing.

The EIE outlines that the new Housing Diversity SEPP will amend the planning provisions used by LAHC to support the new approach of delivering a mix of housing in conjunction with the private sector. Hybrid housing models as such have been adopted internationally in major cities and have been found to reduce the stigma around social housing, increase social cohesion, improve housing affordability, and improve tenant wellbeing.

The feasibility of this new approach would be better substantiated with commentary around the economic viability of this housing model and the appetite of the private sector in partnering with LAHC and social housing providers. An understanding is needed on the private sector's minimum development requirements (or 'non-negotiables') to invest in a hybrid housing model. In other words, what is the minimum dwelling yield private developers will demand to ensure return on investment? This will have an impact on FSR controls, and needs to be tested to ensure the controls are feasible to accommodate for the 'tipping point' needed for development to be viable for the private sector, whilst also ensuring sufficient capacity is provided in the planning controls to deliver the public benefit of social and affordable housing in the hybrid model as envisaged in the new SEPP. Furthermore, a ratio of private, social and affordable housing needs to be determined based on this testing to ensure the correct balance of housing types are delivered in a development.

Should FSR controls not provide sufficient capacity, or yield, to make development under this model viable for the private sector, variations to the development standards may be exploited during the development assessment process resulting in built form and massing outcomes not suitable or compatible with the surrounding areas. Council supports planning and policy initiatives designed to ensure the diverse housing needs of the changing population are being met. However, any changes to how housing is delivered should not result in excessive bulk and scale, and be at the expense of good urban design, public domain outcomes, local character and amenity.

It is recommended that the ratio of private, social and affordable housing be established as part of the new SEPP; and that feasibility modelling and testing be carried out to determine what density controls are required to make hybrid buildings viable. The outcome of this work could then determine where these hybrid models are suitable within a LGA based on the zoning and FSR controls within the LEP. For example, if the feasibility testing demonstrates that an FSR of 3:1 is required to deliver sufficient floor area to provide the minimum amount needed for private investment, and to deliver sufficient affordable and social housing, then areas with matched density controls may be suitable (subject to other built form, site area, and frontage controls). This will help ensure compatibility with surrounding areas.

Proposed changes to the social housing provisions of the ARHSEPP

Increase the maximum number of dwellings that LAHC can self-assess; update self-approval provisions for social housing; and clarify the types of development that LAHC can self-assess

In order to facilitate the new hybrid housing model discussed above, the new Housing Diversity SEPP proposes to increase the maximum number of dwellings that LAHC can self-assess from 20 dwellings to 60 dwellings, with the maximum height of 8.5 m (two storeys) continuing to apply. It is also proposed to amend the provisions to allow LAHC to self-assess all residential development, including social, affordable and private housing components, proposed to be undertaken by or on behalf of LAHC, on any land owned by the State Government (that is permitted with consent under another environmental planning instrument).

This change is proposed in response to the LAHC's advice that in order to make the projects "*socially and economically feasible*", the number of dwellings that LAHC can self-assess needs to increase and LAHC will need to self-assess all residential development to facilitate the new model. As discussed above in relation to the transition towards hybrid housing models, the evidence base for this assertion should be included within the EIE to support and validate this significant change in policy.

In addition, the built form, massing and development outcome to result from the delivery of 20 dwellings within two storeys versus the delivery of 60 dwellings within two storeys are substantially different. Based on an average dwelling size of 100sqm, this implies that a minimum of 6,000sqm (noting this does not account for common areas) would need to fit under a height of two storeys. The urban design and site area considerations that have informed the proposed policy change have not been included within the EIE, and require careful assessment to ensure the resulting developments are suitable for the surrounding area. The assessment of such development should remain with Council's to ensure suitable development outcomes are delivered that are bespoke to the local character of the local government area.

The new SEPP also proposes to clarify that LAHC can self-assess proposals for any type of residential accommodation that is permitted with consent under another environmental planning instrument (including dwellings, dual occupancies, manor houses and terraces). It is also proposed to clarify that LAHC can self-assess boarding house developments where they are permissible with consent; and boarding houses developed by or on behalf of LAHC on Government owned land in the R2 zone.

The proposed changes will further remove planning responsibilities from Councils. It is likely to result in developments that are out of character with the surrounding local areas, potentially result in the loss of environmentally sensitive lands, and not consider other local planning matters which Councils are aware of and are managing during the development assessment process.

Design guidelines for LAHC development

When self-assessing proposals under the ARHSEPP, LAHC is currently required to consider the *Seniors Living Policy: Urban Design Guidelines for Infill Development*. In addition, LAHC also uses its own design guidelines and standards to assess applications. The new SEPP proposes to update these guidelines to better reflect contemporary practice.

Given the size and scale of LAHC developments are likely to increase due to the new hybrid model being proposed (in response to the private sector having minimum dwelling yields to make development viable and profitable), the design guidelines should be updated to closely align with the SEPP 65 Apartment Design Guide. In addition, where there is an inconsistency with local planning provisions, the local LEP or DCP should apply to deliver consistency in planning outcomes.

Car parking requirements for LAHC development

The new SEPP proposes to apply a minimum car parking rate of 0.5 spaces per dwelling to all dwellings, including social, affordable and private dwellings, in a development undertaken by or on behalf of LAHC, on government-owned land. This is to allow car parking spaces to be distributed across all dwelling types.

Previously the planning framework operated on the assumption that tenants in affordable or social housing have lower car ownership and usage. As a result, reduced onsite car parking rates have applied to affordable or social housing. As discussed throughout this submission, this has resulted in tenants parking on local streets and placing additional pressure on often already congested areas. This has generated complaints from residents, and contributed to an aversion towards affordable and social housing. Consistently applying the car parking rate across all dwellings is supported and will help in addressing parking concerns.

However, this section of the EIE does not discuss parking in the context of 'accessible areas'. Therefore it is not clear whether the proposed minimum car parking rate of 0.5 spaces per dwelling is for developments within both accessible and non-accessible areas. Consideration could possibly be made for reduced parking for developments within 200m of a rail station or major transport interchange (only if the impacts of not providing parking onsite are adequately assessed); and consideration could also be made to car sharing schemes.

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

The new Housing Diversity SEPP proposes to increase the range of development that can be awarded a density bonus for infill affordable housing. Currently a density bonus can be awarded to dual occupancies, multi-dwelling housing, and residential flat buildings. The new SEPP proposes to include the dwelling types that were introduced with the Low-Rise Medium Density Housing Code in July 2018, including manor houses and terraces, where these uses are permitted under another environmental planning instrument.

The justification for introducing a density bonus for these additional uses is not explained with the EIE. However this proposed policy will not translate entirely across all residential zones within the City of Ryde as Council is progressing with a Planning Proposal to prohibit multi-dwelling housing (including manor houses and terraces) from the R2 Low Density zone. This is to mitigate the unintended impacts of the Low-Rise Medium Density Housing Code by preventing the introduction of inappropriate building forms to the low density zone and preventing the increase in the dwelling capacity of the R2 zone beyond the level of supporting infrastructure.

Proposed changes to the social housing provisions of the Seniors SEPP

Parking concessions for seniors housing

The new SEPP proposes to clarify that the reduced minimum car parking rates for development applications lodged by or jointly with a social housing provider also apply to the private dwelling component of a seniors housing development carried out by or on behalf of LAHC on government-owned land. The intention of these proposed amendments is to improve the feasibility of delivering new communities under the development model of a mixture of social, affordable and private housing. The EIE identifies that the car parking rate is a standard that cannot be used to refuse consent. Therefore, Council would be able to accept a lower rate if it was considered appropriate in the circumstances.

As discussed throughout this submission, Council is of the opinion that the provision of adequate onsite parking for seniors living (and other types of social housing) is an important planning consideration to minimise impact on surrounding local streets, particular in low density areas. If insufficient parking is provided onsite for residents and visitors, additional pressure is inevitably placed on local streets to accommodate for the deficit in parking onsite, resulting in an increase in congestion and reducing the availability of street parking for local residents. Council is unlikely to accept a lower rate, and it is recommended the parking rates be further reviewed to ensure the minimum rate adequately responds to the

concerns of the community regarding the impact of these sorts of uses. The only exception where a reduced rate could be considered is within areas that are highly accessible to public transport.

Clarify application of lift access exemption

The Seniors SEPP includes a requirement that new self-contained dwellings for seniors located on or above the second floor must have lift access. However, there is an exemption from the lift access requirement for development applications made by, or jointly with a social housing provider. The lift access exemption provides significant savings in terms of up-front construction and ongoing maintenance costs for LAHC.

It is proposed to clarify that the lift access exemption applies to all seniors housing delivered by or on behalf of LAHC, including any dwellings that are not proposed to be used for the purpose of social housing. This is to ensure LAHC can utilise a diverse range of delivery pathways and maintain flexibility in housing provision.

Typically residential buildings with two to three storeys do not require lifts and use stairs only; and buildings with three or above levels typically require a lift. Whilst this can impact on up-front construction and ongoing maintenance, lifts should be required to ensure sufficient accessibility within senior housing given the key tenants are part of the ageing population and mobility will become an issue.

Proposed changes to the social housing provisions of State and Regional Development SEPP

The new Housing Diversity SEPP proposes to amend the State and Regional Development SEPP (SRD SEPP) so that projects will become State Significant Development if:

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

It is also proposed to remove the current requirement under the SRD SEPP that LAHC sites need to be mapped on the State Significant Development Sites Map in order to be SSD. The reason for this change is because it is not providing the flexibility required to deliver projects within the Communities Plus program and creates resources implications for the Department in maintaining the accuracy of the map.

As discussed previously within this submission, such changes will further remove planning responsibilities from Councils. It is likely to result in developments that are out of character with the surrounding local area and not consider other local planning matters which Councils are aware of and are managing during the development assessment process.

26 August 2021

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By email: housingpolicy@planning.nsw.gov.au

Dear Sandy

City of Sydney submission to the public exhibition of the draft Housing State Environmental Planning Policy

Thank you for the opportunity to comment on the Department of Planning, Industry and Environment's draft Housing State Environmental Planning Policy (Housing SEPP).

The City acknowledges the Department for their consultative approach to consolidating the several complex SEPPs and addressing a range of matters raised during public exhibition of the explanation of intended effects (EIE).

The City looks forward to working with the Department in developing design guidelines where they are lacking. It is the City's view these should cover boarding houses, co-living housing, and possibly student housing as a subset of co-living. Generally, an updated Apartment Design Guide (ADG) or similar should cover these development types, however a relaxation relating to cross-ventilation and apartment size may be acceptable in certain circumstances. It is important future design guidance is very clear about what is included in the room size calculation, minimum standards for apartment layout and efficiency, minimum dimensions and so on.

The City's submission to the EIE

The following submission provides comment on predominantly technical matters. Matters of policy are summarised in the submission the City made to the Explanation of Intended Effects in September last year.

Key comments and recommendations in the City's submission were:

- not classifying build-to-rent as State Significant Development or mandating it within land zoned B3 Commercial Core;
- supporting the proposal to retain the floor space ratio (FSR) bonus for boarding house developments but only if it provides genuine affordable housing (guaranteed rent cap) in perpetuity and is located outside heritage conservation areas or areas with fine grained subdivision patterns;
- supporting co-living as a new land use type but not with an FSR bonus in the SEPP;

- implementing mechanisms to manage occupancy of purpose-built student accommodation and ensure its temporary use for emergency accommodation when demand has significantly reduced;
- applying amenity standards from the NSW Apartment Design Guide and specific design guidance to co-living developments to ensure they are fit for purpose;
- updating existing provisions with proposed changes to existing provisions in the Affordable Rental Housing SEPP 2009 (AH SEPP) and the Housing for Seniors and People with A Disability SEPP 2004 (Seniors SEPP);
- amending the AH SEPP, Seniors SEPP and State and Regional Development SEPP 2011 (SRD SEPP) to support social housing;
- not increasing the maximum number of dwellings that can be self-assessed by the Land and Housing Corporation (LAHC) and not permitting the self-assessment of market housing by LAHC;
- clarifying the need for infill affordable housing to be managed by Community Housing Providers; and
- additional matters for consideration that were not addressed in the EIE.

The following submission only raises matters which have not been previously addressed in the City's submission to the EIE, or are new matters resulting from the draft SEPP.

Considerations and recommendations for the draft SEPP

Chapter 1 – Preliminary

Commencement (clause 2)

It is presumed the reference to 'Chapter 3, Part 8' is a reference to the short-term rental accommodation provisions that will come into effect 1 November 2021. Detailed provisions have not been included for comment.

Repeals (clause 10)

It is understood provision from State Environmental Planning Policy No 21—Caravan Parks and State Environmental Planning Policy No 36—Manufactured Home Estates will be incorporated unamended into the Housing SEPP, with a policy review expected to commence late in 2021.

