

NSW Department of Planning, Industry and
Environment

Via online submission at:

<https://www.planningportal.nsw.gov.au/housingsepp>

Your Reference

Our Reference

Contact Karly Smith

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14 September 2021

Dear Sir/Madam

RE: EducateAT Joint Submission - Proposed Housing SEPP

The **EducateAT Parramatta Alliance** (the Alliance) was launched in April 2020. It unites five universities (Western Sydney University, University of Sydney, USNW Sydney, University of New England, Swinburne University of Technology), the Western Sydney Local Health District, and City of Parramatta Council to advocate for, and attract talent to, the centre of global Sydney. These universities and this Alliance underline a sector that is worth \$1.6 billion and employs more than 11,500 people. Across several university campuses located in City of Parramatta, more than 25,000 students are enrolled. And finally, The University of Sydney is planning to deliver a full scale campus at Parramatta North that will open by 2030.

The Alliance notes the release of the Draft Housing SEPP, and specifically, it's omission of a proposed new land use for purpose-build student housing (PBSH).

The Alliance were surprised to see that PBSH had been omitted from the proposed Housing SEPP altogether. Alliance members supported this new land use and its potential benefits for educational institutions in providing appropriate housing that adequately meets the needs of students.

The FAQ document accompanying the draft Housing SEPP noted the reason for omitting PBSH being feedback received from educational establishments and private sector developers, as well as the similarity of provisions to those proposed for co-living. The FAQ further indicated that on-campus student housing "will continue to be facilitated through the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

The significance of the education and training sector in Parramatta means that the accommodation of students to support this sector is a critical concern. Among other considerations, safety and wellbeing are critical factors when international students make decisions about where to study abroad. The availability of appropriate, secure and affordable accommodation plays a key role in influencing both those considerations. And while the original Explanation of Intended Effect (EIE) for the draft Housing Diversity SEPP seemed to focus on the needs of international students, appropriate accommodation to service domestic university and VET students is also critical - whether it be for those who choose to move closer to where they study, or those students who need to relocate from places where universities or other educational facilities are not readily accessible.

And for these reasons, the Alliance support the inclusion of a land use for purpose-built student accommodation.

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The key issues identified in omitting PBSH from the draft Housing SEPP are as follows:

1. The need for affordability in the provision of student accommodation.
2. The unsuitability of either co-living or boarding house as a land use to adequately support student housing needs.

Affordability

International students often experience significant difficulties when coming to study in Australia and finding suitable and affordable accommodation has been highlighted in research that City of Parramatta Council undertook in relation to international students last year. Alliance members confirmed affordability as a key issue for students, and a key outcome of PBSH because:

- The EIE released by DPIE in May 2020 acknowledged that student housing was affordable housing
- University of Sydney staff provided concrete examples of student housing affordability, noting that their student accommodation was 25% below market rent with dormitory rooms at \$120 per week and studios at \$150 on their Camperdown-Darlington campus

Another issue of significant concern to international students is finding opportunities to meet Australians and experience Australian culture when studying here. PBSH that houses both international and domestic students can provide a positive experience for both local and international students where the mix of cultures can be rewarding.

Inadequacy of other land uses

The Alliance are unconvinced that either co-living or boarding house will serve as a suitable land use to cater for on-campus PBSH.

Co-living provides some communal spaces and will enjoy a 10% FSR bonus for a set period. But the communal space required in co-living provisions is not on par with the space and facilities provided or envisaged by universities for their on-campus student housing, and a 10% FSR bonus is unlikely to facilitate affordable rents for students.

Similarly, boarding houses are not the same as student accommodation. The maximum size for boarding house rooms (25m²) is significantly larger than the size (10m²) proposed in the EIE for student housing. Secondly, the requirements for communal indoor and outdoor space in boarding houses do not adequately support the study and social needs of students. This is evidenced by the significant amount of social and study space provided by universities in their on-campus PBSH developments.

On-campus student housing

Discussion with EducateAT Parramatta Alliance members emphasised that on-campus student accommodation provided by universities is far more than a stand-alone residential building, but rather a facility with embedded educational and social facilities that formed an extension of the university.

University Student Accommodation is typically a mixed-use facility and not stand-alone Residential or Boarding House development. All accommodation styles have shared communal spaces (kitchen/dining/amenities) and provide the students with internal and external educational and social spaces such as spaces for quiet learning, group or tutor work, peer to peer learning spaces, breakout spaces, meeting rooms, theatres, maker spaces, music rooms, gym, roof terraces and BBQ areas. Student accommodation buildings incorporate educational facilities to allow students to engage outside of the formal learning spaces provided by a University campus.

The FAQ document states that “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).”

The current SEPP (Educational Establishments and Child Care Facilities) precludes universities from self-assessing such developments. Universities are used to being able to self-assess proposals under this SEPP, but in the case of purpose-built student accommodation, clause 44 of the SEPP specifically precludes self-assessment of this land use. DPIE will need to consider what threshold for self-assessment may be applied, if any, to on-campus student accommodation.

SUMMARY

The Alliance strongly supports the development of a new land-use for purpose-built student accommodation and encourages the Department of Planning, Industry and Environment to review its decision to remove it from the draft Housing SEPP. It is critical to support the higher education sector across Greater Sydney and would provide suitably located and amenable housing for students participating in higher education.

Regards,

EducateAT Parramatta Alliance (Western Sydney University, University of Sydney, USNW Sydney, University of New England, Swinburne University of Technology)

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 4:31 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Follow Up Flag: Follow up
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Submitted on Sun, 29/08/2021 - 16:09

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

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I would like my submission to remain confidential

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Submission

Policies at Federal and State levels have resulted in and extraordinary rise in house prices, which in conjunction with slow wage growth has made home ownership open only to people on high incomes or those having wealthy parents.

Housing needs have not changed. All humans, irrespective of their incomes and social status need a place that they can call home, a safe place that is affordable and provides privacy and permanency.

The Co-living type of rental accommodation is an exact copy of SEPP-AHR, has no rental ceiling, has no requirement for separate bathrooms and kitchenette. Plenty of evidence have been provided to show that the SEPP-ARH Boarding House model with rentals of \$500 + in Sydney are unaffordable for people on low to moderate incomes. Example: a child care worker on an average yearly salary of \$56,225 after tax would pay 60% of a weekly salary on rent (\$500/week).

The separation of student accommodation has seen the proliferation of large scale developments by international industries such as SKYPE. A recent high-rise student accommodation DA in Kensington proposed a weekly rent of \$585 for a single room, \$646 for a disability access room, and \$467 for a student willing to share kitchen and bathroom with four others. The proposed reduction of minimum size from 12 to 10 square metres (or less if the developer) is unacceptable.

Similarly to "student accommodation", there are strong indications that large international institutions/corporations will dominate the Build-to-rent housing, to the detriment of local developers and risk of exerting undue influence on future government housing policies.

Commitment to provide "affordable accommodation" only for 10-15 years does not provide a sustainable supply of affordable accommodation. The requirement that in-fill housing easily can be converted for commercial purposes in city centres raises questions about meeting accommodation fire-standards, acoustic standards, etc..

The NSW government in recent years has sold off a large number of commission housing properties, thereby reducing the supply of social housing, and with little sign of proceeds used for new social housing.

Government-owned-land should remain public land used for public benefit.

None of the housing types gives on-going security of tenancy for vulnerable groups such as the elderly and others who for various reasons are unable to gain employment.

The NSW Housing 2041 - suggests that the NSW Housing Strategy will assist recovery after the Covid-19 epidemic. It is becoming quite clear that Covid will stay with us for years to come. Share housing not only deprive occupants of decent size accommodation and privacy, but are designed to become super-spreaders of viruses and therefore need to be put on hold until revised.

There is a risk of overdevelopment, particularly of "student housing" and "co-living".

The outcome of large scale corporation/private take-over of aged care should be a warning sign to NSW government. Hundreds of thousands of dollars to get entry and on-going fees makes access only for the wealthy. As the royal commission into aged care services clearly demonstrated profits take precedence over care.

I agree to the above statement

Yes



27 August 2021

NSW Department of Planning, Industry and Environment,

Evolve Housing Submission on the Draft Housing SEPP

Thank you for the opportunity to comment on the draft Housing SEPP. Evolve Housing strongly supports the consolidation of 5 existing SEPPs; the Affordable Rental Housing SEPP, SEPP 70, SEPP 21- Caravan Park, SEPP 36 – Manufactured Homes Estate and the Seniors Housing SEPP and commends the Department for streamlining and strengthening the ability to use the planning system to contribute to the provision of affordable housing where there is a demonstrated need. Please find attached our submission.

Yours sincerely

Jitender Balani

General Manager, Strategic Asset Management and Business Growth

Thriving communities for all people.

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Evolve Housing - Response to the Explanation of Intended Effect for a new Housing SEPP

Introduction.

Evolve Housing (Evolve) is one of the largest not-for-profit Community Housing Providers (CHP) in Australia with its base in Western Sydney but providing housing throughout Metropolitan Sydney, Central Coast and the Hunter Region. We have a portfolio of over 4000 properties in NSW, housing some 8,000 residents. The portfolio includes approximately 2600 social housing properties and more than 1400 affordable housing properties. As a Tier-1 registered CHP we have a long history of providing quality social and affordable housing and linking our residents to the support services they need. Evolve is a registered Specialist Disability Accommodation (SDA) provider, we provide transitional housing support services for homeless youth through our Evolve Housing for Youth Division (EHY) and we deliver supported housing in a three-way partnership between Evolve, our support providers and the clients of our support providers. We have also recently established Safe Foundations, a housing model to provide medium term housing and support to women and children fleeing domestic and family violence exiting from crisis housing.

We manage our affordable housing through EchoRealty, Evolve's for-purpose real estate agency specialising in property management. The affordable housing we manage consists mostly of NRAS properties, dwellings delivered under the Affordable Rental Housing SEPP and housing managed on behalf of two Council's (Parramatta and Willoughby), Sydney Olympic Park Authority as well as includes some private market properties. Unlike traditional real estate agencies whose sole objective is to generate profit, Echo Realty is a profit-for-purpose real estate agency where all profits are reinvested to grow the supply of affordable and social housing and to fund social inclusion programs.

Evolve owns and manages housing across 38 Metropolitan LGAs in Sydney.