Chapter 2 – Affordable housing

Affordable housing definition (clause 12) and Affordable Housing Principles (clause 1)

The City supports the retention of the Affordable Housing Principles. Principle 4 requires affordable housing be rented to appropriately eligible tenants and at an appropriate rate of gross household income. However, the inclusion of clause 12(1)(b) is contrary to this Principle as it includes households eligible and paying rent under the National Rental Affordability Scheme (NRAS) in the definition of affordable housing. Rent paid under NRAS may be set at 80 per cent or less of the market value rent and are not set as a proportion of gross household income of the eligible tenant.

Design requirements (clause 18)

The City welcomes the inclusion of clause 18(3), which requires the consent authority to consider whether the design of the development is compatible with the character of the local area. It would be helpful if future design guidelines can articulate what criteria can be used to determine what compatibility means in relation to boarding houses and context.

Must be used for affordable housing for at least 15 years (clause 20)

While the City would prefer that housing derived from this Section be secured in perpetuity, the increase in the period for which affordable housing must remain affordable from 10 years to 15 years is an improvement. It is noted however there is an inherent conflict with Principle 6 of the Affordable Housing Principles.

General

It is noted the requirement for a covenant on the land title has been removed in favour of a more general requirement (clause 20). The City recommends retaining the requirement for a covenant on the land as is currently required in clause 17 of the AHSEPP. While covenants are not a 'flawless' solution to notifying future owners of the restrictions on the use of the building, it is essential that a clear and consistent mechanism be applied, instead of leaving the requirement open to interpretation. This is most relevant when the building is bought and sold.

Boarding houses permitted with consent (clause 22)

The boarding house provisions of AHSEPP do not apply to the B8 Zone as it is not a listed zone in clause 26 of that SEPP. However, the boarding house provisions apply to the B8 Zone in the draft SEPP because provisions will apply wherever boarding houses are permitted with consent.

Sydney Local Environmental Plan 2012 (SLEP 2012), at Clause 1.9, excludes the AHSEPP from applying to land in Central Sydney (being predominantly land zoned B8).

It is recommended the SEPP's transitional arrangements update clause 1.9 in the LEP to maintain the status quo for the application of the Housing SEPP.

Non-discretionary development standards (clause 23) and Standards for boarding houses (clause 24)

The City does not support the increase of the boarding house bonus from an additional 20% above exiting floor space ratios to an additional 25%. The increase will further exacerbate the significant strain on many sites and results in building envelopes that are not compatible with local context and cause poor amenity outcomes for neighbouring buildings including, in particular compromised acoustic, visual privacy and overshadowing.

It will be important that future guidelines provide a better definition of what is and is not counted towards the room area (alongside min/max size provisions in the Housing SEPP) and what the definition of a 'room' is. A boarding room is effectively the bedroom and other spaces, but excluding kitchens, bathroom and laundry spaces. It needs to be made clear whether corridors, storage, circulation space, standing room for the kitchen, internal walls between kitchen/bathroom/room or at entry, for example, count towards the 'room'.

The City makes the following recommendations with regards to the draft SEPP:

- clauses 23(2)(c) and (d) that relate to minimum landscaping requirements refer to requirements under a relevant planning instrument. The City notes that most councils

include these requirements in their DCPs and that these provisions would mostly have no effect.

- clause 23(2)(j) that relates to parking rates:
 - correct the reference to subclause (h)
 - the SEPP should remove any ambiguity that might suggest that where a council has established a maximum parking rate, that the Housing SEPP would allow for that rate to be exceeded. This also applies to co-living parking provisions.
- clause 23(2)(k) is unclear if the provision establishes a minimum standard for motorcycle parking. As noted in the City's submission to the EIE, the City has a high number of 4.6 variation requests to reduce the amount of motorcycle parking. The City's DCP says 1 motorcycle space should be provided for every 12 car parking spaces provided. The provision must make clear that any existing standard less onerous than the SEPP can still be applied. This also applies to co-living.
- clause 23(2)(l) should increase the amount of bicycle parking and allow councils to approve under-provision where the rate is not appropriate. The City's upcoming DCP comprehensive amendment will likely propose 1 space per dwelling for occupants, and 1 per 10 dwellings for visitors. This may be only appropriate to the Sydney LGA, but this LGA will also attract a lot of these developments. This also applies to co-living parking provisions.
- clause 24(1)(b), should also exclude corridors from GFA. The same applies for subclause (1)(k).
- clause 24(1)(f), which relates to boarding houses on land zoned primarily for commercial purposes, should name the zones as per other standards. This will avoid uncertainty.
- clause 24(1)(g), which relates to a communal living room, should include size and dimension requirements and communal open space requirements as per the co-living provisions (see comment below).
- clause 24(1)(j), which relates to building separation, should be reworded to read "if the boarding house is 3 storeys or more the building will comply with the minimum visual privacy and building separation requirements specified in the Apartment Design Guide" to allow for merit assessment. It is noted the City strongly supports the inclusion of this standard. However, noting the changes expected in the ADG as the Design and Place SEPP progresses, it is recommended that a table describing the current ADG requirements (see Attachment A) is included in the clause. It is also noted that referencing building separation may have no effect going forward if the Design and Place SEPP instead references visual privacy.
- clauses 24(1)(k)(i) and (ii), which relate to minimum boarding room sizes, should include minimum width requirements so the space is usable, and amenity is adequate. Clause 24(k)(i) should include a minimum width of 3 meters and clause 24(k)(ii) should include a minimum width of 3.5m. This also applies to co-living housing.

Must be used for affordable housing in perpetuity (clause 25)

The City welcomes the requirement that boarding houses be provided in perpetuity as affordable housing. It is the City's view this should also apply to boarding houses built by a public authority.

Boarding houses - Land and Housing Corporation (clauses 27-31)

The City does not support allowing the Land and Housing Corporation to self-assess boarding houses. The City should continue to assess all applications for boarding houses to ensure appropriate building design, heritage and public domain requirements are taken into consideration. Given the likely impacts on neighbours and the public interest that arise from the floor space bonus and the need to manage the impacts through good design and planning, it is essential an independent assessment is undertaken through a development application. The City is well placed to provide advice on what is required to create better places for residents while increasing the number of social housing boarding rooms on land with good access to employment and services.

Retention of existing affordable rental housing (clauses 41-44)

It is noted that clause 42(2)(b) states that this part does not apply to buildings to which Chapter 3, Part 5 applies. There is no Chapter 3, Part 5 included within the consultation draft. If the subclause is intending to translate the equivalent provision of the ARHSEPP, the subclause should refer to Chapter 3, Part 4 Seniors housing.

Chapter 3 Diverse housing

Co-living housing - Non-discretionary development standards (clause 64) and Standards for co-living housing (clause 65)

Student accommodation has been removed as a land use from the EIE exhibited in 2020 based on stakeholder feedback. The City agrees that the assessment of off-campus student accommodation is covered by the definition of, and provisions for co-living housing, noting that this is almost identical built form to boarding houses. The City notes that future Guidelines for co-living housing should include design options tailored to the specific needs of students within co-living housing.

With regards to the 10% FSR bonus offered for co-living, that was not previously exhibited in the EIE in 2020, the City does not support floor space bonuses being offered for development that does not deliver a genuine affordable housing outcome.

Generally, the comments the City has made with regard to boarding houses also apply to the co-living provisions.

The City makes the following recommendations with regards to the draft SEPP:

- clause 64(2)(a)(ii) should exclude the application of the bonus, if not in its entirety, then at least in heritage conservation areas.
- clause 64(2)(d)(i), which relates to communal living areas, should require a further 4m² for each private room (rather than the 2m² in the draft SEPP).
- clause 64(2)(d)(ii) should require a minimum dimension of 4m for each communal living area (rather than the 3m in the draft SEPP).
- clauses 64(2)(e)(i) and (ii), which relates to communal open space, should require a minimum dimension of 4m (rather than the 3m in the draft SEPP). The minimum dimension of communal open space needs to be scaled to the development so that the minimum dimension gets larger as the communal open space gets larger.
- clauses 64(2)(h) and (i) that relate to minimum landscaping requirements refer to requirements under a relevant planning instrument. The City notes that most councils include these requirements in their DCPs and that these provisions would mostly have no effect.

- clause 65(1)(a) should also exclude corridors from GFA.
- clauses 65(1)(a)(i) and (ii), which relates to a minimum size for private rooms, should include minimum width requirements so the space is usable, and amenity is adequate.
- clause 65(1)(d) should be reworded to read “if the co-living housing is 3 storeys or more — the building will comply with the minimum visual privacy and visual separation requirements specified in the Apartment Design Guide to allow for merit assessment.
- clause 65(1)(h), which relates to co-living houses on land zoned primarily for commercial purposes, should name the zones as per other standards. This will avoid uncertainty.

Seniors housing (clauses 67-100)

The City notes clause 99 in the draft SEPP has replaced the 0.5:1 FSR bonus for vertical villages in the existing SEPP with percentage based FSR bonuses up to 25%.

Depending on the maximum FSR applying to a site, the above clause could enable a substantial FSR increase above that provided within the Seniors SEPP. This increase will further exacerbate the strain on sites, resulting in building envelopes that are not compatible with the local context and cause poor amenity outcomes for neighbouring buildings. The City recommends the existing FSR bonus be retained or the FSR bonus be scaled down for sites with higher FSRs to ensure that the floor space can be achieved within the additional height.

Schedule 7 Amendment of other environmental planning instruments

The draft SEPP amends SRD SEPP to add residential care facilities with a value of over \$30 million in the Greater Sydney region as state significant development.

It is recommended that the City of Sydney be **specifically excluded** from this provision given the unique function and member composition of the Central Sydney Planning Committee.

Schedule 8 Amendment of local environmental plans

Sydney Local Environmental Plan (Schedule 8, clause 8.47)

The City makes the following comment/recommendations with regards to the draft SEPP:

- it is noted boarding houses are already permitted in the R2 zone in SLEP 2012;
- the City supports amending clause 6.48 of SLEP 2012 to allow for co-living (student housing) to achieve the additional FSR. It is noted the current LEP provision was based on the understanding that a 20% bonus would be achievable. It is recommended a 20% be facilitated to the FSR available in the LEP, but no more.

In addition to the above, clause 1.9 of SLEP 2012 contains provisions that exclude the application of the AHSEPP from localities in the local area. The City strongly recommends this Schedule update references in the SLEP 2012 as required to maintain the current planning settings. These exclusions were agreed with the Department given the City has had long standing arrangements in place to ensure the delivery of affordable housing in the local area. The exclusion has been critical in managing FSR in highly constrained master planned sites, for example in the Lachlan precinct.

Going forward, this will be critically important in places like Waterloo Estate (South), where the recent planning proposal seeks to include the Waterloo Estate (South) to the list of exempted areas in the LEP. The resulting planning controls for these precincts have been

derived from fine grain testing and careful placement of FSR and have not considered any addition bonus FSR that may be derived from the Housing SEPP. Should the Department seek to alter the status quo for the application of the SEPP in these areas, the City requests a meeting with the Department to discuss any changes.

Should you wish to speak with a Council officer about this submission, please contact Tamara Bruckshaw, Manager Major Projects on 9265 9743 or at tbruckshaw@cityofsydney.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'GJahn', written in a cursive style.

Graham Jahn AM LFRAIA Hon FPIA
Director
City Planning | Development | Transport

Attachment A – Visual privacy and separation table

(a) visual privacy and separation

- (i) Windows to a *habitable room* or an *open side of a balcony* must be separated by open space that is open to the sky, from side boundaries, rear boundaries, centrelines of streets and *blank walls* (including *blank walls* of the same development) for at least as follows:
 - I. for a height up to 4 storeys above ground level (existing) – 6m;
 - II. for a height over 4 storeys and up to 8 storeys above ground level (existing) – 9m;
 - III. for a height over 8 storeys above ground level (existing) – 12m.
- (ii) Windows to a *non-habitable room* must be separated by open space that is open to the sky, from side boundaries, rear boundaries, centrelines of streets and *blank walls* (including *blank walls* of the same development) for at least as follows:
 - I. for a height up to 4 storeys above ground level (existing) – 3m;
 - II. for a height over 4 storeys and up to 8 storeys above ground level (existing) – 4.5m;
 - III. for a height over 8 storeys above ground level (existing) – 6m.
- (iii) Windows to a *habitable room*, or an *open side of a balcony* must be separated by open space that is open to the sky, from *habitable room* windows of a different apartment, an *open side of a balcony* of a different apartment, *common rooms* and *common circulation* in the same development for at least as follows:
 - I. for a height up to 4 storeys above ground level (existing) – 12m;
 - II. for a height over 4 storeys and up to 8 storeys above ground level (existing) – 18m;
 - III. for a height over 8 storeys above ground level (existing) – 24m.
- (iv) Windows to a *habitable room*, and or an *open side of a balcony*, must be separated by open space that is open to the sky, from *non-habitable room* windows of a different apartment in the same development for at least as follows:
 - I. for a height up to 4 storeys above ground level (existing) – 9m;
 - II. for a height over 4 storeys and up to 8 storeys above ground level (existing) – 13.5m;
 - III. for a height over 8 storeys above ground level (existing) – 18m.
- (v) Windows to a *non-habitable room* must be separated by open space that is open to the sky, to *non-habitable room* windows of a different apartment, in the same development for at least as follows:
 - I. for a height up to 4 storeys above ground level (existing) – 6m;

- II. for a height over 4 storeys and up to 8 storeys above ground level (existing) – 9m;
 - III. for a height over 8 storeys above ground level (existing) – 12m.
- (vi) When the adjoining land zoning is an R zone that does not permit residential flat development, an IN, E, SP and W zones an additional 3 metres must be added to the separation to any boundary of that land.
- (vii) Separation is:
- I. the straight line distance from one to another. Landscape elements including trees and planted screens, screens and other privacy devices are not to be considered as interrupting this distance as the separation also contributes to outlook, acoustic privacy and access to natural light and ventilation;
 - II. also applied within a recess, notch or indent in the building form, light wells and courtyards;
 - III. between windows, balconies and common circulation of the same development that are set at angle of 90 degrees or more where the distances can be equal to half the separation required at the height up to 4 storeys for the full height of the building;
 - IV. to a blank wall that is set at angle of 90 degrees or more from the plane of the wall containing the subject window or an open side of a balcony 0m; and,
 - V. for common circulation around common open spaces 0m;
 - VI. between blank walls – 0m.



Thursday 9th September 2021

Attention: Deputy Secretary, Greater Sydney Place and Infrastructure
NSW Department of Planning, Industry and Environment
Locked Bag 5022, Parramatta 2124

Delivered by email to: housingpolicy@planning.nsw.gov.au on Thursday 9 September 2021

Re: Housing SEPP – Proposed Inclusion of Cohousing

Dear Sir/Madam

Thank you for the opportunity to make a submission on the draft Housing SEPP.

Acknowledgment of the Housing SEPP's purpose

When the draft SEPP was first released for public comment it was referred to as the Housing *Diversity* SEPP. The EIE noted these overarching aims:

“... to assist in the economic recovery of NSW following the COVID-19 pandemic and provide greater certainty for all stakeholders.”

and “ ... to address housing **diversity** and **affordability**.”

Further, the SEPP:

- a) introduces new definitions for build-to-rent housing, student housing, and co-living; and,
- b) consolidates three housing-related SEPPs – Affordable Rental Housing; Housing for Seniors and People with a Disability; and Affordable Housing.

Resident-led housing - the key to unlocking housing diversity

While these provisions give greater flexibility to developers seeking to provide housing solutions, we would request that consideration be given to also including a resident-led and resident-managed model that is the hallmark of Cohousing.

What is cohousing?

Cohousing Australia defines the main characteristics of cohousing as:

1. *Future residents' strong involvement in the concept and design of the building or buildings*
2. *A community of intention that opts for collaboration, resource sharing and decision-making by consensus*
3. *Shared management of the property*

A bit more about cohousing

Cohousing first emerged in Denmark in the post-war years and has since spread across Europe and North America, with a small number of projects also in Australia.

Cohousing developments typically aim to create a sense of community and social belonging through a design that emphasises shared space and social interaction, and strong consensus processes around community governance. While there is a range of dwelling numbers in cohousing projects around the world, the guiding principles reinforced by decades of experience is a maximum of 50 adults and a 'sweet spot' of around 35 dwellings although there are projects with as few as 20 dwellings.

The concept is also very clearly articulated in a 2017 TED talk by USA architect and cohousing resident, Grace Kim:

https://www.ted.com/talks/grace_kim_how_cohousing_can_make_us_happier_and_live_longer?utm_source=newsletter_weekly_2017-07-29&utm_campaign=newsletter_weekly&utm_medium=email&utm_content=talk_of_the_week_button#t-529316

There are a number of publications on Cohousing but *Creating Cohousing: Building Sustainable Communities* by Kathryn McCamant and Charles Durrett is a key reference.

In the Australian context, a key reference is the UTS Institute for Sustainable Futures Collaborative Housing website:
<https://www.collaborativehousing.org.au/>

How cohousing is different from coliving

The proposed SEPP addresses a number of housing types including Co-living. Cohousing is distinctly different from co-living as defined in the draft SEPP.

- **Housing diversity**

Cohousing introduces genuine housing diversity by being resident-led. It can lead to innovation in housing because the residents are directly involved in the design process from the beginning and intend to live there. In this way, a developer can have confidence that what is being built will be bought.

- **Social integration**

Cohousing can allow for a mix of tenure types including an affordable housing component with a CHP taking on a head lease, being a developer, or being part of a joint venture with a resident group. Many cohousing groups prioritise community and diversity and understand that this includes diversity of tenure types so that residents from a range of backgrounds (including socio-economic) can be included. This allows for social and affordable housing to become more integrated with other housing.

- **Deliberative development: an alternative to speculation**

A contributing factor to housing costs is the nature of speculative development. Deliberative (i.e. resident-led) development is consistently shown to be around 10%-15% less expensive than speculative development.

- **Cohousing is counter-cyclical**

Cohousing receives attention from policy-makers and interest from residents when other housing construction is cooling. The combination of environmental considerations (e.g. moving to shared resources, common spaces, downsizing (for some); pooling of financial resources (including financial capacity to purchase a site with others); and better utilisation of land from a highest and best use perspective (i.e. multi-dwellings); ALL combine to make cohousing a type of housing that generates more interest while the rest of the housing market faces stress (mortgages, interest rates, and price and availability of land).

- **Higher quality including environmental features**

Cohousing leads to a higher quality build finish as the residents are involved through the design and build process and not after the OC has been issued. Residents can consider including more expensive features (e.g. environmental and sustainability technologies) because the residents are thinking long-term. Thus, an upfront cost becomes a long-term investment.

Co-creators of community

An important thing to note is that cohousing refers to both:

- ❖ the **built form** (with shared community spaces and private dwellings)
as well as
- ❖ the **process of co-creation** and community building that takes place as residents help shape the built form.

A word about Collaborative Housing

Collaborative Housing, as defined by the Institute for Sustainable Futures, is broader and includes ecovillage or intentional communities, but again a key defining feature is resident participation and control:

Residents have formative input in design and play a significant role in the ongoing management of the community, though the level of input and how things are managed will vary from project to project.

This is distinctly different from the co-living model, as defined in the draft SEPP, which would be developer-driven and where the ongoing management must be managed by a managing agent who is contactable 24 hours a day (as outlined in clause 98H of the draft regulation).

The *Renew* organisation's (Inspiring, enabling and advocating sustainable living) magazine *Sanctuary* is also key local references:

<https://renew.org.au/sanctuary-magazine/ideas-advice/better-together-exploring-collaborative-housing-in-australia/>

Inclusion of cohousing

We request that, either in this iteration or in the subsequent phase (Phase 4), you consider including, defining and recognising "Cohousing" (perhaps defined as "resident-led collaborative housing" to avoid confusion with co-living) as a distinct housing type.

Here is a more comprehensive list of Cohousing (or *Resident Led Collaborative Housing*) characteristics that could be considered for inclusion in the SEPP:

- future residents involved from schematic design onwards

- future residents legally partnered with property developer prior to the DA approval
- intentional neighbourhood design
- proof of resident management in the strata scheme or community management statement or equivalent
- located near public transport/amenity and accordingly car park reduction but spaces for car share
- smaller than standard equivalent housing supplemented by communal spaces
- a variety of dwelling types (i.e. not all studio or one-bedroom dwellings) to accommodate a mixture of family types (singles, couples, singles who cohabit, families with several children)
- large-shared backyards and outdoor deck areas etc.
- minimum % disability accessible - to attract downsizers
- minimum inclusion of a common house, could also include shared laundries, garden sheds, woodwork sheds, music practice room, multi-media room, guest accommodation.

Cohousing Australia - a knowledge resource

We would be happy to work with you to further refine how cohousing could be included in this SEPP and strongly believe that it would be an opportunity to truly broaden housing diversity in NSW.

Yours sincerely

David Alonso Love
Cohousing Australia - NSW Chapter and
Sydney Cohousing co-founder

Richard Denham
Director
Narara Ecovillage Co-operative

Karen Deegan
Built for Good

27 August 2021

The Hon. Rob Stokes MP
Minister for Planning and Public Spaces
GPO Box 39
Sydney NSW 2001

The Hon. Melinda Pavey MP
Minister for Water, Property and Housing
GPO Box 5341
SYDNEY NSW 2001

Copy to: The Hon. Alister Henskens MP
Minister for Families, Communities and Disability Services

By post and online submission

Dear Ministers

Submission relating to the proposed Housing State Environmental Planning Policy - Group homes

1. We act for Marist Youth Care Limited (**Marist 180**), a not-for-profit, charitable organisation.
2. Marist180 provides services to assist displaced youth by providing access to education, accommodation and employment. Of particular relevance to this letter are the services that Marist180's provides under a Program Level Agreement with the Minister for Family and Community Services (as was the previous title) to care for vulnerable children and young persons who are under the parental responsibility of the Minister for Families, Communities and Disability Services. Care and accommodation services are provided to these vulnerable children and young people in group homes throughout the state.
3. While the group home provisions that exist in the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (**Affordable Rental Housing SEPP**) are proposed to be transferred into the proposed Housing SEPP, and consultation with respect to the group home provisions to occur at a later time, we have been instructed to prepare this submission concerning the group homes.
4. The purpose of the submission is to:
 - (a) Identify that there is no definition for group home, permanent group home or transitional group home in the proposed Housing SEPP.

- (b) Provide you with advance notification of the issues relating to the group home provisions that have the potential to interfere with the ability of all service providers throughout the state that provide care and accommodation to vulnerable children and young persons.
- 5. We anticipate that our client will make future submissions at the appropriate time when the group home provisions are open for consultation. However, it is important that these issues are raised on a preliminary basis now so that awareness is created and proper consideration can be given to how public consultation can meaningfully be carried out to improve the group home provisions and better protect the service providers and the children and young people in need of care and protection.

No definition of group home in proposed Housing SEPP

- 6. The Housing SEPP consultation draft FAQ states:

*"The existing SEPP provisions for caravan parks, camping grounds and manufactured home estates, as well as **the group homes provisions will be transferred to the proposed Housing SEPP generally in their current form.** A comprehensive review of these provisions will be carried out in late 2021."*
(Emphasis added)

- 7. However, the draft Housing SEPP does not appear to carry across the definition of group home, permanent group home or transitional group home.
- 8. While there is generally a definition of group home (including the definition of permanent and transitional) contained within the Dictionary of Local Environmental Plans, it would be prudent for a definition to be included in the proposed Housing SEPP for completeness and clarity.
- 9. The group home provisions are presently found in Part 2, Division 7 of the Affordable Rental Housing SEPP. The definition of group home, permanent group home and transitional group home are found in clause 42.
- 10. If the definition was left out intentionally, it is not clear why this has occurred.
- 11. There are further submissions that our client would like to make with respect to the definition of group home (including permanent and transition group homes). However, given that consultation will occur with respect to group homes later this year, we have outlined some of the issues associated with the current framework below so that early consideration can be given to the consultation that will be necessary to improve the current drafting of the group home provisions and better protect the service providers and the children and young people in need of care and protection.

Advance notification of issues associated with the group home provisions

Issue 1 - Clarification that children and young persons under the parental responsibility of the Minister can be cared for in group homes would benefit the sector

- 12. Under the Program Level Agreement with the Minister for Communities and Justice, our client provides a range of care and accommodation services to vulnerable children and young persons. The type of care and accommodation provided depends on the needs of the child or young person. Intensive Therapeutic Transitional Care (ITTC) is one type of care and accommodation that is provided that we discuss further below.

13. In May 2021, a two year long case was concluded in the NSW Land and Environment Court. The proceedings were commenced by the Black Hill Residents Group Inc, which is a resident action group generally comprising members who live in the Black Hill local community where our client had set up an ITTC home in accordance with the Program Level Agreement with the Minister for Communities and Justice.
14. At the heart of the case was whether our client's ITTC home was a group home as defined under the Affordable Rental Housing SEPP. Our client was ultimately successful in the NSW Land and Environment Court with it finding that, based on the facts, the use was a group home. However, the resident action group has now filed an appeal in the NSW Court of Appeal.
15. As we expect you would appreciate, the two years of litigation have drawn significant resources from Marist180 - time, energy and money. It goes without saying that our client would much prefer to expend its resources on providing the care to the vulnerable children and young persons.
16. Legislative intervention is needed to confirm that the operation of ITTC homes and the like which accommodate vulnerable children and young persons between the ages of 12 and 18 under the parental responsibility of the Minister, is the operation of a group home, or potentially some other designation that recognises the policy intention that these types of homes are to exist within ordinary communities.
17. The NSW Land and Environment Court's decision was based on the facts of that case and there is no protection against other well-funded neighbourhood groups which incorporate and who do not want group homes in their suburbs from being able to conduct what might colloquially be termed "lawfare".