Our position on the Housing SEPP consultation draft

Evolve Housing strongly supports the consolidation of the 5 existing SEPPs including the Affordable Rental Housing SEPP, SEPP 70, and the Seniors Housing SEPP. We commend the Department of Planning, Industry and Environment (DPIE) for its work to make a diversity of housing types more feasible to build and operate. Simplifying the number of SEPPs and bringing them all under one umbrella post reviewing existing rules to ensure they remain fit for purpose in current environment is commendable. We also appreciate DPIE for the public consultation carried on the Explanation of Intended Effect for a new Housing Diversity SEPP and applying the appropriate proposals gathered. We support most of the proposed steps in the Housing SEPP consultation draft but set out a number of recommendations below that we feel would strengthen the effort.

Why do we need more affordable rental housing?

Our organisation sees working families in housing stress who are struggling to keep housing connections to the places where they live or work. We also see the increasing vulnerability of older single women, youth who are unable to meet rising rental accommodation costs and

women escaping domestic family violence in search of housing support as a bare minimum necessity for life.

Affordable rental housing is essential infrastructure and is critical to strong, diverse and livable communities. Stable, affordable accommodation allows children to access and maintain contact with schooling and parents to have a base from which they can seek and maintain employment. Well-located affordable rental housing throughout the Sydney Metropolitan means that people in lower paid jobs can live in the communities that they work in.

The social and economic impacts of the lack of affordable rental housing can be significant. The Strengthening Economic Cases for Housing Report measured some of the direct impacts of building more affordable housing near jobs and services can have on individuals and on our economy. This research indicates that by building affordable rental housing near to jobs and services there will be direct benefits to the economy, including:

- \$2.26 billion in travel time savings
- \$736 million that consumers can spend in local communities
- \$12 billion in increased household earnings and labour productivity

MacLennan estimates that across Sydney, moderate-income renters are typically paying around \$6,000 per year in rent which is above the 30% threshold of household income in rent.

ⁱ ABS data indicates that 14.2% of Sydney renters are in housing stress, an increase of nearly 13% since 2011.

Housing stress is the main risk factor for homelessness. The 2016 Census estimated that there were 37,715 people experiencing homelessness in NSW, a 37% increase from 2011ⁱⁱ. There was also a 74% increase in people living in severely overcrowded homes, a symptom of housing affordability challenges and the inadequacy of housing types.

Housing SEPP as a mechanism for increasing supply of affordable rental housing

Evolve supports the proposed consolidation and revision of 5 existing SEPPs including the Affordable Rental Housing SEPP, SEPP 70, SEPP 21- Caravan Park, SEPP 36 – Manufactured Homes Estate and the Seniors Housing SEPP. Evidence from numerous housing studies, including those commissioned by the Department of Planning and the Environment; show the need for affordable housing throughout Metropolitan Sydney and parts of regional New South Wales. Widespread application of inclusionary zoning provisions tailored to local housing markets, Federal government's initiatives through the National Housing Investment Corporation and Bond Aggregation Model, as well as government guarantees will enable all levels of government, the private sector and the Community Housing sector to collaboratively contribute to the provision of a much-needed increased supply in affordable housing.

It is envisaged that the proposed Housing SEPP will:

- deliver moderate increases in the supply of affordable rental housing in high cost areas through the provision of Boarding Houses and Co-living provisions;

- have no effect on the viability of new housing supply developments in those areas; and
- provide certainty for landowners, developers and the community about the various products around affordable rental housing, e.g. In-fill affordable housing, Boarding Houses and Co- living.

Key Recommendations:

It appears that the current provision of affordable housing as articulated in ARHSEPP and SEPP 70 are somewhat diluted in the drafted Housing SEPP. In the absence of new affordable housing schemes, the wind down of the National Rental Affordability Scheme (NRAS) combined with economic down turn associated with current pandemic will create even more need for affordable housing. Our recommendations are as follows:

- Ensure delivery of affordable housing is a key objective of Housing SEPP;
- Ensure provision of affordable housing is included in all types of build form, ranging from In-fill development to Co-living, and not just limited to Boarding House developments; and
- All exemptions granted to Land and Housing Corporation (LAHC), e.g. parking concessions, development of Boarding House within R2 zone and any density bonuses must be extended to community or social housing providers.

Proposed definition of affordable housing

- To promote development of affordable housing in high cost rental areas, requirement of a maximum of 30% of income towards rent could be made a little more flexible for moderate income households to achieve financial sustainability for both, residents and investors, i.e. where possible moderate income households could pay, say up to 35-40% of their income in towards rent to live in a high cost rental area and rents are capped at 80% of market rent.
- A clear set of guidelines is required to assist the housing industry and investors to fully understand affordable Housing rules, regulation and eligibility requirements.
- Affordable housing caters for people on very low, low and moderate income households. To provide equal access to all three types of households, it would be useful for the industry if the Housing SEPP could specify target or a range by household income type, e.g. 33% for very low, 33% for low and 33% for moderate income households. Generally, private developers / investors tends to attract moderate income households to maximise return.

In-fill development affordable housing

- Evolve Housing commends any development approved under affordable housing post adoption of this Housing SEPP be mandatorily managed by a Community or Social Housing provider for 15 years for sustaining the affordable housing successfully.

Boarding houses

- We strongly support the inclusion of the requirement for affordability of Boarding house developments.
- Evolve Housing commends the changed definition which says boarding houses will be required to be provided as affordable housing in perpetuity and managed by a registered CHP.
- We note that LAHC is permitted to develop Boarding Houses within the R2 zone. We recommend that the new SEPP should allow similar provision be extended to CHPs if the project is owned and managed by CHPs. These exemptions could also be extended to private development provided CHP has a long-term management rights and development must be used for the affordable housing.
- Evolve Housing notes that the floor space ratio (FSR) bonus for boarding house development is a standard 25%. Limiting the density bonus to a maximum of 25% could adversely affect financial viability of the project. We recommend, if the development is carried out by or behalf of CHPs, the density bonus could be extended to 0.5 or 25%, whichever is higher (as per current provision). Evolve Housing also emphasis that bonuses should only apply to genuine affordable developments.
- We commend minimum car parking provision for Boarding houses to be 0.2 spaces for registered or community social housing providers in an accessible area. Evolve Housing would advocate for the minimum parking provision to be 0.2 instead of at least 0.4 for a CHP and lifting the accessible area obligation.
- Evolve Housing strongly support that Boarding Houses will be used as affordable housing. This will help affordable housing stock for the state to be retained in perpetuity and will ensure affordable rents at all times when managed by a CHP.
- We also commend the requirement that the Notice of the development is required to be given to the Registrar of Community Housing.

Co-living

- Evolve Housing supports the inclusion of Co-living in the Housing SEPP to facilitate the delivery of diverse rental housing options. We would promote such housing options as they act as transitional accommodation for youth having little savings to draw upon or women escaping domestic violence looking for low cost accommodation in the community.
- It is recommended that the minimum car parking provisions of 0.5 spaces per room should be reduced to 0.2 spaces if the development is owned and managed by a community or social housing provider for affordable housing. This would be in line with current car spaces provision for boarding houses. Reduced car parking provision is likely to reduce project cost and make the project financially viable.
- Evolve strongly recommends that when a private development is granted a density bonus over and above the permissible floor space Ratio (FSR), the additional bonus should be used solely for the purpose of affordable housing and should be managed by a registered community housing provider.

Proposed amendments to the ARHSEPP and Senior Housing Provisions

- Evolve Housing support the retention of existing affordable housing and easing the current process of converting existing dwellings into a group home. We also commend the Department on proposing to introduce a quicker and easier process to allow an existing dwelling to be used as a group home. We will affirm that there is an ample need with people looking for group homes as we get many enquiries from support groups for the same.
- We support the Department's proposal to extend the validity for Site Compatibility Certificates (SCC) for 5 years, given that the DA is lodged within 12 months of issuance of the certificate.

Conclusion

Evolve Housing welcomes the opportunity to provide feedback on a new Housing SEPP.

We urge the Department of Planning, Industry and Environment to consider our submission and implement our recommendations.

ⁱ [Strengthening Economic Cases for Housing](#) MacLennan et al (2019)

ⁱⁱ [Homelessness in NSW factsheet](#)

[REDACTED]
[REDACTED]

18 August, 2021

The Honourable R Stokes
Minister
NSW Department of Planning, Industry and Environment
SYDNEY NSW 2000

Dear Minister

RE: SUBMISSION ON THE DRAFT HOUSING DIVERSITY STATE ENVIRONMENTAL PLANNING POLICY (SEPP)

Thank you for the opportunity to comment on the Draft Housing Diversity SEPP. We commend the NSW Government on the intention of providing affordable housing and supporting improved housing outcomes in NSW.

Our experience in this area is based on the designing and building of affordable housing in interstate Australia and in the investment of Housing Multiple Occupancy (HMO) overseas. Our underpinning goal for these investments is to provide safe, beautiful, modern spaces for people to live together in a connected community setting. Our involvement and experience in this space has highlighted the needs and desires of people who seek affordable housing. It is from this informed platform that we wish to comment on the Draft Housing Diversity SEPP. We note the following for your consideration:

1. There are additional opportunities to create a smaller 3-5 bedroom/6 person maximum co-living model

In our experience, our residents love the smaller, more intimate community setting created in this smaller model. We try to recreate a family type setting. Although not addressed in your proposal, loneliness and feeling unsafe are pervading emotions within our society. We found that connections are more easily formed and maintained when there are less people and residents confirmed they felt secure in these smaller communities.

This model also has the advantage of allowing existing homes to be converted into co-living spaces under the mandate of the NSW Government's guidelines and introduces smaller, socially aware investors into the market to join with government in addressing the affordability issues with no extra cost to the government.

2. Allow the smaller model outlined above to be in R2 zones

Many people seeking affordable housing desire to live close to their places of work in low-density residential areas. It is essential that people have the opportunity to live in areas that are familiar to them and close to work.

3. Allow Private Certifier approval subject to the fulfilment of conditions of a Complying Development for a smaller model

Housing affordability is an issue of the utmost importance and there is an overwhelming demand within the community. Enabling different pathways to sign off complying developments alleviates the pressure on Councils while maintaining the integrity of the process and intent of the draft SEPP. It will also add in the expediency of addressing this most important issue.

It is clear there is a pressing need to provide affordable housing to a large growing proportion of the NSW population. There is a great challenge in meeting the diverse needs of people seeking affordable living and this diversity should be matched by the types of co-living opportunities available to people in places where they can flourish within communities.