Issue 2 - The introduction of reasonable exempt development provisions for group homes would benefit the sector

18. It was clear that stakeholders in this area had limited knowledge of the way the planning system operated a few years ago when the existing program was introduced, particularly given Part 5 of the *Environmental Planning and Assessment Act 1979* (NSW) is enlivened and relied on in the process for these homes being established. We expand on this further below.
19. Against this background, it has taken some time for stakeholders to become educated in the way the planning system operates, but it still does not yet appear that it is fully understood and managed in an efficient manner. Nor is it understood and accepted by the community that it is the NSW Government's intention for vulnerable children and young persons to be cared for in local communities through homes that do not necessarily require a Part 4 assessment. This has caused our client to incur significant costs in obtaining advice about planning laws and defending its position in lengthy Court proceedings.
20. The Explanation of Intended Effect released last year mentions that the provisions of the Affordable Rental Housing SEPP will be amended to "*provide a quicker and easier process to allow an existing dwelling to be used as a group home*". However, with no further detail available and the existing provisions to be transferred into the proposed Housing SEPP with a review only to be undertaken later this year, it is prudent to highlight the following issue now.

21. Under the current provisions, there are three ways a group home might be lawfully carried out. They are:
 - (a) With development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (NSW).
 - (b) With a Part 5 determination given by the Minister for Communities and Justice (or his delegate) because the development is being carried out on behalf of a public authority.
 - (c) With a complying development certificate.
22. It is common practice throughout the sector that group homes are either purchased by service providers using their own resources, or properties are leased on the open residential market.
23. Part 5 determinations have primarily been relied on to obtain planning permission to carry out group home development. However, in some cases, these determinations have taken more than 6 months to obtain. Where homes are leased on the open residential market, this is not a viable planning pathway as decisions need to be made in a faster timeframe so that the children and young people in need of care can be cared for and accommodated promptly and in a manner more responsive to their sometimes dire circumstances.
24. Similarly, there is substantial risk placed on service providers purchasing properties without any certainty that they will receive a Part 5 determination or that they will obtain Part 4 development consent or complying development certificate. The Department of Communities and Justice have sought to allocate planning risk to service providers, but ultimately, Marist180 (and other service providers) are beholden primarily to the Part 5 process that ultimately needs to be undertaken by the Department of Communities and Justice.
25. The sector and the vulnerable children and young persons in need of care would benefit from more streamlined process to obtain planning permission for the use of group homes. For example, exempt development provisions that are subject to certain standard and reasonable development criteria would assist the sector greatly.

Issue 3 - A separate designation for the use of dwellings for the purpose of providing care and accommodation to vulnerable children and young persons might benefit the sector

26. On a number of occasions, Marist180 has observed that there are prejudices in local communities where group homes are to be established which can make it difficult to secure and retain properties, and which will inevitably subject providers to further "lawfare" in the future.
27. Despite the fact that service providers undertake the philanthropic endeavour of providing care and accommodation to vulnerable children and young people, there are numerous examples of where neighbourhoods have resisted the establishment of these homes, even though they are essentially used as residential dwellings where staff supervise and care for children and young people who are not able to be with their natural guardians for various reasons.
28. A separate designation for this type of use might be appropriate if clarification is not provided in the definition for group homes. This will make it clear to the community that it is the government's intention for these vulnerable children and young people to be cared for in residential dwellings with a home like environment amongst normal neighbourhoods (rather than in institutionalised buildings).

Issue 4 - The sector would benefit from the de-stigmatisation of group homes

29. There is a need to destigmatise this housing typology. The phrase group home at present only provokes unfortunate prejudices. The need for these homes has never been greater following the upheaval of many families as a result of the pandemic, yet Marist180 has to operate within a planning system that imposes significant cost and risk.
30. The definition of group home in the current Affordable Rental Housing SEPP uses an antiquated definition of disability also that reinforces stereotypes. The planning system should not be an enabler of prejudice.
31. The planning system needs to move away from what occurs inside a home and look to other design matters.

Concluding remarks

32. Our client requests that the above matters are taken into account when finalising the Housing SEPP and also before consultation with respect to group homes begins so that process can be meaningful and efficient.
33. Our client would welcome the opportunity to participate in community consultation with respect to the group home provisions that is anticipated to occur this year.
34. We and our client would be pleased to discuss these issues further if that would assist.

Yours faithfully



Todd Neal

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27 August 2021



Housing Policy Team
**Department of Planning Infrastructure
and Environment**

Via Submission Link:

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

Re: Housing SEPP - Consultation Draft

Background:

Common Equity NSW (CENSW) is a Tier 2 CHP and the Peak Body for co-operative community housing in NSW. CENSW is the only CHP in NSW specialising in the delivery of co-operative community housing (our model). Our model is community led and based on the principles of co-operation. Tenants are each members of a housing co-operative and collaboratively, with their Board, manage their own housing governance and operations.

Our role includes both management and development of co-operative housing properties. Most recently, as we have grown, we have been able to facilitate the development of purpose specific co-operative housing sites – responding to both best fit for the intended community and to the particularities of co-operative housing needs. Through experience we have learned that the success of our model is best supported through a range of planning provisions which are enabling and agile rather than prohibitive and prescriptive.

CENSW strongly supports the goal and intended affect that the new Housing SEPP (the SEPP) – adding to housing diversity through broadened planning options - however, there are a number of elements which we can already see, when applied in practical terms will inhibit rather than enable diversity. There are a number of amendments which would facilitate diversity in a broader range of contexts – compounding the diversity enabled through the SEPP.

CENSW has participated in a number of consultation rounds regarding the SEPP including CHIA round table discussions at initial and current consultation rounds and lodging a substantial submission of our own during the initial consultation round in August 2020. We also participated in the Industry Briefing hosted by DPIE on 17 December 2021 and the interactive session *Has the term “boarding house” past its use by date?”* hosted by Landcom at the recent Community Housing conference.

Our response below is in adjunction to our responses provided at each of the points above.

Itemised response:

1. Affordable Rental Housing

- Prescribed accessible area requirement – although unchanged – remains prohibitive for smaller CHP's to develop affordable housing under the code. Land in these areas is typically more expensive and beyond the equity of a smaller CHP. Additional distances/concessions for CHP's developing would be of benefit
- Increase to the minimum floor size inhibits dwelling yield and varied capacity dwelling sizes (i.e. number of bedrooms). It seems contrary to the broader housing strategy of developing best fit housing. For example, in the balancing of yield, occupancy capacity and development cost, increased size requirements could inhibit development of 3-bedroom units suitable for families. This could have the accumulative affect that planning controls continue to limit community housing stock to a disproportion of 2-bedroom units.
- Removal of studios from Affordable housing dwelling types. This removal could see a compounded affect to the above as the dwelling mix from studio to 3 bedroom has the potential to balance out dwelling yield with best fit housing (optimal occupancy).

2. Boarding Houses

- Mandate Boarding house approvals in R2 zones equal to provisions made for LAHC. Where a CHP is effectively performing the same role as LAHC, then the CHP should benefit from the same incentives and provisions.
- Boarding house (term). The term boarding house is antiquated and loaded with historical stigma and pre-conceptions and should be changed. Best practice community housing aims to synergise not separate social/affordable and market housing.
 - Naming: Affordable Co-living. Our suggestion is to rename Boarding house as affordable co-living – either as a stand-alone provision (as is) or as a subsection under co-living provisions. Boarding house and co-living provisions, as stated in the consultation draft are essentially the same thing but with varied concessions and requirements dependant on if the developer is a CHP or private developer.
 - Remove maximum floor size restriction. This allows for a greater diversity of tenants to be housed and for inclusive design principles to be applied with greater effectiveness.
 - Common area. There are varied opinions in the CHP sector regarding inclusion of a common area and the area size. For our model, a large-shared space is essential to the effectiveness of the co-operative residents. While we support flexibility on this point (i.e. optional as to its inclusion) we do not in any way support removal of a common area as an allowable inclusion – ideally with no maximum or minimum size set.

3. Co-living

- One housing type with 2 subsections. Combine *Co-living* and *Boarding House* under one banner and include 2 subsections 1) Co-living (or Commercial Co-living); and 2).

Affordable Co-living. The particular requirements and concessions for each can be identified in the respective sub-sections.

4. Senior housing

- Reinstate independent living units in R2 zone. Independent living units are developed at varied scale/density. Smaller scale developments are fitting and well suited to R2 areas. These also afford opportunity for independent living units to be located in well connected (accessible areas) but quieter residential areas and community life.
- Rather than strict and prescriptive conditions relating to accessible areas, developers should submit a transport/accessibility plan as part of DA process – point to point transport should be one of a range of available combined options to fulfil access requirements.

Future involvement:

CENSW remains an invested stakeholder in the development of planning provisions which supports the ongoing increase of diverse and affordable housing. We welcome the opportunity to discuss our suggestions and the co-operative housing model with you. I am happy to answer directly any questions you may have or provide you with any further information relating to our response. I can be contacted on 0416 324 131.

Yours Sincerely



Nick Sabel
CEO

To whom it may concern.

Regarding the proposed NSW SEPP changes as of 31 July 2021.

Some considerations that I believe would be viable to have in these changes.

The provisions within the draft SEPP for co-living covers 6+ bedrooms only, the draft SEPP makes it clear that it does not allow the use of smaller 3-5 bedroom houses / max of 6 persons co-living versions as is currently being used in other States across Australia. Also the draft SEPP does not mandate the smaller co-living model in low density residential areas (R2)

Leaving the option out of the draft SEPP will be a big opportunity missed for addressing the housing affordability. R2 low density residential areas, has a high number of people whom are seeking these co-living options due to struggling with affordability.

Moving forward to help with housing affordability:

- The SEPP needs to have the consideration of allowing 3-5 bedroom with a max of 6 person's model.
- Mandate this smaller 3-5 bedroom option within the low density residential (R2) zones.
- Also allow for certifier approval for the 3-5 bedroom, providing that conditions of the complying development are made.

As myself becoming educated in the AHIs co-living model as a small investor which is adaptable in other states and working well, I have become aware of the need for these smaller 3-5 bedroom / 6 person max options in the correct zones.

The type of people looking for access to these affordable co-living homes are the everyday workers. The largest group of people that are affected by housing affordability is the middle-age women, the rest is made up of couples, and singles who want an affordable option to save up for their own property.

Reason for needing the 3-5 bedroom option in the low density (R2) zone.

Majority of the people seeking these smaller affordable co-living models are,

- Health Care workers, Drs, Nurses
- Construction workers
- Trade workers
- Degree in Engineering, Law, Design ec
- Low income workers
- Retirees
- Single women affected by death, divorce, with low income or savings.

- Women transitioning from domestic violence crisis accommodation to main stream accommodation.

These types of people are looking for affordable housing options within their area of work, close to Hospitals, shops, transport, ec such as the low density (R2) zones pose.

Having the SEPP include the 3-5 bedroom / 6 person max model within the (R2) zone, applied by a private certifier, creates more options to find suitable housing.

Allows small investors to help with providing these options. Creates quicker turn around for affordable housing to be created. Converting an existing property takes months rather than years.

The benefits of the smaller co-living option homes in the low density (R2) zones:

- Gives the residents an individual tenancy under a lease that has the option of 6-12 months stay. Unlike a boarding house with a 3 month right to occupy a room. This gives the resident a sense of security.
- Affordability, within areas needed, giving people the option to have a place that would cost them 1 3rd to 1 ½ of what they would pay to rent a whole property in the neighbourhood.
- Allows some of the residents the ability to save up to purchase their own property.
- Gives residents an option to have affordable co-living options close to their work, which requires them less time traveling.
- Provides affordable co-living housing at no cost to the government, which will help ease the pressure on the social housing wait list.
- Requires less building materials to carry out required conversions to existing properties, which eases pressure on new builds and the environment.
- Land lords benefit from increased rental return compared to having one tenant in a house.
- Creates extra work in the zone, e.g.: Extra management, gardeners, cleaners, maintenance, building, trades work.
- Increases property value
- Increases opportunity for small mum and dad investors to access properties to convert.

Overall this will take the pressure off the NSW Government having to invest so much time and money into affordable housing and allow NSW Government to focus on providing affordable social and community housing for those on low or no income at all.

I look forward to seeing the option for Small 3-5 bedroom / max 6 people option for co-living housing in the low density (R2) zone to be considered in the SEPP. This will allow the people of Australia to help with the affordability problem we face, and this will make it possible for investors like myself to be one that will be able to contribute to NSW affordability problem in the future.

Kind Regards





Submission

Proposed Housing SEPP

Council on the Ageing (COTA NSW)
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COTA NSW

COTA NSW is the peak body representing people over 50 in NSW.