Our experience confirms there is very strong demand for a smaller model of co-living for a diversity of people and include (but not limited to):

- Young adults seeking independence or moving away from their parents' home for work
- Tradespeople
- People working in low income, essential jobs
- Young professionals starting out in their careers
- Young couples saving to purchase their first home
- Women without shelter due to divorce, death of a partner or domestic violence
- Over 55 year old women who are the most vulnerable to become homeless in our society
- Older people who want the security of knowing someone is around in case they fall
- People with disabilities who want to live independently

We are thrilled to have provided beautiful, homely, modern spaces for some of our most vulnerable members of society to live with dignity, community and security as they build towards a better future.

We implore the NSW Government to consider these informed recommendations so that we can all assist in providing working, achievable solutions to the affordable housing issue.

Yours sincerely

[Redacted Signature]

In reply please quote: 20/14844

Contact: 9725 0215

03 September 2021

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

Dear Ms Pritchard

FAIRFIELD CITY COUNCIL OFFICER SUBMISSION – ON DRAFT SEPP HOUSING 2021

This submission follows on from Fairfield City Council's submission (FCC) on the Explanation of intended effects (EIE) for SEPP Housing Diversity dated 29 September 2020. Council officers response has considered the following documents:

- Draft Housing SEPP consultation draft;
- Draft Environmental Planning and Assessment Regulation amendment;
- Draft Standard Instrument Order, and;
- FAQ Sheet.

Council officers appreciate the intent of the proposed reforms aimed at providing greater housing diversity and need for housing for all sectors of the community. This is particularly relevant to the Fairfield LGA that historically has been the focus for refugee intake and resettlement. In addition, high levels of socio-economic disadvantage (as highlighted by the SEIFA index) in the LGA make the provision of housing opportunities a critical issue for the City that is acknowledged in both the Fairfield City Plan and Fairfield Local Strategic Planning Statement (LSPS).

Notwithstanding, Council officers believe that the provision of more diverse housing should not be at the expense of design and amenity outcomes for the community as highlighted both in the Western City District Plan and Fairfield LSPS in relation to community health and liveability. Further background on the above is included in this submission.

SUBMISSION

1. STRATEGIC PLANNING FRAMEWORK

A. Fairfield Draft Local Housing Strategy - The Fairfield Draft Local Housing Strategy ("the Strategy") implements a number of critical actions and priorities of the Fairfield Local Strategic Planning Statement (2020) and Fairfield City Plan (2016). It also responds to strategic directions contained within the NSW Government's Strategic Plans: A Metropolis of Three Cities - The Greater Sydney Region Plan (2018) and the Western City District Plan (2018), the "District Plan".

The Draft Housing Strategy (endorsed by Council following exhibition of the SEPP EIE) highlights the problems and challenges that Fairfield City has encountered with various forms of complying development being delivered under the SEPP (Exempt and Complying Code) and SEPP Affordable Rental Housing.

This is particularly in relation to design and site development outcomes associated with secondary dwellings and ancillary structures (e.g. sheds, outbuildings, studios), the latter of which are being illegally utilised as illegal dwellings.

Attachment A to this submission highlights examples of these issues including, illegal conversion of non-habitable rooms within secondary dwellings to bedrooms to facilitate greater occupancy rates and illegal conversion of detached and attached ancillary structures into dwellings, which effectively creates multi dwelling housing on the site.

The Fairfield Draft Housing Strategy highlights actions for secondary dwelling design including amendments to the existing secondary dwelling controls in the Affordable Rental Housing (ARH) SEPP and Exempt and Complying Development Codes 2008 (Codes SEPP), that Council officers recommend to improve post approval compliance outcomes.

Council officers strongly recommend including these as controls and objectives within Schedule 2 and the non-discretionary development standards of Draft SEPP Housing 2021, noting that these recommendations were also made in Council officer's previous submission to DPIE on SEPP Housing Diversity dated September 2020. The recommendations include:

- Identify a maximum amount of bedrooms;
- Identify minimum room sizes, such as those in the Fairfield City Wide Development Control Plan 2013 or the Apartment Design Guide;
- Increase minimum open space requirements and dimensions;
- Strengthening controls relating to the relationship of the secondary dwelling and the primary dwelling, including appropriate setbacks, useable spaces;
- Restricting the number of ancillary dwellings on a site (such as the number of secondary dwellings, garages, studios and outbuildings), and;
- Reviewing the minimum landscaped area.

It appears that the development standards for Secondary dwellings in Schedule 2 of the Draft SEPP have not taken into consideration of the above and is therefore inconsistent with the policy direction of Council's strategy.

Council officers strongly recommend that these recommendations be implemented before finalisation of the draft SEPP. Council officers are more than willing to meet with the DPIE to discuss the above issues further.

B. Fairfield Local Strategic Planning Statement (LSPS) - The Fairfield LSPS shows how the Directions, Planning Priorities and Actions of the Western City District Plan (2018) will be achieved at a local level.

The Western City District Plan provides a 20-year strategy to enhance Greater Sydney's liveability, productivity and sustainability into the future.

The Fairfield LSPS provides a series of affordable Housing directions that aim to locate affordable housing in locations proximate to major public transport facilities and infrastructure. A provision of the Draft Housing SEPP will allow infill affordable housing such as Co-Living to be built in and within within 400 metres walking distance of local and neighbourhood centres.

As stated above this approach is inconsistent with Council's LSPS and draft Local Housing Strategy as it effectively permits inappropriate (high-density affordable housing) in areas poorly serviced by public transport and other services.

Council officers request that Council be allowed to "opt out" of this provision by revising the implementation approach such as a standard instrument clause. A discretionary approach would allow Council to better achieve the intent of its local strategy. Alternatively, the Draft SEPP could be amended to include a Clause that permits high density infill housing only where the Council's LEP permits higher density residential development.

2. CHAPTER 2 – AFFORDABLE HOUSING

A. Boarding Houses on Land and Housing Corporation Land – Clause 25 of Draft SEPP Housing requires boarding houses on private land to be maintained as affordable housing in perpetuity. It appears this is not a requirement for boarding houses on Land and Housing Corporation sites.

Council requests clarification as to whether Clause 25 applies to boarding houses on Land and Housing Corporation developments that are then on-sold to private housing corporations. In addition to this Council officers consider that the draft SEPP must include provisions for boarding houses to comply with relevant provisions of SEPP 65 and the Apartment Design Guide.

B. Division 5 Residential flat buildings—social housing providers, public authorities and joint ventures - Division 5 of Draft SEPP Housing allows LAHC and a social housing provider or developer working with LAHC to build residential flat buildings for the purposes of Affordable housing as long as the RFB is within 800 metres of the entrance of a train station. However, this clause does not apply to where an RFB is already permitted by the relevant LEP.

In the Fairfield LGA this would allow LAHC to develop high density infill affordable housing on land zoned R2 and R3 around smaller stations in the LGA such as Canley vale and Carramar.

After a 10-year period the LACH could sell the development off for private housing. Council supports bonus provisions for LAHC Housing to facilitate greater density on existing LACH sites.

However, more broadly council is concerned that infill high density housing in non-compatible zones would result in poor amenity outcomes for existing residents and create a burden on local and regional infrastructure including roads and community

services. Council officers therefore do not support a proximity approach for high-density infill affordable housing.

Identifying additional areas to accommodate high-density housing should be informed through a thorough urban design and master planning process, involving critical analysis of community needs and servicing required to meet the needs of a high density population. Critically, the eastern half of the Fairfield LGA particularly around Carramar, Canley vale, Villawood and Cabramatta lacks public open space to support population increase.

As part of the stage 2 Planning Proposal of the NSW Accelerated LEP program Council has prepared draft urban design studies for Carramar, Cabramatta, Canley vale and Canley Heights that propose areas of density increase based on site suitability and servicing. Rezoning to open space is proposed in some areas to for areas identified as suitable for density increase.

Council officers are concerned that DPIE have not considered the draft urban design study and draft housing strategy and their provisions against the proposed provisions of draft SEPP Housing. Council officers are therefore not in support of high density infill affordable housing within 800 metres of stations except where the zone appropriately accommodates site service requirements for high density housing on existing LACH land and where it is deemed consistent with Council's proposed and existing strategies.

In addition, the proposed approval pathway through a site compatibility certificate would not in Council officer's opinion provide adequate safeguards to ensure good planning outcomes for the community. Division 5 controls may result in 3 to 6 storey buildings in low and medium density residential environments. This will create overshadowing, privacy and poor streetscape outcomes.

Recommendation - Council officers, acknowledge the need for affordable housing; however, a more considered approach must be taken rather than a "blanket approach". A revised implementation approach is recommended, allowing Councils who wish to do so to opt out of Division 5 of SEPP Housing Diversity. This could be done through a standard instrument clause instead of a SEPP approach. This would avoid inconsistency with State government policy and Council strategies. Council officers are more than willing to meet with DPIE's policy team to discuss this issue further.

C. Boarding Houses – In Council's previous submission to Council on SEPP Housing Diversity Dated September 2021, Council requested not to mandate boarding houses in the R2 zone for the following reasons:

- Boarding houses located in the R2 zone are poorly serviced by public transport links. Not being within walking distance of major transport infrastructure (heavy rail) and bus routes.
- During the public exhibition period for boarding house DA's, large numbers of residents have expressed objection and opposition irrespective of the proposed location of the boarding house.

If a DA receives more than 10 objections, the application must be submitted to the Fairfield Local Planning Panel (FLPP) for determination. This creates procedural complexity and costs for both applicants and Council.

Council officers raise the same concerns for Group homes as discussed in more detail below.

D. Provision of Non-Discretionary bonus development standards on Land and Housing Corporation Land – Fairfield Local Government Area contains numerous Land and Housing Corporation sites with existing older social housing stock suitable for turnover.

For these sites, Council officers would be in support of the provision of bonus development standards such as increased FSR or HOB where appropriate. This would encourage renewal of these sites by increasing dwelling yield on these sites. Council officers would recommend an additional clause in “Part 2 – Development for Affordable Housing” to facilitate these bonus provisions.

E. Development Contributions for Affordable Housing – With reference to the “contributions calculation for affordable housing” it states in section 44 Sub Cl 3 (b), “*x = the contribution that would be payable under sub section 3*”. Council officers believe that the reference to sub section 3 is an error and should be corrected to instead reference sub section 2, being the contribution rate payable to calculate affordable housing contributions.

In addition, the development contribution rate formulas for affordable housing are complex and not easily interpreted. It is recommended that a simplified approach be applied to provide clarity for council. Alternatively, examples and a process manual should be provided by the DPIE in the formulas applications and in what situation they are to be used.