We're an independent, non-partisan, consumer-based non-government organisation. We work with politicians, policy makers, service and product providers as well as media representatives to make sure our constituents' views are heard and their needs met.

The focus of the COTA NSW submission

COTA NSW welcomes the review and consolidation of the: Affordable Rental Housing, 2009 (ARHSEPP), Housing for Seniors and People with a Disability, 2004 (Seniors SEPP) and the Affordable Housing No 70 SEPP into the proposed Housing SEPP.

COTA NSW has long called for a review of these planning instruments and the inclusion of measures that encourage and allow for responsive and innovative solutions for older people in NSW. Given the current significant shortfall in social and affordable housing, the inclusion of a number of measures within this proposed SEPP will enable further investment and development of housing supply in this critical area.

COTA NSW also asserts that any housing development undertaken under this proposed SEPP that receives planning or tax benefits should also be required to deliver affordable housing options that deliver inclusive communities. We also maintain that in the absence of NSW Government support on the implementation of the silver Livable Housing Design Standards (LHDS) within the National Construction Code (NCC) in NSW, that a minimum level of accessibility design standard should be stipulated within this code. Both the NSW Housing Strategy and the NSW Senior's Strategy exhort the importance of accessible and adaptable housing to allow people of all ages and abilities to continue to live in their homes as they age or develop health or mobility issues. It is vital that new housing, including affordable housing is built to this minimum accessibility standard.

This submission will respond to those amendments and additions relevant to older people within the proposed SEPP, namely: Co-living, boarding house and seniors housing provisions.

Boarding Houses

COTA NSW supports the new provisions within the proposed SEPP, including:

- The requirement to rent the rooms at affordable rates and to be managed by a registered community housing provider in perpetuity;
- The inclusion of minimum standards for communal living and open space;
- The introduction of density bonuses for boarding houses from 20 to 25 per cent.

However, COTA NSW is concerned that as boarding houses will no longer be mandated in the R2 – Low Density Residential zone there may impact supply and provision of affordable housing in many communities in NSW.

Co-living

COTA NSW welcomes a planning system that supports diverse models of housing, including the proposed co-living model. However, we have a number of concerns about the incentives for development on this type of dwelling and the appeal or uptake by potential tenants given that there is no provision within the SEPP for this housing type to be affordable. For this model to be financially appealing to investors there is a likelihood that rents payable for a single room and shared space will be high. This will then put this type of housing out of reach for many, particularly older people on a pension reliant on the private rental market.

Further concerns include:

- Co-living developments are currently eligible for a 10% density bonus until 1 August 2024. COTA NSW contends that any development that is receipt of planning benefits should be required to provide a portion of the development as affordable.
- There should be a formal review of this provision within the SEPP prior to the 2024 expiration date to determine whether the incentive is facilitating investment in this housing type and other unforeseen outcomes of this section of the SEPP.
- For privacy and safety reasons, particularly for older women, COTA NSW supports the proposition by Shelter NSW to include bathrooms within each room.
- The role of the *Manager* is not clear and not defined. Further clarification is required on questions such as:
 - Is the *Manager* the landlord?
 - Could it be a nominated tenant of the dwelling?
 - What powers or responsibilities would they have?

Seniors housing

COTA NSW supports amending the Seniors SEPP to ensure consistency across planning instruments. Furthermore, the provision to allow senior's housing in business zones will deliver more housing choices for older residents and those with a disability with access and support options close to infrastructure and services.

However, we continue to oppose the raising of the age of entry into Seniors Housing from 55 to 60 years within the SEPP. This age change will impact many older people that rely on affordable ILUs that still exist within some retirement village developments in NSW. In many cases inexpensive ILUs available for purchase or rental may be the only affordable housing option that they have (this particularly impacts older women).

COTA NSW notes the provision within the SEPP that specifies the allowance of land that is being used for a registered club to develop Seniors Housing. COTA NSW supports the call by Shelter NSW that when a development receives substantial public benefits such as a Registered Club, there should be requirement to outline how they will deliver affordable options within their developments. In line with this we would like to see a 10% target of affordable housing linked with each development by a registered club.

Vertical villages

COTA NSW supports the incentivisation of the development of vertical villages. When they are built in locations close to shops, medical services and public transport they will provide further opportunities for older people to remain living and connecting in their communities. The SEPP provides a range of floor space bonuses – ranging from 15% to 25% - depending mix within the development of ILUs and residential aged care. COTA NSW would again reiterate the importance of mandating a minimum percentage of affordable housing (such as 5%) within such developments when significant beneficial bonuses are available to the developer.

Conclusion

Thank you for the opportunity to provide feedback on the proposed Housing SEPP. It is essential as our community ages and greater numbers of older people face housing insecurity - that both legislation and housing incentives facilitate the supply of affordable and accessible housing in this state.

COTA NSW looks forward to working with NSW Planning to ensure that the needs and desires of older people continue to be planned for and addressed.



27 August 2021

Ms Sandy Chappel
Director, Housing Policy
Local Government and Economic Policy Division, DPIE
housingpolicy@planning.nsw.gov.au

Dear Sandy,

Thank you for the opportunity to submit our comments on the draft Housing SEPP.

Cranbrook Care is a NSW based aged care provider, we have constructed and operate six (6) RCFs and one (1) ILU using the existing Seniors SEPP from our first build in 2000 through to now. In 2021, we were instrumental in getting the North Sydney LGA excluded from the Heritage hold in the existing SEPP. In doing so, we enabled the DA approval and now construction has commenced of our new aged care residence in Neutral Bay. We are constructing a residence the community desperately needs as the area is significantly under bedded in terms of RCF beds.

We are extremely concerned that the changes proposed will not continue to allow us to construct RCFs and ILUs throughout the community, where the prospective residents of the RCF and ILU live. The continuum connection to a resident's local community, including access to their current private treating Doctor, makes a huge difference to the quality of life of elderly residents in RCFs and ILUs. To this end, we need to construct new RCFs and ILUs in all metro and rural locations right across NSW.

We have summarised our thoughts on the Draft Housing SEPP in the table below, however we can expand on these notes should you require. Obviously, our comments relate to RCFs and ILUs in the main.

The first two items that we have shaded below we consider will inhibit the construction of RCFs, we strongly ask that these changes be reviewed so as not to have any unintended consequences of stopping RCFs being built in areas the community needs.

Cranbrook Care Pty Limited

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<p>Division 4 – Clause 83</p>	<p>Consideration should also be given to allowing some of this area to be used as a roof garden or landscaped spaces on the roof.</p> <p>Location and access to facilities and services – RCF</p> <p>Rather than just fixing the access requirements from the old SEPP we need to consider what residents are doing in RCFs and how they access facilities and services. The reality is residents do not go to the shops by themselves. They go on outings on the bus provided by the RCF operator – these fall under “community services and recreation facilities”, the trips are more a leisure event.</p> <p>If an RCF has the following facilities and services (shops and medical) there should not be a requirement to provide transport access for shops and medical : Facilities on site ; café, hairdresser, beauty, postage, online banking, doctor, allied health professionals as required.</p> <p>There should be a requirement to provide a transport service or the provision of this transport service for “community services and recreation outings and events”. However the frequency should be as a determined by the RCF, however not as a minimum weekly.</p> <p>If the above isn’t adopted then the Clause needs to be worded so any assessing officer knows what is required – for example – what does (a) ‘Directly’ mean? If this is on site there needs to be more definition. Also we need to define (b) a ‘transport service – this should not replicate the ILU definition. It should be the provision of bus / mini van to transport residents to community services and recreational facilities as residents may reasonably require and where a medical practitioner can not attend the RCF to this service also. As noted above facilities and services should not be the same as an ILU.</p>
<p>Division 6 - Clause 89 (a)</p>	<p>Solar Access</p> <p>The wording in (a) (i) will end with assessing officers that do not understand RCFs indicating that all resident bedrooms need adequate daylight. As a minimum the wording of the current SEPP “to substantial areas” should be used, this could be to “substantial areas both internally and externally”.</p> <p>The wording of (a) (ii) “in a way that does not adversely impact” is a higher test than the current SEPP. We would either suggest leaving the current wording or noting compliance to the local DCP or controls.</p> <p>At the end of the day we are ok to comply with the DCP. RCFs should not have a higher test placed upon them than a residential house.</p>

<p>Division 3 - Clause 77 (2)</p>	<p>Restrictions on occupation of seniors housing</p> <p>From experience assessing officers have very wide interpretations on how to satisfy themselves in terms of this requirement. Some examples are; stating there need to be high care staff and nurses in attendance. There need to be kitchen and laundry staff on site.</p> <p>To over come these confusions could the clause simply state that the consent authority should include the requirement that a positive covenant is placed on the title of the land to which the RCF is on that deals with the requirements in (1).</p> <p>Or as a minimum note that this method would be ok to satisfy this requirement.</p>
<p>Division 7 - Clause 96 (f)</p>	<p>Deep Soil</p> <p>The words “,if practicable, at lease 65% of the deep soil zone is located at the rear of the site”.</p> <p>Having lived with the current SEPP and defining what the rear of the site is we do not recommend we start again. Sites are all to often irregular in shape and whilst we support this objective the set backs and site controls will allow deep soil plating to the perimeter of the site.</p> <p>We strongly suggest the removal of this sentence.</p>
<p>Division 4 - Clause 82</p>	<p>Location and access to facilities and services – ILU</p> <p>Need to define 1 (a) directly. The transport service can be a public transport service.</p>
<p>Division 3 - Clause 76 (d)</p>	<p>Development Standards – R2</p> <p>ILUs need to be allowed in R2 zoning. They are appropriate for this area and offer choice to the community in terms a housing style.</p> <p>The continuum connection to a resident’s local community, including access to their current private treating Doctor, makes a difference to the resident’s life in both a RCF & ILU.</p>
<p>Division 2 - Clause 72</p>	<p>Definitions</p> <p>We would recommend that the RCF is defined here. Even if this is covered in the Standard Instrument, this will be a key document that an assessing officer reviews to determine a RCF and should not be omitted.</p>

<p>Division 1 - Clause 67</p>	<p>Vertical villages also need to be defined. In Clause 98-100, there is nothing within the SEPP that identifies that a vertical village is either an ILU or RACF type of development.</p> <p>Land to which Part applies</p> <p>SP2 – Infrastructure – Education should be included. There are examples where reuse has occurred on education land, one being Vaucluse High School now a Mark Moran Seniors residence RCF & ILU.</p>
<p>Division 1 - Clause 68 (1) (b)</p>	<p>Land to which part does not apply</p> <p>The last paragraph of Schedule 4 may need re wording. One interpretation is that land with open space could be land which this part does not apply.</p> <p>We also want to ensure that if part of the land is flood affected this doesn't rule out the whole site. We have examples of large sites which have part flood affected, however have been developed as RCFs.</p> <p>Further to this, if one side of the building is built on over the flood planning area (and raised to be above the 1:100), with the other side of the building (which contains the evacuation routes etc) is flood free, this clause would be a prohibition. Request the wording of 1(b) to allow flexibility in its interpretation to avoid prime candidate sites being excluded due to a technicality.</p>
<p>Division 1 - Clause 69</p>	<p>Heritage</p> <p>This is a backward step that rules large areas of Sydney from having Seniors built on it. It has been in place for over two years.</p> <p>We are extremely concerned that this continuation of disallowing heritage will not allow us to construct RCFs & ILUs throughout the community where the prospective residents of the RCF & ILU live. The continuum connection to a resident's local community, including access to their current private treating Doctor, makes a difference to the resident's life in the RCF & ILU. To this end we need to place new RCFs & ILUs in all location's metro and rural right across NSW.</p> <p>This is a retrograde step and a disservice to the seniors residents of greater Sydney.</p> <p>Lets be frank – just carve out Ku-ring-gai and possibly one other LGA rather than have this apply to all of greater Sydney.</p>

<p>Division 3 – Clause 75 (Note)</p>	<p>Development Standards</p> <p>The bottom footnote refers to the "Commonwealth Aged Care Accreditation Standards" there are no longer such standards. The reference should be removed.</p>
<p>Division 3 - Clause 78 (3)</p>	<p>Use of Ground Floor in commercial zones</p> <p>Consider the inclusion on the ground floor of an area of the seniors housing that the public are able to access during normal business hours to purchase goods and/or services. This would exclude any residential use.</p>
<p>Division 7 - Clause 97 (2) (a)</p>	<p>ILUs – Roof</p> <p>The 9m will in the majority of cases not allow a pitched roof. We suggest provision is made of 10m where are pitched roof is used and changing the 10.5m to 11m where a pitched roof is used.</p>
<p>Division 7 - Clause 97 (2) (f)</p>	<p>ILUs - Deep Soil</p> <p>The words “,if practicable, at least 65% of the deep soil zone is located at the rear of the site” – should be removed for the reasons as per the RCF.</p>
<p>Division 8 - Clause 99 (2) (a) + (4)</p>	<p>Vertical Villages</p> <p>Vertical villages needs a definition. Also recommend confirming if clause 98 is an opt in or opt out provision, or if all seniors development on land where residential flat buildings are permissible are classified as vertical villages.</p> <p>The maximum possible Floor Space needs to be changed to the maximum possible floor space allowable consistent with the controls. Under CI100(2)(a), CI 96(2)(c) is not a discretionary standard, resulting in the applicable FSR being the ratio permissible under the relevant EPI or 0.5:1. Therefore, if a Council does not have a FSR where RFBs are permissible, the FSR bonus can only be applied to 0.5:1 (0.65:1 to 0.75:1). North Sydney is the key example. At present, it is an agreed practice that the yield controls create an envelope and an agreed hypothetical FSR and then the bonus is added. The normal hypothecated FSR is between 1.3-1.5:1. So reducing it to 0.5:1 is a considerable diminution of development. Further, there would be no function for the use of the vertical village provisions because it would be better to use cl96(2)(c) and a discretionary 1:1. The vertical villages provisions assume 1) that there are FSR in zones where RFBs are permissible and 2) that they are greater than 1:1. This is manifestly not the case.</p>

	<p>Under this scenario, more FSR could be pursued utilising CI 96 2(c) and the 1:1 FSR, then proceeding with the vertical villages clauses and subsequent bonus. This is on the assumption that an applicant can choose to not be a vertical village if they are within a zone that permits RFBs.</p> <p>The effective additional 1 storey needs to be considered.</p> <p>In the current drafting we feel the vertical village will be as successful as the current SEPP. The bonus amounts need to be doubled. If you want this to work it needs to be modelled.</p>
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Please do not hesitate to contact me if you would like clarification on any of the points raised in this submission. I am best contacted on my mobile 0412 606 989.

Yours sincerely,

Campbell Meldrum
Owner / Director - Cranbrook Care



7 September 2021

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

Via: NSW Planning Portal

Dear Sir/Madam,

SUBMISSION ON THE PROPOSED DRAFT HOUSING SEPP

Cumberland City Council thanks the Department of Planning, Industry and Environment for the opportunity to provide feedback on the draft Housing State Environmental Planning Policy (SEPP).

In principle, Council welcomes the proposed changes that will consolidate five existing SEPPs. This will provide a simpler, balanced approach to increasing affordable housing and diversity, whilst delivering high-quality design and amenity.

Of particular note, Council continues to support the proposed changes no longer mandating boarding house development (and the new co-living) in R2 Low Density Residential, and also supports co-living housing as a new land use to distinguish boarding houses as an affordable housing option. In addition, Council supports the clarity around the seniors housing provisions and removal of site compatibility certificates, which will ensure the orderly delivery of quality housing to meet the needs of our ageing population.

The attached submission builds on our earlier submission as endorsed by the elected Council, and highlights specific interests and concerns identified by Council officers, as relevant to Cumberland City.

Should you have any queries or require additional information, please do not hesitate to contact Shona Porter, Executive Manager City Strategy on 8757 9901 or shona.porter@cumberland.nsw.gov.au.

Yours faithfully

Daniel Cavallo
DIRECTOR ENVIRONMENT AND PLANNING

ATTACHMENT A CUMBERLAND CITY COUNCIL SUBMISSION ON DRAFT HOUSING SEPP

BOARDING HOUSES AND CO-LIVING HOUSE PROVISIONS

Permissibility

Council continues to support the proposed changes no longer mandating boarding house development (and the new co-living) in R2 Low Density Residential. This will provide Council with flexibility to deliver affordable housing in suitable locations.

Notwithstanding, Division 2 Boarding Houses, clause 22(2) and clause 63 relating to Co-Living should be clarified to also specifically state that boarding houses and co-living must be permissible under another EPI only. The current wording appears to be inconsistent with the intent to not mandate boarding houses in R2 zones. Similarly, Division 3 Boarding house – Land and Housing clause 27 (1)(b) also overrides the provision to not mandate boarding houses in R2.

Boarding houses with up to 12 rooms and associated facilities (including internal amenities and on site carparking) will have a discernible impact on low density residential areas. This increased density is recognised by the draft SEPP, where the often relied upon controls are for ‘multi dwelling housing’.

Council strongly objects to boarding houses and co-living housing being mandated in R2 areas, which the clauses, as written, overrides Council’s position of not permitting boarding houses and their equivalent in R2 Low Density Zones.

Accessible Area

The definition of accessible area for buses needs to be better defined, which currently states:

accessible area means land that is within—

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

The definition should be revised to be clear about whether the bus stop per hour needs to be from the same bus stop or multiple bus stops within the catchment area. This will assist Council in assessing applications where this provision needs to be considered.

Setbacks, Minimum Lot Size and Landscaping

Council supports the inclusion of amenity controls such as setbacks, lot size and landscaping. Where reference is made to ‘...relevant planning instrument’ throughout the draft SEPP, this should be amended to incorporate development control plans, as many Councils contain these controls in the DCP as opposed to the LEP.

This could be revised to: ‘...relevant planning instrument or relevant development control plan’.

Please also note that setbacks and minimum lot sizes are also not found in SEPP 65 / the Apartment Design Guide. The draft SEPP therefore needs to reference the relevant DCP as many LEPs don’t incorporate the controls referenced and a DCP is not a defined ‘environmental planning instrument’.

Communal Open Space and Communal Living Area

Council supports an introduction of minimum area requirements for communal living area and communal open spaces. The final instrument should ensure that the sliding scale for living areas is retained as proposed (clause 23(2)(g)). These changes will ensure Boarding Housing is affordable, provides adequate internal amenity and remains feasible for Community Housing Providers (CHPs) to deliver.

Affordable Housing

Boarding houses will play an important role in providing affordable housing for those most in need. Council is pleased to see the draft Housing SEPP has reinforced the requirement for Boarding Housing to be provided as affordable housing.

Introducing co-living housing as a new category for private development and reserving boarding house development for true affordable housing development will ensure that floor space ratio bonuses are used for the purposes of increasing affordable housing in perpetuity. Council supports the introduction of the new housing term for new generation boarding houses and the continued inclusion of an FSR bonus for genuine affordable housing.

It is noted that industry engagement should be undertaken (if not completed already) to ensure that boarding house developments are not discouraged through the new ‘perpetuity’ provision. A similar requirement for 15-20 years as affordable housing may be appropriate, depending on industry feedback.

Workspace Requirements

Council suggests further clarity around workspace requirements for management in boarding houses and co-living housing. According to the draft Housing SEPP, this workspace can be provided within communal living areas, but does not specify if this space is additional or incorporated into minimum communal area requirements. Council suggests that this workspace should be additional and not reduce the total communal area minimum, or be incorporated as a 5-10sqm excluded GFA within a co-living / boarding room to support working from home in small spaces.

LAND AND HOUSING CORPORATION PROVISIONS

Council continues to work collaboratively and proactively with the Land and Housing Corporation (LAHC). We are pleased to see the proposed threshold increase for State Significant Development from \$30 to \$100 million is not considered in the draft Housing SEPP. Council supports this approach, and it will ensure timely delivery of development assessment without additional pressure on our resources.

There is continued concern for the removal of dwelling caps to allow self-approval by LAHC for Boarding Houses. It is noted that the Explanation of Intended Effects for the Housing SEPP proposed raising self-approval for development from 20 to 60 dwellings for social housing. It appears that this cap has been removed completely from boarding houses. Council continues to express concern that this will reduce transparency for Council and the community as well as removing an opportunity for an assessment by an external consent authority.

SITE COMPATIBILITY CERTIFICATES

Council supports the removal of site compatibility certificates for seniors living development and encourages the Department to consider removal of all site compatibility certificate pathways in the draft Housing SEPP.

SENIORS HOUSING

Council generally supports the simplification of Seniors Housing legislation. The introduction of prescribed zones and the removal of the definition of 'land zoned primarily for urban purposes' is supported.

However, Council does not support the mandating of seniors housing in zones B5 Business Development and B6 Enterprise Corridor. These are places of heavier business or industry uses (creating noise and air quality impacts), with very limited amenity and often located along major road corridors not suited for sensitive seniors living development. Council requests that these zones be removed.

DESIGN STANDARDS

Council acknowledges changes to the draft Housing SEPP will improve the amenity and design of affordable and diverse housing. Council would draw attention to exemptions to have vehicular access (parking entrance and exits) on main streets for developments with a mix of commercial and affordable housing. The Cumberland Development Control Plan aims to reduce the amount of vehicular access on main streets to encourage active street frontages and improved amenity. Typically, this encourages larger apartment buildings to provide vehicular access through laneways or at rear where practical. It would be unreasonable to expect all developments deliver this outcome, however Council recommends that 'where practical' vehicular access is to be provided via a laneway.

Further, it is recommended that the Government Architect's Office create a new version of the Seniors Living Policy Urban Design Guideline for Infill Development (published in March 2004) to reflect their own publications in recent years. Understanding that this draft SEPP is a priority to finalise, this should be incorporated as an amendment after the draft Housing SEPP is implemented.

Finally, we note that social housing providers have reduced landscaping requirements for in-fill affordable housing developments compared with private developers. Social housing providers require 35m² per dwellings compared to 30% of total area for all other developers. Whilst certain sites may be feasibly developable with the proposed 35m² landscaped area requirement, there is concern that this will lead to poorer design outcomes for social housing. Whether a development is delivered by a private developer or social housing provider, residents should have the same level of outdoor space and amenity. There are more equitable mechanisms to promote affordable housing, such as tax concessions or floor



space ratio bonuses. It is recommended that requirement for the landscaped area to be delivered to include 'whichever of the following (at least 35m² of landscaped area or 30% of the site area) is the greater'.

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Saturday, 7 August 2021 11:22 AM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sat, 07/08/2021 - 11:21

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Daniel

Last name

Betros

Organisation name

DANCOM Builders

I would like my submission to remain confidential

No

Info

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dancom@outlook.com.au

Suburb

GEORGES HALL

Postcode

2198

Submission

The amendments to a code do not make much sense and leaves many questions if this is going to actually help create more affordable housing opportunities.

Changing the amount of time an affordable housing dwelling needs to be restricted from 10 years to 15 years is just going to discourage the use of this clause. I have developed many properties using this code but with this change i will be more inclined to steer clear of it. The code should be encouraging the use of the clause not discouraging.

The part about boarding houses having to be managed by a social housing provider will also discourage the use of boarding houses. Finding a social housing provider to work with will be limiting enough let alone relying on social housing providers to take the initiative to do a development themselves. Wouldn't it make more sense to let private developers develop the boarding house themselves and then rent it the same way you would an affordable housing dwelling.

This code pretty much attacks private developers and to be honest without them developing there will be no increase to affordable housing dwellings. This code should be encouraging development not limiting it.

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal -
Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 29 August 2021 7:06 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP

Submitted on Sun, 29/08/2021 - 19:06

Submitted by: Anonymous

Submitted values are:

Submission Type

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First name

Darren

Last name

Holloway

Organisation name

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I would like my submission to remain confidential

No

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Suburb

Charlestown

Postcode

2290

Submission

Submission to the draft Housing SEPP, August 2021

Thank you for the opportunity to provide a submission to the Draft Housing SEPP.

This submission particularly focuses on the role of the site compatibility certificate (SCC) for Seniors Housing which is proposed to be removed as part of the changes to the new Housing SEPP.

It is noted that there has been work undertaken in north west Sydney by the Greater Sydney Commission relating to the use of SCC's in rural areas. This work, and recommendations, is now going to be applied to NSW under the new SEPP. While the basis for this approach may be to ensure consistency across the state, this policy position is not reflective of the process nearly all Council's go

through in preparing comprehensive LEPs, and the lack of strategic research on seniors housing supply in regional and rural areas. It is considered that the risk to the removal of the site compatibility certificate for seniors housing at the present time may lead to supply issues particularly in coastal areas of NSW.

Background

There is a large number of reports and documents outlining the ageing population of NSW and its potential spatial implications. This includes the NSW Intergenerational Report and the many Regional Plans prepared by the Department of Planning, Industry and Environment (DPIE).

The NSW Government's 2021-2022 Intergenerational Report identifies that by 2061, 25 per cent of the population will be aged 65 or over, up from 17 per cent today. The proportion of the population aged 80 and over will increase from 4 per cent today to 10 per cent by 2061. The Government is also projecting a 15-fold increase in those aged 100 and over, up to almost 33,000 people in 2061. Of importance here is the coastal areas of NSW which will see increases in age dependency ratios over time.

The Issues

The draft Housing SEPP proposes to extinguish the process for obtaining an SCC for seniors housing once the current seniors housing SEPP is repealed. After this date Council's will be required to amend their LEP for a seniors housing development to proceed where it is currently not permissible. The SCC allowed a seniors housing to be permissible where they would otherwise not be permitted as long as certain requirements outlined in the SEPP were met.