F. Part 3 - Co Living Housing 10% FSR Bonus – Clause 64, Sub Cl 2 (A) (i), (ii) permits a maximum FSR equivalent to that applying to the land under the applicable LEP. An additional 10% FSR will be permitted if that additional 10% is used for co-living space. Clause 64 (3) states that Clause 2 (a) will be repealed on 01 August 2024. Council officers request clarification on the FSR bonus (if any) that will apply to co-living development after 01 August 2024. Council officers’ support of clause 64(3) is conditional on DPIE’s response, noting that exceedance of Fairfield LEP’s FSR for Co – Living development is generally supported for co-living purposes only.

G. Parking Rates - Infill Affordable Housing – Council officers note that the infill affordable housing provisions for parking rates are less than those required in the Fairfield City Wide DCP 2013. Council officers suggest where relevant an amendment to the parking rate clauses of the draft SEPP, to ensure that they are consistent with Council’s provisions. This is required as low density residential areas of Fairfield are poorly serviced by public transport and residents would rely on private vehicle use to access essential services.

3. CHAPTER 3 – DIVERSE HOUSING

A. Secondary dwellings - Are often perceived as providing relatively affordable accommodation. However, consultant's research commissioned by Council has shown that while rents for secondary dwellings are typically lower, they remain unaffordable for low-income households.

Historically, there have been many concerns from local councils with secondary dwellings delivered under the Affordable Rental Housing SEPP (ARH SEPP). Some of the concerns from local governments in Western Sydney regarding secondary dwellings are:

- poor quality design and amenity;
- unsuitable location (e.g. within front setbacks and on flood liable land);
- inadequate controls for design and regulation of illegal structures;
- impacts on neighbourhood amenity in low density areas;
- impacts on on-street parking and other Council services such as garbage collection;
- no affordability requirements; and
- secondary dwellings being constructed as studio apartments and subsequently used as short-term rentals.

Disappointingly, under the draft Housing Diversity SEPP there are no provisions or major improvements planned for secondary dwellings that respond to the above concerns.

Furthermore, there are currently no requirements on secondary dwellings relating to housing costs to ensure they are an alternate affordable housing form.

The flaws in secondary dwelling planning controls and regulation were highlighted recently with the Covid-19 outbreak in Western Sydney in particular within the Fairfield LGA. These informal and often illegal housing scenarios intensify occupancy rates making it extremely difficult for families to self-isolate and social distance as required. It is understood that informal addresses and lack of transparency presented contract tracers with a very difficult task.

Inaccurate information and informal address details made it extremely difficult to track movements of households and provide residents with accurate information and support services needed at the time.

Attachment A to this submission (previously submitted to the DPIE) highlights examples from the Fairfield LGA of illegal, studio and secondary dwelling conversion, undertaken post approval.

B. Co-living Development – Permissibility – Clause 63 of the Draft SEPP proposes to permit Co-Living development in the R2 zone and where an EPI permits shop-top housing, and residential flat buildings. Within the Fairfield LGA Co-Living development will therefore be permitted in the R2, B1, B2, B4, B6, R1 and R4 zones.

Council officers consider Co-Living development to be a new generation boarding house, without the requirement to maintain the affordable housing component in perpetuity. Council officers in their previous submission on the SEPP Housing Diversity (dated 2020) opted into the exclusion of boarding houses from the R2 zone due to general lack of community support and the poor service outcomes for boarding houses in the R2 zone.

For the same reasons Council officers do not support Co-Living development in the R2 Low Density Residential zone and B1 Neighbourhood centre, as Co-Living development within these zones is a departure from Council's policy direction.

Development scenario Example - If an applicant undertook a re-subdivision of a B1 centre that included lot amalgamation, the neighbourhood centre would essentially become residential, as there is no commercial element required in a co-living development.

Recommendation - To ensure that co-living development does not diminish commercial floor space in the B1 Neighbourhood centres, Council officers recommend an additional clause be inserted for co living development, stating that residential accommodation not be permitted on the ground floor for the purposes of co-living in the B1 zone and the ground floor be used for commercial purposes only. This would ensure a retention of commercial services in the B1 zone.

Council officers would support Co-Living development within R4 and B4 zones as these zones are well serviced by essential services and major transport infrastructure. These zones already contain the infrastructure required for mixed-use development and residential flat buildings.

Council officers request a revised approach for the inclusion of Co-Living development within LEPs. It is recommended that an optional Model Clause be included within the Standard Instrument LEP allowing Councils the discretion to include or exclude Co-Living Development from their LEP's and refine the zones within which it is permitted depending on the specific circumstances of their LGA.

Alternatively, Council requests that where a Council wishes to prohibit this form of development within a zone, that a clause be included within the Housing SEPP to confirm that where an LEP prohibits Co-Living development in a zone that Council's LEP prevails in the event of any inconsistency with the SEPP.

Should DPIE agree to either of these approaches as discussed above, Council officers would request that a savings provision be included within the SEPP which grants Council a 1 year exemption from the application of the SEPP Housing 2021 from applying to the Fairfield LGA. During this 12 month period Council will undertake a Planning Proposal to facilitate the permissibility of Co-Living development in desirable areas of the LGA where strategic planning investigation and merit supports this new form of housing.

- C. Co- Living Housing and SEPP 65** - Clause 63 of draft SEPP Housing permits co-living where a council's LEP permits residential flat buildings and shop top housing accept in the R2 zone.

The wording of this clause makes it difficult to interpret whether the Co-living development is permitted in the R2 or not. Council officers suggest a mandatory zone provision such as that applied for group homes to provide certainty in interpretation for developers and Council.

For Buildings above 3 stories Clause 65 (d) of draft SEPP housing would require compliance with the Apartment Design Guides (ADG) building separation distances. For High density co-living development Council officers would require a thorough application of the ADG, including but not limited to solar access, landscaping, cross ventilation, Communal and private open space, landscape and materials and finishes. This is required to ensure Co-living developments achieve an acceptable amenity and development outcome for future and adjoining residents.

- D. Subdivision – Seniors Housing** – Clause 79 of the draft SEPP proposes subdivision of seniors housing in commercial zones (with the exception of zone B3) subject to Council approval. This will allow applications to be lodged to Council for subdivision of seniors housing in local, mixed use and neighbourhood centres.

The SEPP requires a minimum lot size of 1000m² to 2000m² for a range of seniors Housing typologies. It is unclear from the SEPP provisions if these lots can be further Torren's title subdivided and whether the resultant lots will be permitted for purposes other than seniors housing or associated uses.

Council officers further note that there is no minimum lot size provision under Fairfield LEP 2013 for the majority of commercially zoned land in the LGA. Council officers have concerns that subdivision of existing seniors housing may result in sub-standard development outcomes for this type of housing by facilitating incompatible commercial uses in proximity to seniors housing.

- E. Group Homes** – Clause 57 and schedule 3 of Draft SEPP Housing allows group homes with less than 10 bedrooms to be undertaken without development consent on behalf of a public authority and as complying development by a private developer.

Group homes have also been mandated within residential and commercial zones. It is unclear from the Draft SEPP what approval pathway can be taken for proposed group homes with more than 10 bedrooms. Council requests clarification on this issue noting that if the applicant is required to lodge a DA to Council the Fairfield City Wide DCP 2013 does not have provisions and criteria relating to group homes.

Further to this, it is recommended that group homes be limited to no more than 12 bedrooms in the R2 zone. At the present time this is Council's position on boarding houses. Not capping group home rooms would create a repeat of the issues that lead to capping boarding house room numbers in the R2 zone.

If non complying group homes or those greater than 10 bedrooms are required to be lodged to Council for assessment it is recommended that a statutory design manual be established with development controls and provisions for large or non-complying group homes to provide council with assessment criteria.

Council officers are concerned that the proposed complying development provisions for group home development, allow for unchecked “pseudo boarding house” development, noting that Council opted out of mandating boarding houses in the R2 zone, due to poor post development outcomes for residents including a lack of access to transport infrastructure and required services.

Group homes are also permitted in the R4 zone, presumably as a form of high-density infill housing. There is no reference in the draft SEPP that group homes of a high-density nature must comply with SEPP 65 and the ADG. Council officers would require at a minimum that this be the case. An additional clause should be inserted within the non-discretionary provisions for Group Homes prescribing mandatory compliance with the ADG and SEPP 65, if a group home is proposed where an EPI permits residential flat buildings.

4. SCHEUDLE 2 – COMPLYING DEVELOPMENT – SECONDARY DWELLINGS

A. Clauses 2 and 4, Schedule 2 - of the Draft SEPP allow for multiple detached structures to be built on a premises, which are often occupied separately. Council officers request the following additional sub clauses be included under Clause 2 and 4:

- Development for the purposes of a secondary dwelling can only be carried out if at the completion of the development there is only one (1) detached structure.
- Development for the purposes of a secondary dwelling can only be carried out if at the completion of the development there is no studio at the subject premises.

B. Note: Clause 3.25 - of the SEPP Exempt and Complying Development Codes 2008 should also be amended to include the following:

- Development for the purposes of a studio can only be carried out if at the completion of the development there is no secondary dwelling at the subject premises.

C. Clauses 4 and 5, Schedule 2 - of the Draft SEPP does not have any restriction on the size of an attached ancillary structure to a secondary dwelling. These attachments are often incorporated into the secondary dwelling after the issue of the Occupation Certificate. Council officers requests the following subclauses be included within Clauses 4 and 5 of Schedule 2:

- Any enclosed ancillary structure such as a garage, must be included in the maximum floor area of the secondary dwelling, when attached to the secondary dwelling.
- Any open ancillary structure such as an alfresco area or awning be limited to 12 square metres, when attached to a secondary dwelling.

D. Clause 7 and 8, Schedule 2 - of the Draft SEPP permits secondary dwellings to be located beside the principal dwelling, which can significantly detract from the streetscape. Council officers request the following subclause be included in the SEPP:

- A secondary dwelling located alongside the existing dwelling within the front building line must be attached to the primary dwelling and the front door of the secondary dwelling must be obscured from the street, to achieve the appearance of one dwelling.

E. Clause 17, Schedule 2 - of the Draft SEPP permits private open space to be shared between the principal dwelling and secondary dwelling. These dwellings are often occupied by different residents and therefore this provision is unacceptable. Council officers request the following subclause be included in the SEPP:

- Separate private open space must be provided for both the principal and secondary dwelling.

5. SCHEDULE 4 ENVIRONMENTALLY SENSITIVE LAND

A. Schedule 4 - excludes the application of the draft SEPP on land identified as environmentally sensitive. Council officers do not raise objection to this Clause but do seek clarification on the definition of Flood Planning and whether it has the same meaning as flood planning area and flood control lot.