It is also noted that the 2020 exhibition of the SEPP did not indicate the removal of the SCC process.

The risk is that supply for seniors housing will lag behind demand given the demand will increase over time with an ageing population and the time taken for rezonings and then development applications (DAs) to be approved. It is not unusual for this process (a rezoning and DA) to take in the order of 2-3 years to complete.

It appears on face value that the recommendations of the Greater Sydney Commission report for north west Sydney (i.e. not seniors in rural zoned areas) is being applied to the rest of the state, without due consideration of the creation of comprehensive LEPs across local government areas.

It has long been known that most Councils outside of Sydney zone villages, residential areas, business and industrial zones, recreation and special purpose zones as these are generally based on existing uses. There is often some consideration to increasing densities, FSRs, or specific land use permissibility within zones. However, every other piece of land is then often just zoned rural (or environmental in some cases). This often leads to large tracts of land in rural and regional areas (including coastal areas) where rural zones are often in close proximity to residential or business zones. The removal of the SCC process for seniors housing therefore reduces the flexibility for Council's to allow seniors housing where it has often not thought about.

The role of Council's housing strategies does not address seniors housing developments with any rigor as that presented in the Greater Sydney Commission report. Council housing strategies are based on household growth up to a certain time period and then new growth areas and infill development is discussed to cater for increasing household growth. Senior housing (or even affordable housing) is not sufficiently addressed in most housing strategies.

For example, the draft Port Macquarie Hastings strategy concludes that there is a gap in the Council's understanding of housing needs for students and seniors – two of the cohorts expected to grow the most in coming decades. To address this, Council is proposing to undertake further work to identify what adjustments may need to be made to policies to unlock supply. That is, the strategy will be finalised without specifically addressing seniors housing demand as this will be dealt with at a later date. This point of view is not unusual as most Council's know that their population is ageing but have little understanding of that demand.

This is where the SCC comes into play. It allows Council the flexibility to provide supply for an increasing demographic (noting that some seniors will still want to live in their current dwelling as they age) where there is little information on how to best supply such housing.

Summary

In sum, the removal of the SCC process for seniors housing is not recommended. Given the way LEPs are prepared, the lack of strategic planning that is occurring across the State for seniors housing and the timeframe for preparing and determining a rezoning and DA will leave a significant lag in supply should the SCC be removed, at this stage. It is noted that into the future with more sound strategic planning around the supply of seniors housing the SCC may not be necessary, however, at present there needs to be more time, and research otherwise supply issues are going to occur. Given that NSW has an ageing population and areas on the north and south coast are going to be significantly impacted issues are going to be created in these areas with seniors housing supply without the SCC process.

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 29 August 2021 8:15 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 29/08/2021 - 20:15

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

David

Last name

Elfick

Organisation name

Mr David L Elfick

I would like my submission to remain confidential

No

Info

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Suburb

Bondi SYDNEY

Postcode

2026

Submission

As an active member of the Bondi community I am all in favour of creating low cost housing that should prioritize workers in essential services. However what is happening is developers rorting the system to create high density ghettos which destroy the character and liveability of neighbourhoods.

The Minister for Local Government, the State Government and the Council should do all within their power to stop this abuse and misuse of the planning laws by refusing such development projects and change the law to stop this abuse.

Our street in Bondi , Edward Street is at present facing such a development. If it goes ahead it will change the family friendly wonderful

area to live forever.

David Ellick

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Wednesday, 18 August 2021 6:27 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP

Submitted on Wed, 18/08/2021 - 18:26

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

DAVID

Last name

MARTIN

Organisation name

Personal opinion

I would like my submission to remain confidential

No

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Suburb

MORTDALE

Postcode

2223

Submission

There is a need for more social housing , however I would submit that instead of Councils making plans for Infill developments they simply ,according to need,and as required buy up existing units as they come up for sale .

In this way Affordable housing would be invisible , if the purchase of existing units is spread in this way the creation of unit blocks with up to (20 the maximum allowed) would be avoided and Infill where peoples houses are bought up to install units such as is proposed for the Mortdale Masterplan also avoided . Higher density R4 developments replacing R2 housing creates Ghettos , converts serene and Historic Villages into crime ridden Townships .

I agree to the above statement

Yes



Department of Primary Industries

Office of the Director General

BN21/4406

27 August 2021

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

Dear Mr Betts

Submission – Proposed Housing SEPP – Exhibition Draft

Thank you for the opportunity to make comment on the exhibition draft of the proposed Housing State Environmental Planning Policy (SEPP). The NSW Department of Primary Industries (NSW DPI) Agriculture is committed to the provision and protection of productive and sustainable landscapes and provides these comments in that light.

DPI Agriculture had previously written in relation to the earlier draft on the 3 September 2020. In this regard we wish to commend DPIE for the proposed removal of site compatibility certificate provisions. Removal of these provisions will prevent interface issues between productive agricultural land and sensitive users.

We also provide further comment in relation to particular matters previously raised which have the potential to reduce investment in NSW's agricultural industries.

Secondary dwellings

In DPI's earlier submission we raised concern about the removal of size restrictions for secondary dwellings. We note that despite this concern the proposed amendments proceeded in December 2020.

Group Homes

It is noted that the provisions relating to group homes have been deferred until later in 2021. As previously provided the current framework is causing a point of land use conflict, with DPI receiving multiple complaints about interference with farm infrastructure. Group Homes also require sufficient servicing such as transport and social support services. They are more appropriately located in the urban areas where such services are available and land use conflict is less likely.

It is recommended DPIE remove provisions permitting group homes in the rural areas to prevent new instances of land use conflict emerging while the comprehensive review is undertaken.

Should you require clarification on any of the information contained in this response, please contact Ms Tamara Prentice, Manager Agricultural Land Use Planning , on 0429 226 987 or by email at landuse.ag@dpi.nsw.gov.au

Yours sincerely

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

SCOTT HANSEN
DIRECTOR GENERAL

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal -
Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Tuesday, 31 August 2021 8:07 AM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Attachments: bn21-4406-letter-to-dpie-re-submission-to-second-exhibition---housing-sepp.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Tue, 31/08/2021 - 08:06

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

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Last name

Prentice

Organisation name

DPI

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No

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Postcode

2460

Submission file

[bn21-4406-letter-to-dpie-re-submission-to-second-exhibition---housing-sepp.pdf](#)

Submission

Please note the attached correspondence has also been emailed to Jim Betts and Leanne Stacey.

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 20 August 2021 10:06 AM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Fri, 20/08/2021 - 10:05

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

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First name

Derek

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Baikie

Organisation name

Personal

I would like my submission to remain confidential

No

Info

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derek@baikie.com

Suburb

Turramurra

Postcode

2074

Submission

I am AGAINST the changes proposed in this draft SEPP.

Sydney is in dire need for more housing, especially affordable housing.

Efforts to for example mandate medium density housing have to all intents and purposes failed. For example there is no ability to build medium density housing in KuRingGai as the council does not allow to this type of development.

Removing/restricting the ability to build boarding houses and seniors living will simply reduce housing supply. The government needs to be encouraging/mandating more development not less. It should be pro build not anti.

This sepp needs to go back to the drawing board.

I agree to the above statement

Yes

Dr Devasha Scott
30 Ramsay St
Collaroy NSW 2097

27 August 2021

Re - Draft Housing Diversity SEPP

I wish to address a number of concerns/suggestions regarding **Chapter 2 Division 2 Boarding Houses** in the Draft *State Environmental Planning Policy (Housing) 2021* (Housing Diversity SEPP).

The first suggestion relates to **Clause 24 Standards for boarding houses** and the remaining concerns relate to the definition and understanding of an “**accessible area**”.

(1) Clause 24 Standards for boarding houses

Many of the “new generation” boarding houses constructed in recent years under the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) are 3 storeys and contain an enormous number (50+) self-contained boarding rooms. Self-contained boarding rooms meet the definition of “dwellings” (*SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66*) and such boarding houses are therefore apartment-style constructions.

I believe that some of the requirements in the Apartment Design Guide should apply to any new generation boarding houses that are at least 3 or more storeys. This would provide consistency with the SEPP 65 and the new Design and Place SEPP and lead to better design of boarding houses in the residential environment.

For example: Clause 24 in the Draft Housing Diversity SEPP states:

(1)(j) if the boarding house exceeds 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide,

To be consistent with the SEPP 65 (and the new proposed Design and Place SEPP) I believe this clause should be:

if the boarding house has at least 3 or more storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide

I also note that the new Design and Place SEPP also proposes that a registered architect would be required for all buildings with at least three or more storeys and for all multi-residential buildings with four or more dwellings.

I believe this should also be applied to boarding house developments with at least three or more storeys.

My two remaining concerns are in relation to the definition of **accessible area** in the Dictionary of the Draft Housing Diversity SEPP.

Accessibility

- (2) Firstly, the use of the word **accessible** in the Draft Diverse Housing SEPP is not consistent with the definition of **accessible** in the Disability Standards under the *Disability Discrimination Act, 1992* (DDA). I believe this to be problematic as it could lead to people living with a disability to be subject to discrimination.

Disability (Access to Premises – Buildings) Standards 2010

A1.1 Definitions

accessible means having features to enable use by people with a disability.

accessway means a continuous **accessible** path of travel (as defined in AS 1428.1) to, into or within a building.

In a recent NSWLEC decision *Hu v Northern Beaches Council [2020] NSWLEC 1525* a boarding house was approved in a location that, for a number of reasons, I believe should not be considered an “accessible area”.

Discrimination around equitable pedestrian access to public transport

The boarding house approved in *Hu v Northern Beaches* is located at the top of an extraordinarily steep hill of 1:3 gradient – hence the walking path to the closest bus stop at the base of the hill is unsafe and inaccessible for anyone with a disability requiring a mobility aid such as a wheelchair for example.

The approved boarding house includes an “**accessible**” room to accommodate a lodger requiring a wheelchair. This is because all new boarding houses are necessarily required to be **accessible** buildings – *Disability (Access to Premises – Buildings) Standards 2010* and must provide the requisite number of **accessible** boarding rooms, common areas and **accessible** pathways within the premises.

Crucially, boarding houses also have reduced parking requirements (0.5) due to the implicit reliance on public transport of its residents. I believe that the walking route from boarding houses to public transport needs to be safe and **accessible to everyone**; including persons with a disability. I believe it would be discriminatory if a person requiring wheelchair access were precluded from accessing public transport in the same way as other residents because the “walking route” is inaccessible to them. Likewise, it would be discriminatory to require someone with a disability to own a car or use Uber/a taxi in order to access the boarding house and not require this of all other residents.

Late last year I made a submission (9 Sept 2020) to NSW State Planning on the Explanation of Intended Effect on the proposed new Housing Diversity SEPP. In this submission I explained this in great detail and included relevant sections of the Disability Discrimination Act, 1992.

The problem with “a” bus stop in the definition of “accessible area”

Dictionary

accessible area means land within—

- (a) 800m walking distance of a public entrance to—
 - (i) a railway station, or
 - (ii) a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400m walking distance of—
 - (i) a public entrance to a light rail station, or
 - (ii) for a light rail station with no entrance—a platform of the light rail station, or
- (c) 400m walking distance of [a bus stop](#) used by a regular bus service, within the meaning of the Passenger Transport Act 1990, that has at least 1 bus per hour servicing the bus stop between—
 - (i) 6am and 9pm each day from Monday to Friday, both days inclusive, and
 - (ii) 8am and 6pm on each Saturday and Sunday.

The second concern I have is with the wording of “a bus stop” above.

In *Hu v Northern Beaches* the approved boarding house is within 400 m walking distance of one bus stop at the base of the steep hill. However, in order to access the corresponding bus stop for the return bus journey, one must cross 6 lanes of heavy traffic on Pittwater Rd in Collaroy (a major arterial road). The nearest signaled pedestrian crossing is over 800m away; in fact there is a fence erected in the middle of Pittwater road at the bottom of Ramsay St to discourage pedestrians from crossing there.

The Northern Beaches Local Planning Panel (NBLPP) refused the development application; however, on appeal at NSW Land and Environment Court (NSW LEC) the boarding house was approved. The NSW LEC deemed that the wording “a” bus stop (in the singular) meant that only one bus stop was needed to satisfy the requirements of the ARHSEPP - it did not matter how long the walking route was for the return bus journey.

To me this seems crazy; and I do not believe this to be the intent of the ARHSEPP or the new Housing SEPP when defining *accessible area* as to be “within 400m of a bus stop”.

Below is an excerpt from the NBLPP determination here (Chaired by Hon P. Biscoe)

“The applicant submitted that paragraph (c) of the “accessible area” definition is satisfied because it refers in the singular form to “a” bus stop and there is a bus stop on Pittwater Road within 400 metres safe walking distance of the proposed distance. The applicant submitted that it is irrelevant that this bus stop is only serviced by north bound buses and that the safe walking distance to the nearest bus stop serviced by south bound buses on the other side of the busy six lane Pittwater Road is 1.3 kilometres or 1.6 kilometres (depending on the route taken).