Council currently applies a range of flood related development controls to development on flood control lots. As a result of provisions contained in current SEPPs a flood control lot in Fairfield City incorporates land affected by flooding up to the 1in100 year flood plus 500mm free board level.

B. Flood Planning – Schedule 4 should be amended to reference flood planning area as opposed to the current reference of flood planning. Schedule 4 currently refers to seniors housing only. Due to the nature of co living developments and the potential for similar evacuation issues it is recommended that Co-living development also be included for exclusion from the flood planning area.

Conclusions

This submission includes a number of recommendations linked to the Fairfield LSPS, draft Local Housing Strategy and other strategic investigations that highlight the need for the measures in the draft SEPP Housing, that deliver the following:

- locate infill affordable housing close to major centres and transport infrastructure;
- Consideration of the SEPP provisions with council endorsed and draft strategies such as the Fairfield LSPS and the draft Fairfield Local Housing Strategy;
- Address previous council recommendations regarding secondary dwelling provisions to ensure post compliance outcomes are improved;

- A revised strategic implementation approach such as a standard instrument Clause approach for some provisions such as Co-living to allow council discretion to opt in and out.

It is understood DPIE is seeking finalisation of the Draft SEPP by the end of October 2021. Prior to this time Council officers would appreciate the opportunity to meet with the policy team to clarify and discuss key issues in this submission.

Please contact me 9725 0215 if you would like to discuss any of the above further.

Yours faithfully



Patrick Warren
SENIOR STRATEGIC LAND USE PLANNER

Attachment: Examples of complying development housing outcome

Example 1

Address: 53 Belmore Street, Old Guildford

Lot size: 680sq.m

Zoning: R3 Medium Density zone. Only 12m wide so would need to amalgamate to get multi dwelling housing development. Planning proposal seeking R4 High Density up to 2:1 and 6 storeys depending on width.

Dwelling size:

- Existing dwelling: approx. 90-100sq.m
- Secondary dwelling 60sqm
- Garage 35sqm
- Studio 35sqm

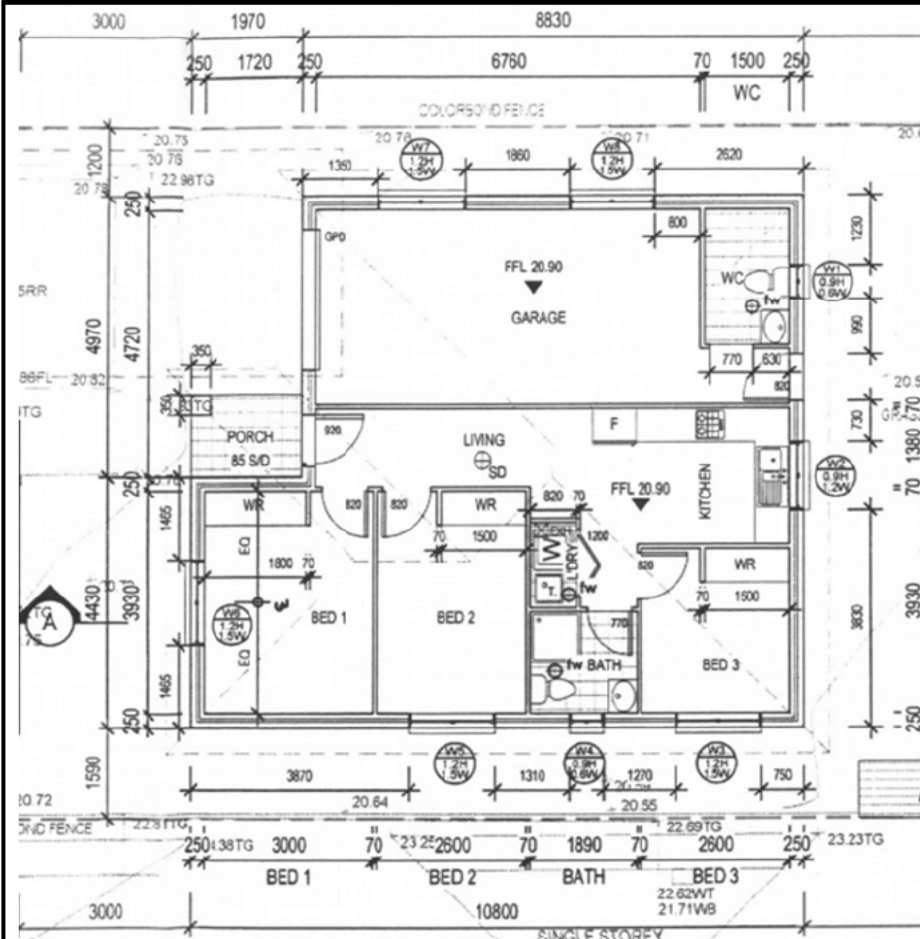
After the approved CDCs are constructed, the likely dwellings/occupancies on site will be:

- **Approx. 4 dwellings on site**
- Main dwelling (3 bedrooms)
- Secondary dwelling (3 bedrooms)
- Secondary dwelling garage (potentially a 1 bedroom/studio dwelling)
- Studio (1 bedroom)



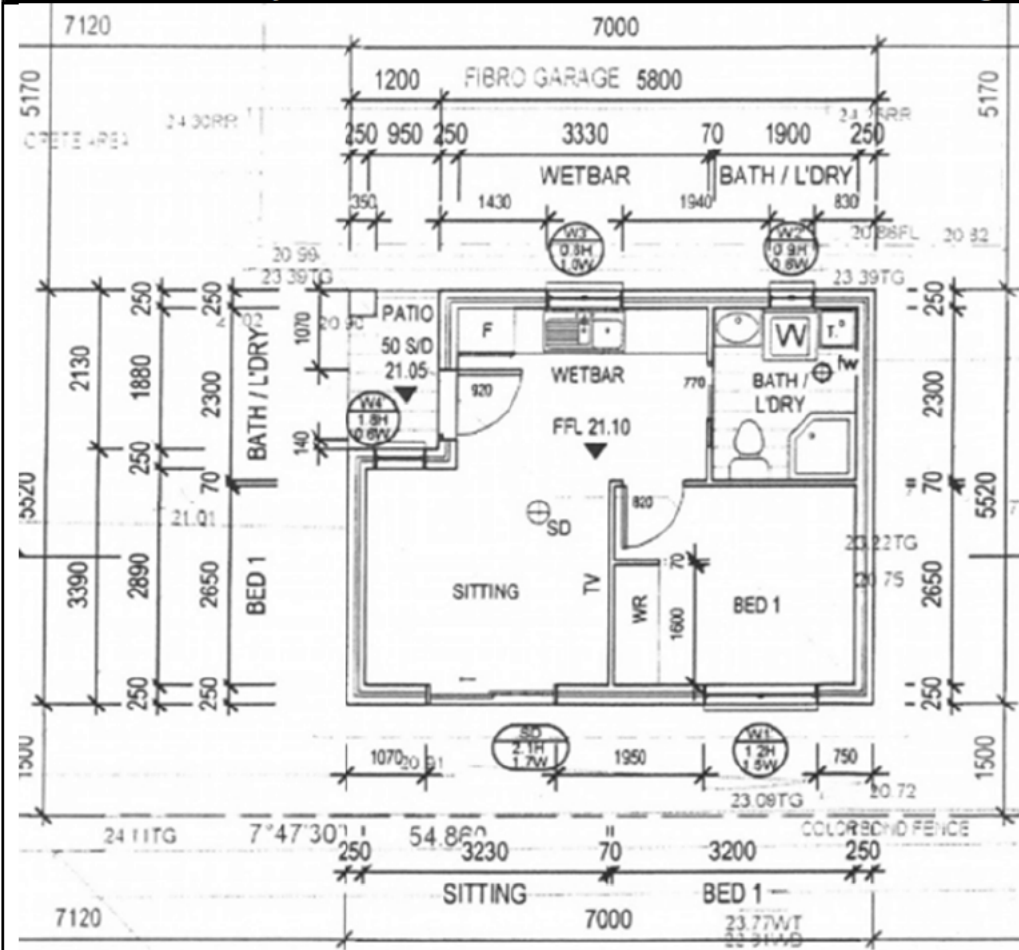
Secondary Dwelling

- Contains 3 bedrooms, with the "living area" being extremely narrow and essentially a hall way.
- Attached garage contains a bathroom, with space for a shower, likely a studio dwelling.



Studio

- A studio is not permitted to contain cooking facilities, however, it is highly likely that the "wetbar" will ultimately be turned into a full kitchen. Plans show sink and fridge.



Example 2

Address: 51 Lansdowne Road, Canley Vale

Lot size: 1,008sq.m

Zoning: R2 Low Density, Min Lot Size Dual
Occ. is 600sqm

Dwelling size:

- Existing dwelling approx. 100-110sq.m
- Secondary dwelling 60sqm
- Workshop 30sqm
- Outbuilding 60sqm

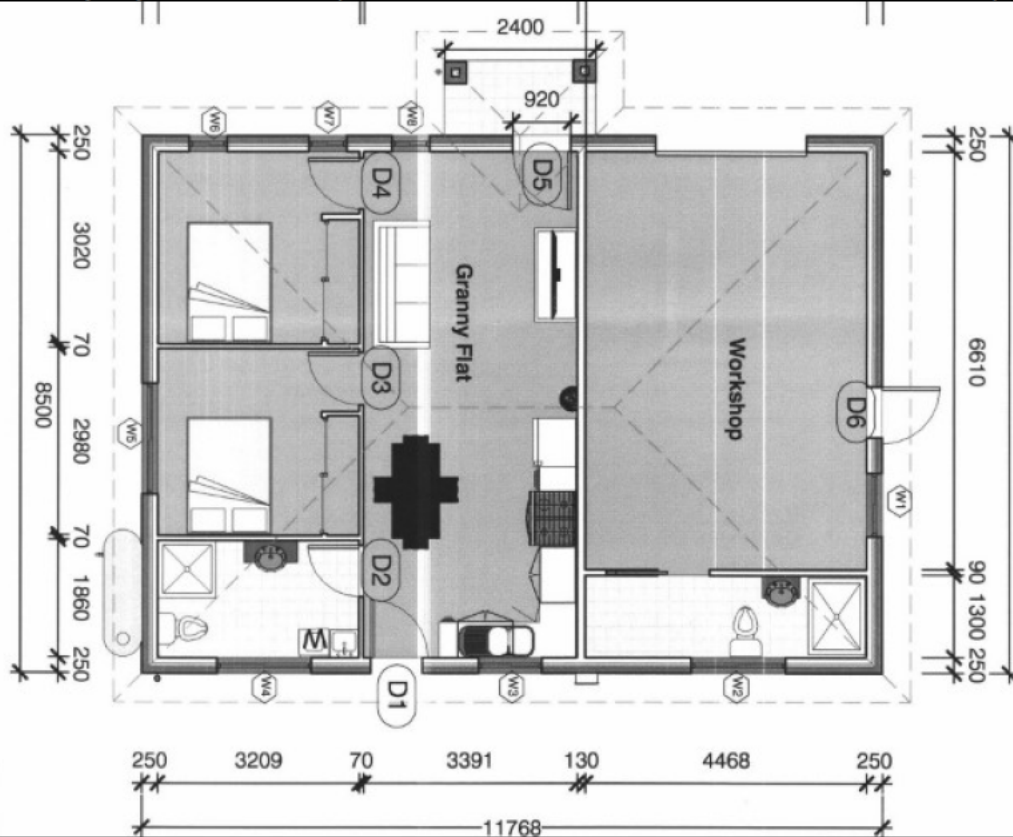
After the approved CDCs are constructed, the likely dwellings/occupancies on site will be:

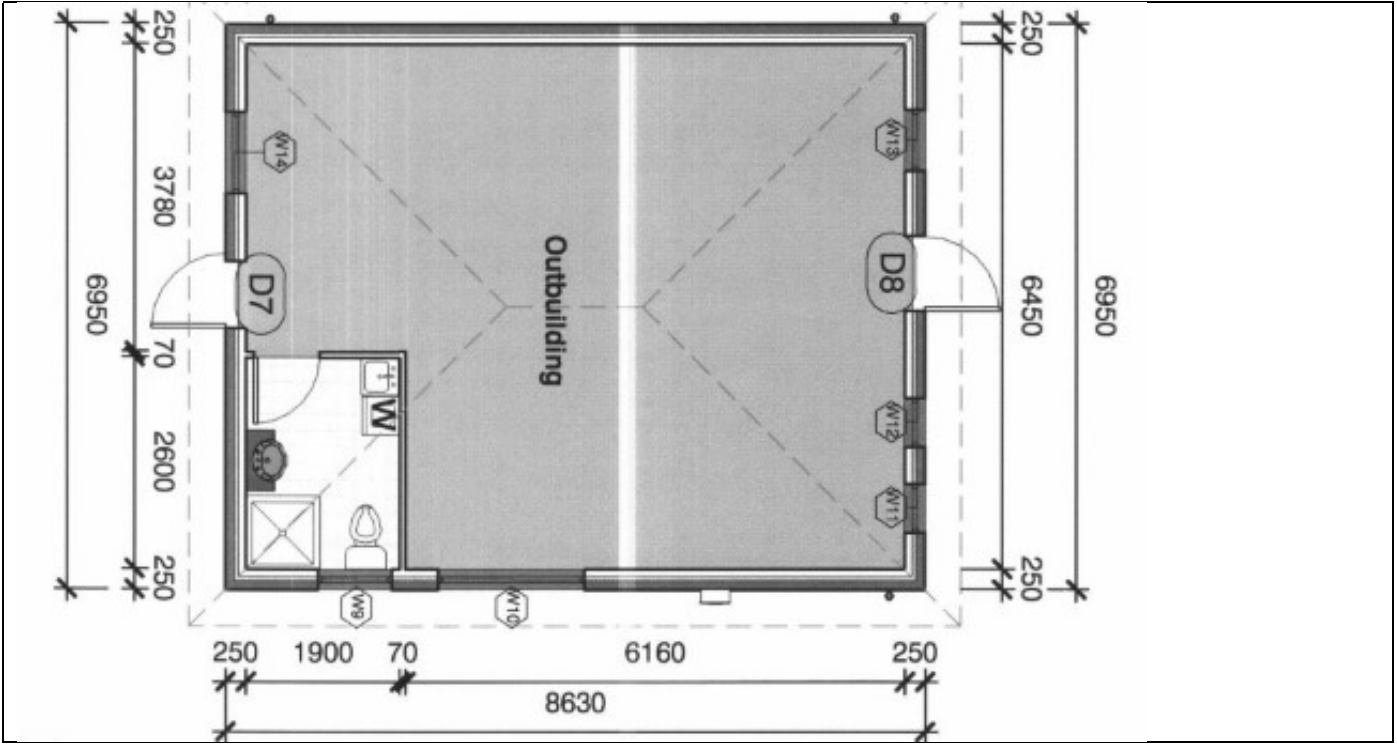
- **Approx. 4 dwellings on site**
- Main dwelling (3 bedrooms)
- Secondary dwelling (2 bedrooms)
- "Workshop" (potentially a 1 bedroom/studio arrangement)
- Outbuilding (potentially a 1 or 2 bedroom/studio arrangement)



Secondary dwelling and workshop

- Granny flat contains two bedrooms, however, the site also has a workshop and outbuilding.
- The workshop has a full bathroom. Likely be fitted out for a studio style dwelling.
- The outbuilding also has a full bathroom. Likely to be fitted out for a studio style dwelling with 1 or more bedrooms.
- Majority of the 1,000sq.m site has also been concreted with little to no impervious surface.





Example 3

Address: 18 Fraser Road, Canley Vale

Lot size: 625sq.m

Zoning: R2 Low Density, Min Lot Size for Dual Occ is 900sqm as the area is high and medium risk flood affected and not in proximity to services or transport.

Dwelling size:

- Existing Dwelling approx. 90-110sqm
- Granny Flat 60sqm
- Outbuilding 45sqm

After the approved CDCs are constructed, the likely dwellings/occupancies on site will be:

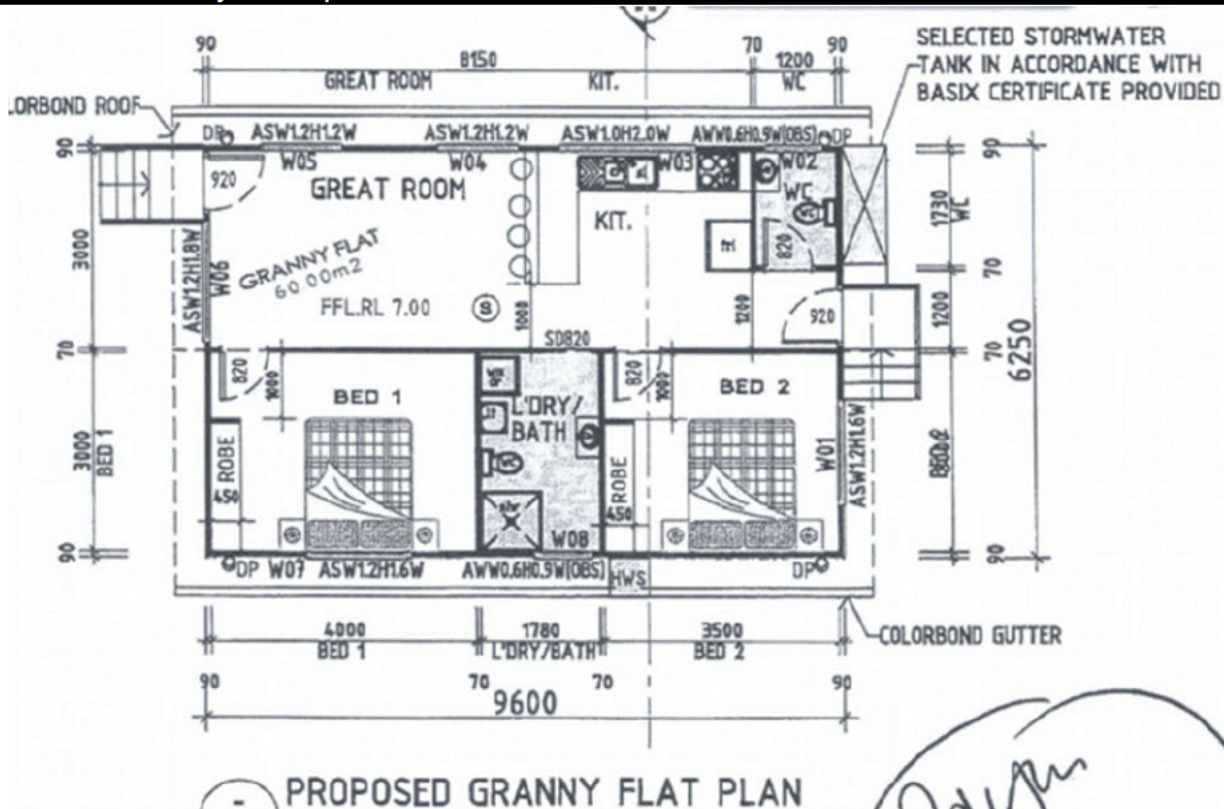
- **Approx. 3 dwellings on site**
- Main dwelling (2+ bedrooms)
- Secondary Dwelling Granny Flat (2 Bedrooms)
- Outbuilding (1-2 bedroom)