The Panel does not accept these submissions.

Usually, buses moving in one direction service a bus stop on one side of the road and buses moving in the opposite direction service a bus stop on the opposite side of the road.

In the Panel’s opinion, the preferable and sensible construction of the phrase “a bus stop” in paragraph (c) of the definition of “accessible area” is that it means a bus stop serviced by buses moving in each of opposite directions. It is not sufficient if there is a bus stop within 400

metres safe walking distance serviced by buses moving in only one direction if the safe walking distance to a bus stop serviced by buses moving in the opposite direction exceeds 400 metres. This construction is aided by the context. Paragraphs (a) and (b) of the whole definition of “accessible area” are concerned with prescribed proximate walking distances to a railway station, wharf or light rail station. Such facilities are used by public transport moving in opposite directions. That context suggests that the reference to “a bus stop” in paragraph (c) should be similarly construed. That construction is fortified by the sensitivity of the SEPP in requiring proximate public transport for occupants of boarding houses, who are likely to be particularly reliant on public transport because of their membership of very low income, low income and moderate income households.

On this construction, the SEPP is not satisfied in the circumstances of the present matter because although a bus stop used by north bound buses is within the prescribed 400 metres walking distance, a bus stop used by south bound buses is located a safe walking distance of either 1.3 kilometres or 1.6 kilometres (depending upon which route is taken). It is not safe for a pedestrian to cross the busy six lane Pittwater Road directly to the latter bus stop.

Further, the extraordinarily steep gradient of Ramsay Street from the front of the proposed boarding house for a distance of approximately 100 metres in the direction of Pittwater Road is for that reason also not a “safe” walking route to either of the said bus stops having regard to the prospect that a boarding house may well be occupied by some persons with limited mobility. The gradient for the top 50 metres of that distance is approximately 1:3 and the balance is approximately 1:5.

CONCLUDING REMARKS

Overall I believe that the amendments to boarding house provisions in the Draft Housing Diversity SEPP are really good. I am particularly pleased that a development would only be regarded as a boarding house if it meets rental ‘affordability’ rules and is managed by a not-for-profit community-housing provider. This will go a long way to stopping developers from exploiting loopholes in the current ARHSEPP.

I do believe however, that any new generation boarding house of 3 or more storeys should meet the minimum building separation distances specified in the Apartment Design Guide and require a registered architect as described above. This would lead to better design outcomes and help ensure that all boarding house developments are harmonious with their neighbouring residential environment.

Finally, I am concerned about the definition of “**accessible area**” on two fronts. The first being I believe that the pedestrian route to public transport from boarding houses should be **accessible** to all, including people with a disability. This is not an easy fix, I know, but I believe that it needs to be looked at carefully.

The other “accessibility” issue may be easier to address/rectify – I believe the wording of “a bus stop” (singular) needs to be changed. Surely an accessible area “within 400 m of a bus stop” is not intended to permit a boarding house to be situated in a location that requires a resident to have to walk 1 km from a bus stop for a safe return journey because the nearest signaled pedestrian crossing is this far away?

Dr Devasha Scott
30 Ramsay St
Collaroy NSW 2097

27 August 2021

Re - Draft Housing Diversity SEPP

I wish to address a number of concerns/suggestions regarding **Chapter 2 Division 2 Boarding Houses** in the Draft *State Environmental Planning Policy (Housing) 2021* (Housing Diversity SEPP).

The first suggestion relates to **Clause 24 Standards for boarding houses** and the remaining concerns relate to the definition and understanding of an “**accessible area**”.

(1) Clause 24 Standards for boarding houses

Many of the “new generation” boarding houses constructed in recent years under the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) are 3 storeys and contain an enormous number (50+) self-contained boarding rooms. Self-contained boarding rooms meet the definition of “dwellings” (*SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66*) and such boarding houses are therefore apartment-style constructions.

I believe that some of the requirements in the Apartment Design Guide should apply to any new generation boarding houses that are at least 3 or more storeys. This would provide consistency with the SEPP 65 and the new Design and Place SEPP and lead to better design of boarding houses in the residential environment.

For example: Clause 24 in the Draft Housing Diversity SEPP states:

(1)(j) if the boarding house exceeds 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide,

To be consistent with the SEPP 65 (and the new proposed Design and Place SEPP) I believe this clause should be:

if the boarding house has at least 3 or more storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide

I also note that the new Design and Place SEPP also proposes that a registered architect would be required for all buildings with at least three or more storeys and for all multi-residential buildings with four or more dwellings.

I believe this should also be applied to boarding house developments with at least three or more storeys.

My two remaining concerns are in relation to the definition of **accessible area** in the Dictionary of the Draft Housing Diversity SEPP.

Accessibility

- (2) Firstly, the use of the word **accessible** in the Draft Diverse Housing SEPP is not consistent with the definition of **accessible** in the Disability Standards under the *Disability Discrimination Act, 1992* (DDA). I believe this to be problematic as it could lead to people living with a disability to be subject to discrimination.

Disability (Access to Premises – Buildings) Standards 2010

A1.1 Definitions

accessible means having features to enable use by people with a disability.

accessway means a continuous **accessible** path of travel (as defined in AS 1428.1) to, into or within a building.

In a recent NSWLEC decision *Hu v Northern Beaches Council [2020] NSWLEC 1525* a boarding house was approved in a location that, for a number of reasons, I believe should not be considered an “accessible area”.

Discrimination around equitable pedestrian access to public transport

The boarding house approved in *Hu v Northern Beaches* is located at the top of an extraordinarily steep hill of 1:3 gradient – hence the walking path to the closest bus stop at the base of the hill is unsafe and inaccessible for anyone with a disability requiring a mobility aid such as a wheelchair for example.

The approved boarding house includes an “accessible” room to accommodate a lodger requiring a wheelchair. This is because all new boarding houses are necessarily required to be **accessible** buildings – *Disability (Access to Premises – Buildings) Standards 2010* and must provide the requisite number of **accessible** boarding rooms, common areas and **accessible** pathways within the premises.

Crucially, boarding houses also have reduced parking requirements (0.5) due to the implicit reliance on public transport of its residents. I believe that the walking route from boarding houses to public transport needs to be safe and **accessible to everyone**; including persons with a disability. I believe it would be discriminatory if a person requiring wheelchair access were precluded from accessing public transport in the same way as other residents because the “walking route” is inaccessible to them. Likewise, it would be discriminatory to require someone with a disability to own a car or use Uber/a taxi in order to access the boarding house and not require this of all other residents.

Late last year I made a submission (9 Sept 2020) to NSW State Planning on the Explanation of Intended Effect on the proposed new Housing Diversity SEPP. In this submission I explained this in great detail and included relevant sections of the Disability Discrimination Act, 1992.

The problem with “a” bus stop in the definition of “accessible area”

Dictionary

accessible area means land within—

- (a) 800m walking distance of a public entrance to—
 - (i) a railway station, or
 - (ii) a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400m walking distance of—
 - (i) a public entrance to a light rail station, or
 - (ii) for a light rail station with no entrance—a platform of the light rail station, or
- (c) 400m walking distance of [a bus stop](#) used by a regular bus service, within the meaning of the Passenger Transport Act 1990, that has at least 1 bus per hour servicing the bus stop between—
 - (i) 6am and 9pm each day from Monday to Friday, both days inclusive, and
 - (ii) 8am and 6pm on each Saturday and Sunday.

The second concern I have is with the wording of “a bus stop” above.

In *Hu v Northern Beaches* the approved boarding house is within 400 m walking distance of one bus stop at the base of the steep hill. However, in order to access the corresponding bus stop for the return bus journey, one must cross 6 lanes of heavy traffic on Pittwater Rd in Collaroy (a major arterial road). The nearest signaled pedestrian crossing is over 800m away; in fact there is a fence erected in the middle of Pittwater road at the bottom of Ramsay St to discourage pedestrians from crossing there.

The Northern Beaches Local Planning Panel (NBLPP) refused the development application; however, on appeal at NSW Land and Environment Court (NSW LEC) the boarding house was approved. The NSW LEC deemed that the wording “a” bus stop (in the singular) meant that only one bus stop was needed to satisfy the requirements of the ARHSEPP - it did not matter how long the walking route was for the return bus journey.

To me this seems crazy; and I do not believe this to be the intent of the ARHSEPP or the new Housing SEPP when defining *accessible area* as to be “within 400m of a bus stop”.

Below is an excerpt from the NBLPP determination here (Chaired by Hon P. Biscoe)

“The applicant submitted that paragraph (c) of the “accessible area” definition is satisfied because it refers in the singular form to “a” bus stop and there is a bus stop on Pittwater Road within 400 metres safe walking distance of the proposed distance. The applicant submitted that it is irrelevant that this bus stop is only serviced by north bound buses and that the safe walking distance to the nearest bus stop serviced by south bound buses on the other side of the busy six lane Pittwater Road is 1.3 kilometres or 1.6 kilometres (depending on the route taken).

The Panel does not accept these submissions.

Usually, buses moving in one direction service a bus stop on one side of the road and buses moving in the opposite direction service a bus stop on the opposite side of the road.

In the Panel’s opinion, the preferable and sensible construction of the phrase “a bus stop” in paragraph (c) of the definition of “accessible area” is that it means a bus stop serviced by buses moving in each of opposite directions. It is not sufficient if there is a bus stop within 400

metres safe walking distance serviced by buses moving in only one direction if the safe walking distance to a bus stop serviced by buses moving in the opposite direction exceeds 400 metres. This construction is aided by the context. Paragraphs (a) and (b) of the whole definition of “accessible area” are concerned with prescribed proximate walking distances to a railway station, wharf or light rail station. Such facilities are used by public transport moving in opposite directions. That context suggests that the reference to “a bus stop” in paragraph (c) should be similarly construed. That construction is fortified by the sensitivity of the SEPP in requiring proximate public transport for occupants of boarding houses, who are likely to be particularly reliant on public transport because of their membership of very low income, low income and moderate income households.

On this construction, the SEPP is not satisfied in the circumstances of the present matter because although a bus stop used by north bound buses is within the prescribed 400 metres walking distance, a bus stop used by south bound buses is located a safe walking distance of either 1.3 kilometres or 1.6 kilometres (depending upon which route is taken). It is not safe for a pedestrian to cross the busy six lane Pittwater Road directly to the latter bus stop.

Further, the extraordinarily steep gradient of Ramsay Street from the front of the proposed boarding house for a distance of approximately 100 metres in the direction of Pittwater Road is for that reason also not a “safe” walking route to either of the said bus stops having regard to the prospect that a boarding house may well be occupied by some persons with limited mobility. The gradient for the top 50 metres of that distance is approximately 1:3 and the balance is approximately 1:5.

Minutes of the NBLPP 5 September 2018 p. 13

CONCLUDING REMARKS

Overall I believe that the amendments to boarding house provisions in the Draft Housing Diversity SEPP are really good. I am particularly pleased that a development would only be regarded as a boarding house if it meets rental ‘affordability’ rules and is managed by a not-for-profit community-housing provider. This will go a long way to stopping developers from exploiting loopholes in the current ARHSEPP.

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From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Saturday, 28 August 2021 12:31 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Attachments: dscott-housing-diversity-sepp-28aug2021.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sat, 28/08/2021 - 12:30

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Devasha

Last name

Scott

Organisation name

NA

I would like my submission to remain confidential

No

Info

Email

devasha@optusnet.com.au

Suburb

Collaroy

Postcode

2097

Submission file

[dscott-housing-diversity-sepp-28aug2021.pdf](#)

Submission

On page 4 of the submission file uploaded yesterday I had left out the source and date of the quote from a determination of the

Northern Beaches Local Planning Panel. This new submission file has the source included. Please use this file as my formal submission.

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal -
Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 29 August 2021 10:20 AM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP

Submitted on Sun, 29/08/2021 - 10:20

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Diana

Last name

Vidovic

Organisation name

Resident

I would like my submission to remain confidential

No

Info

Email

di@wgman.com

Suburb

Bondi

Postcode

2026

Submission

I am in full support of the section in Pages 10-17:

Division 2 Boarding Houses -
which requires boarding houses be managed by not-for-profit organisations in perpetuity, so that rent is set in accordance with gross household income of the prospective tenant. Ie This retreats from the Govt's free market stance previously endorsed as the ensuing free for all has lead to more than 80% of boarding houses being used for tourists, young lifestyle accommodation etc. and not affordable housing.

I support not-for profit housing organisations to run these places and setting rents relating to mean average household incomes is far more equitable and actually gives people in rental stress somewhere to live.

I also feel it's important there is cultural and income earning diversity in this LGA.

I agree to the above statement

Yes