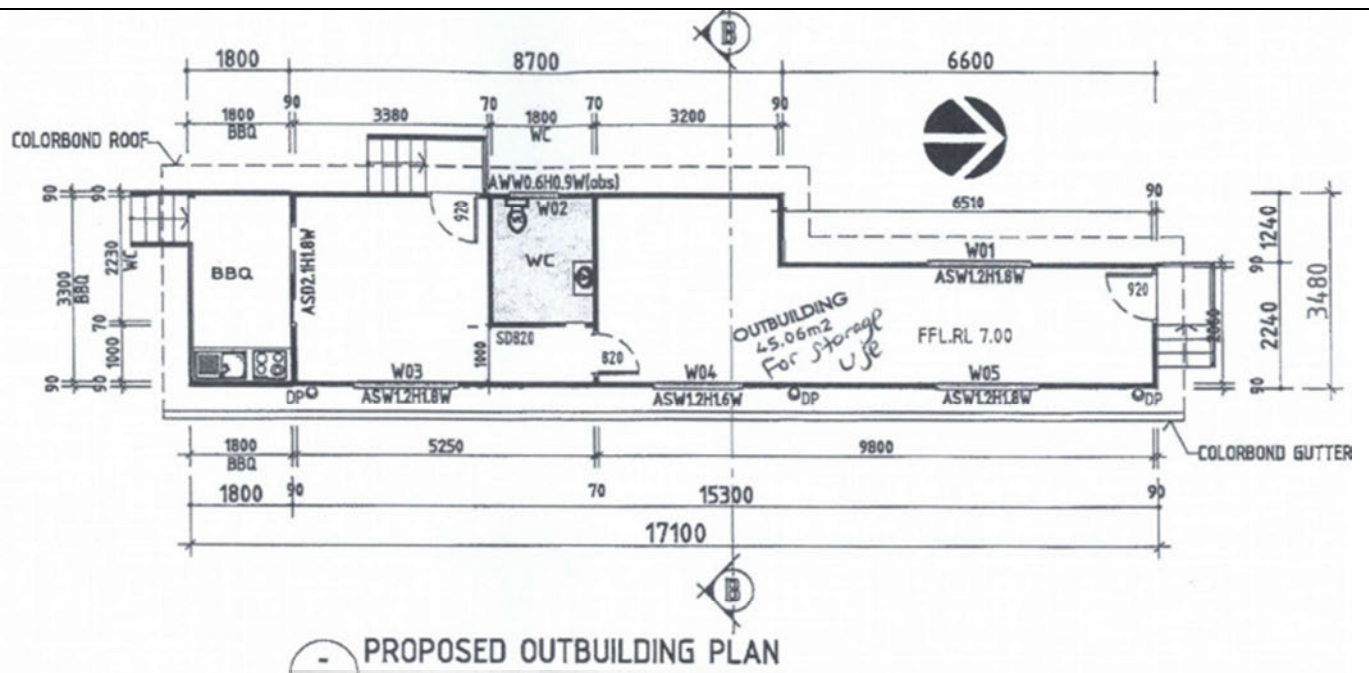
Note: Medium risk mainstream flooding and directly adjoins high risk flood area.



Secondary dwelling and outbuilding

- Secondary dwelling contains two bedrooms and two bathrooms.
- Outbuilding contains a bathroom as well a "BBQ" area which looks very much like a kitchen. The outbuilding also has 3 separate entry points which may mean multiple occupancies/boarding house style occupancies down the track.





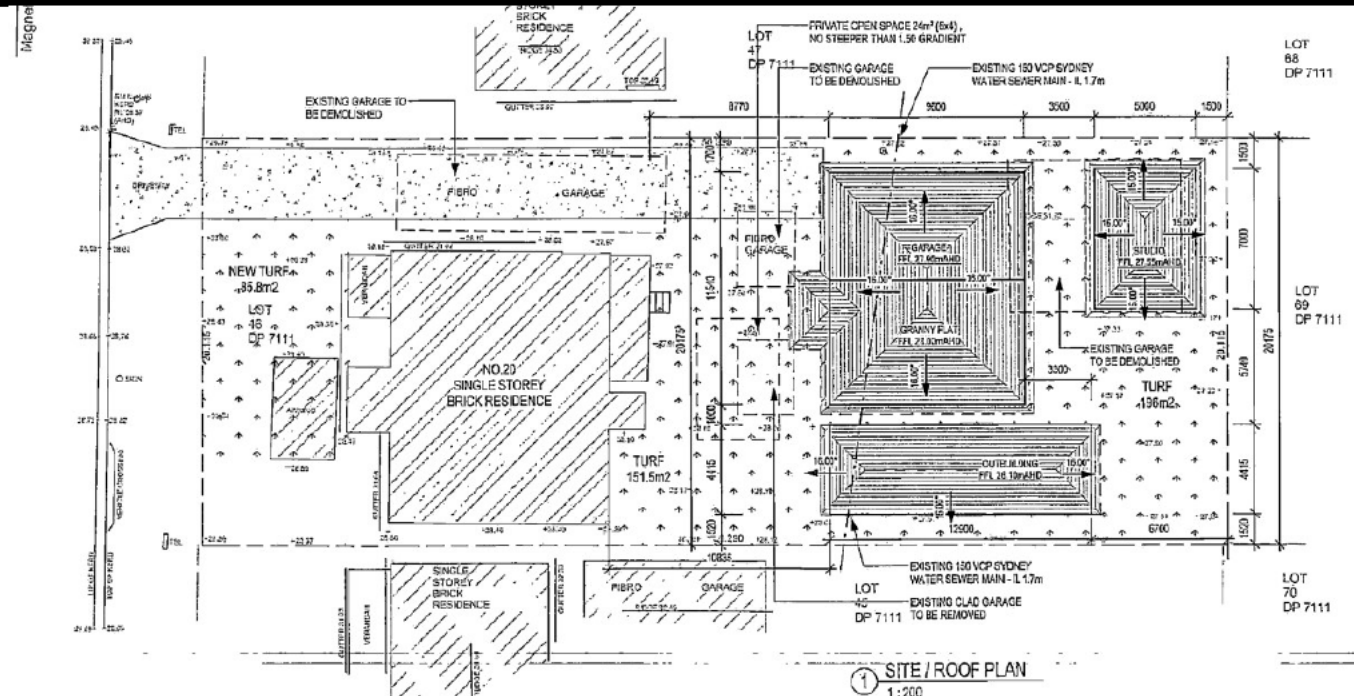
Zoning: R2 Low Density, Min Lot Size for Dual Occ is 600sqm

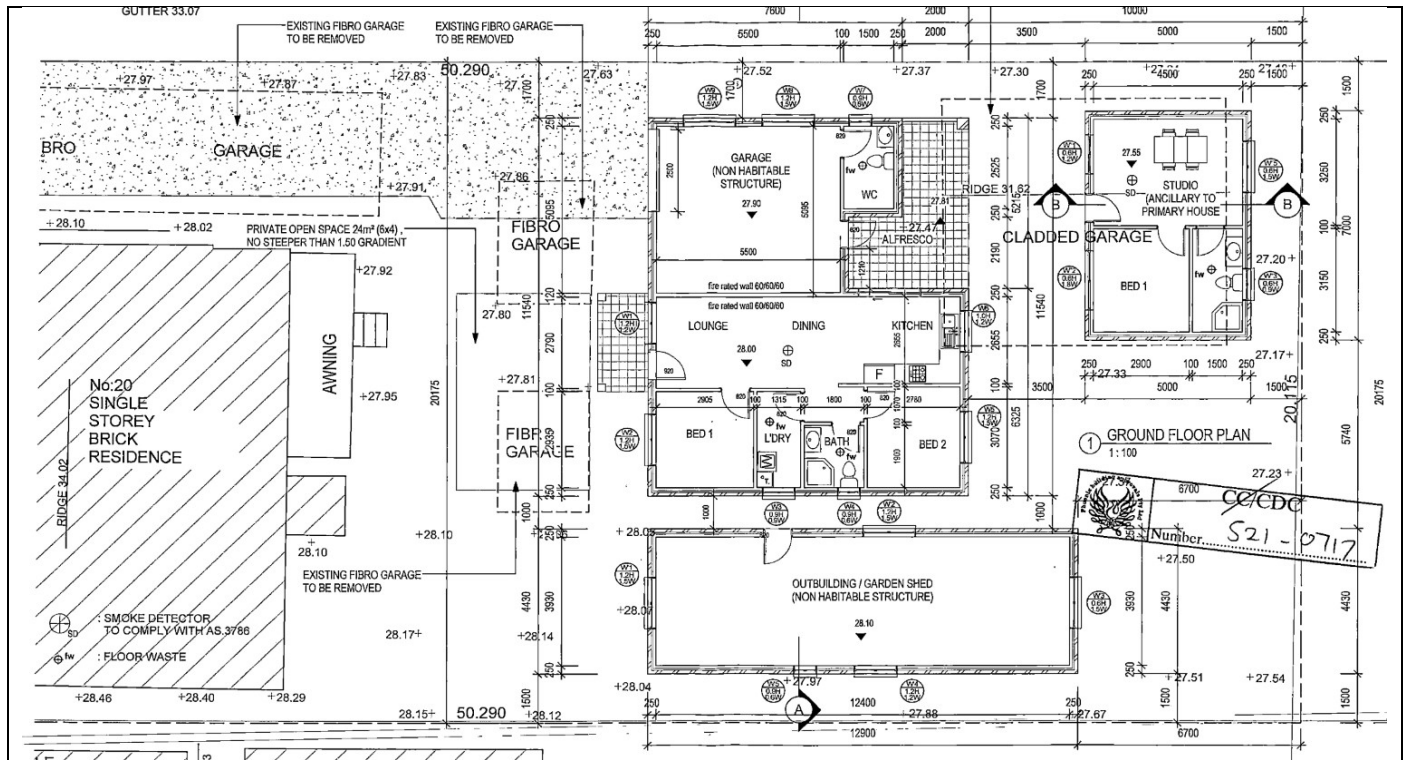
- Existing dwelling approx. 155sqm
- Granny flat 60sqm
- Outbuilding 73sqm
- Garage 37sqm

- **Approx. 4 dwellings on site**
- Main Dwelling (3 bedrooms)
- Secondary Dwelling – Granny Flat (2 bedrooms)
- Garage attached to granny flat (Potentially 1 or 2 Bedroom)
- Studio (1 bedroom)



- Secondary dwelling contains 2 bedrooms and has an attached garage with a bathroom and an alfresco area only accesible from the garage.
- Stuido contains one bedroom and bathroom. Living area will likely be fitted out with a kitchenette after contruction.
- Outbuilding / garden shed is approximately 13m x 3.9m. Only has a small doorway you would find for entry to a dwelling. Also has a number of windows. Will likely be fitted out for a dwelling after construction.





Example 5

Address: 29 Madeline Street Fairfield

Lot size: 551sq.m

Zoning: R2 Low Density, Min Lot Size for Dual Occ is 600sqm

Dwelling size:

- Existing dwelling approx. 90-110sqm
- Secondary dwelling 60sqm plus 2 alfresco areas
- Studio approx. 35-45sq.m

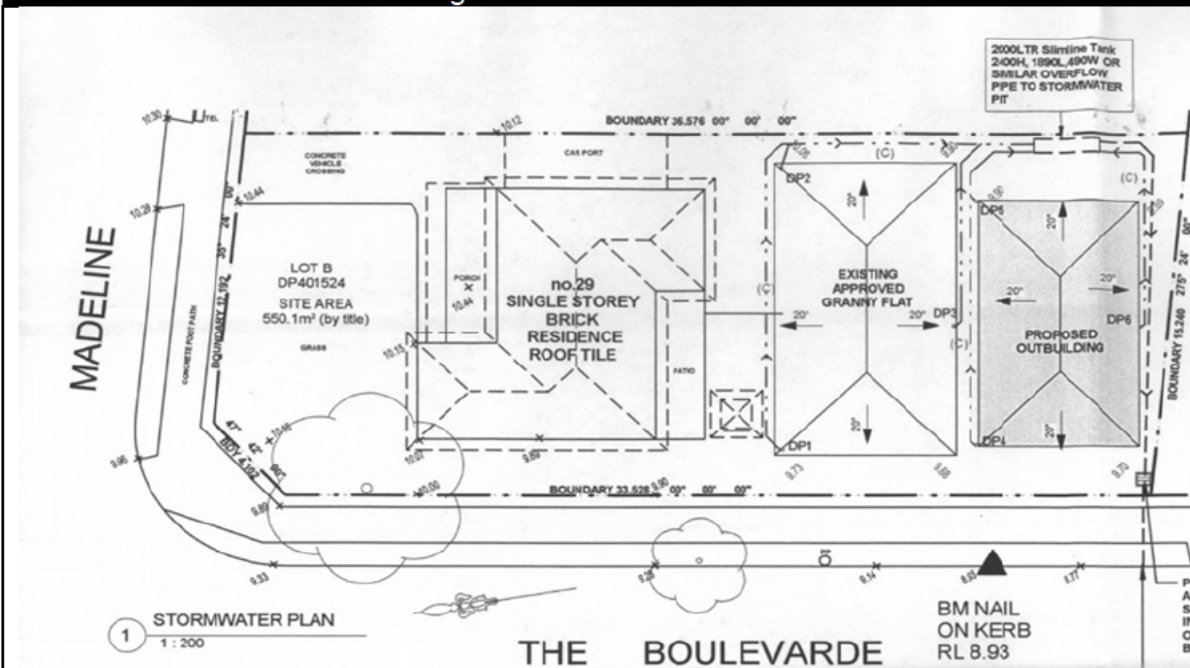
After the approved CDCs are constructed, the likely dwellings/occupancies on site will be:

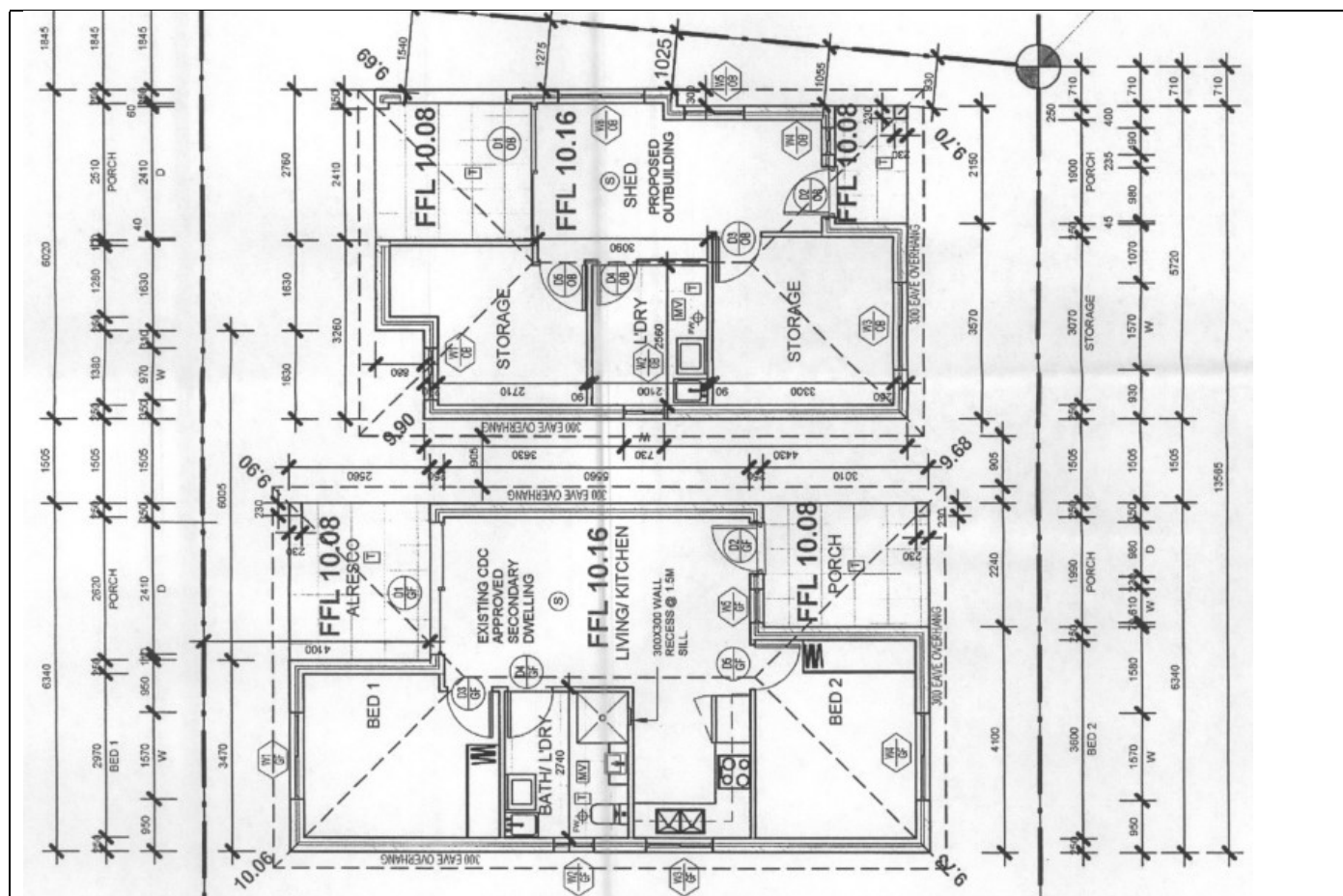
- o **Approx. 3 dwelling on site**
- o Existing house (2 bedrooms)
- o Second Dwelling – Granny Flat (2+ bedrooms)
- o Outbuilding (2 bedrooms)



Secondary dwelling and outbuilding

- Secondary dwelling contains two bedrooms and 2 alfresco/porch structures which are constructed under the one roof. It is our experience that at least one of these “alfresco/porch” structures will be bricked up for another room.
- Outbuilding contains two separate storage rooms which would easily be used as bedrooms. It also contains a laundry which would potentially be fitted out for a full bathroom and installation of a kitchenette at a later stage.





Example 6

Address: 30 Beaumont Street Smithfield

Lot size: 558sq.m

Zoning: R2 Low Density, Min Lot Size for Dual Occ is 900sqm as the area is not in proximity to services or transport

Dwelling size:

- Existing dwelling approx. 126sqm
- Granny Flat 60sqm
- Studio (including verandah) 42sqm

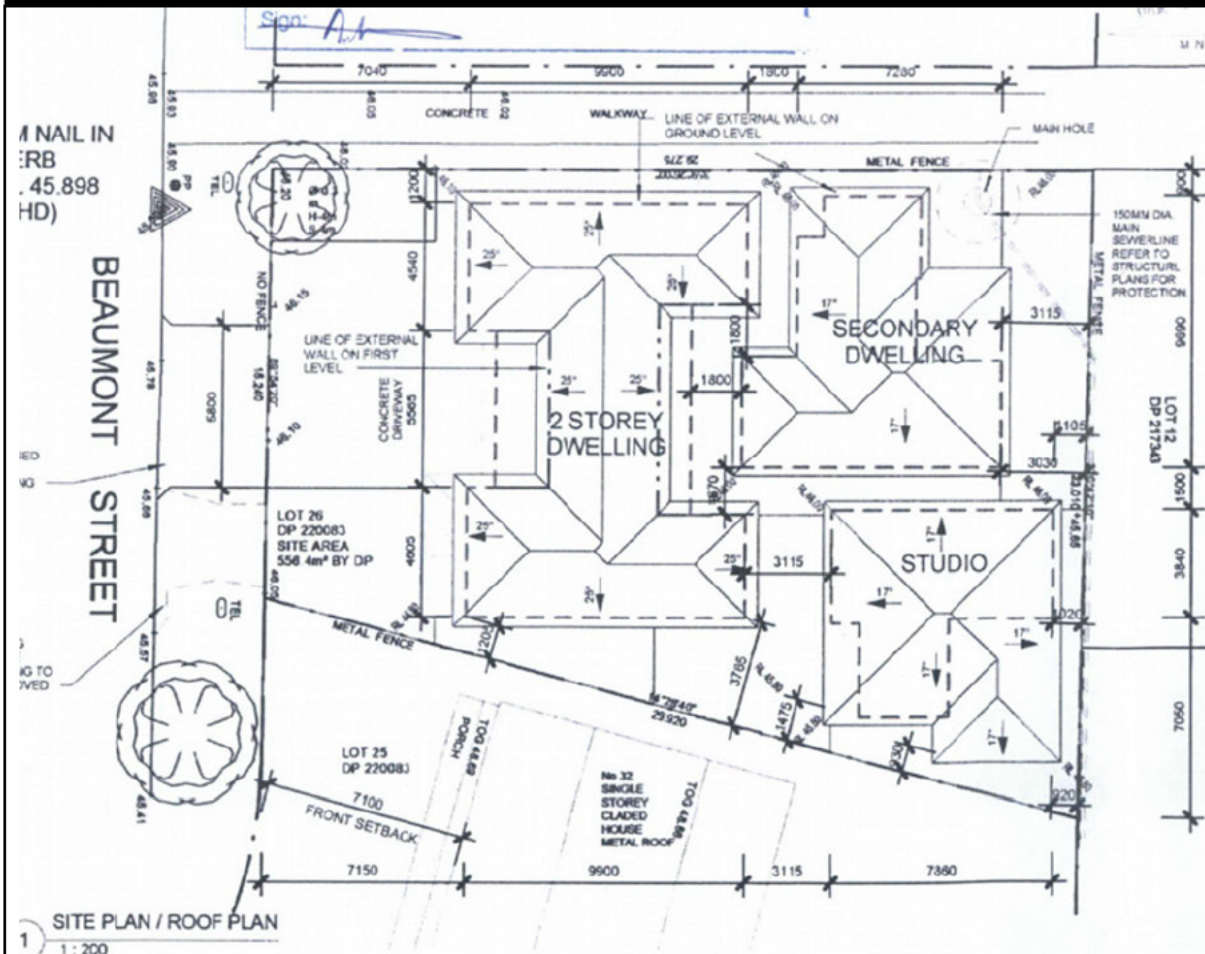
After the approved CDCs are constructed, the likely dwellings/occupancies on site will be:

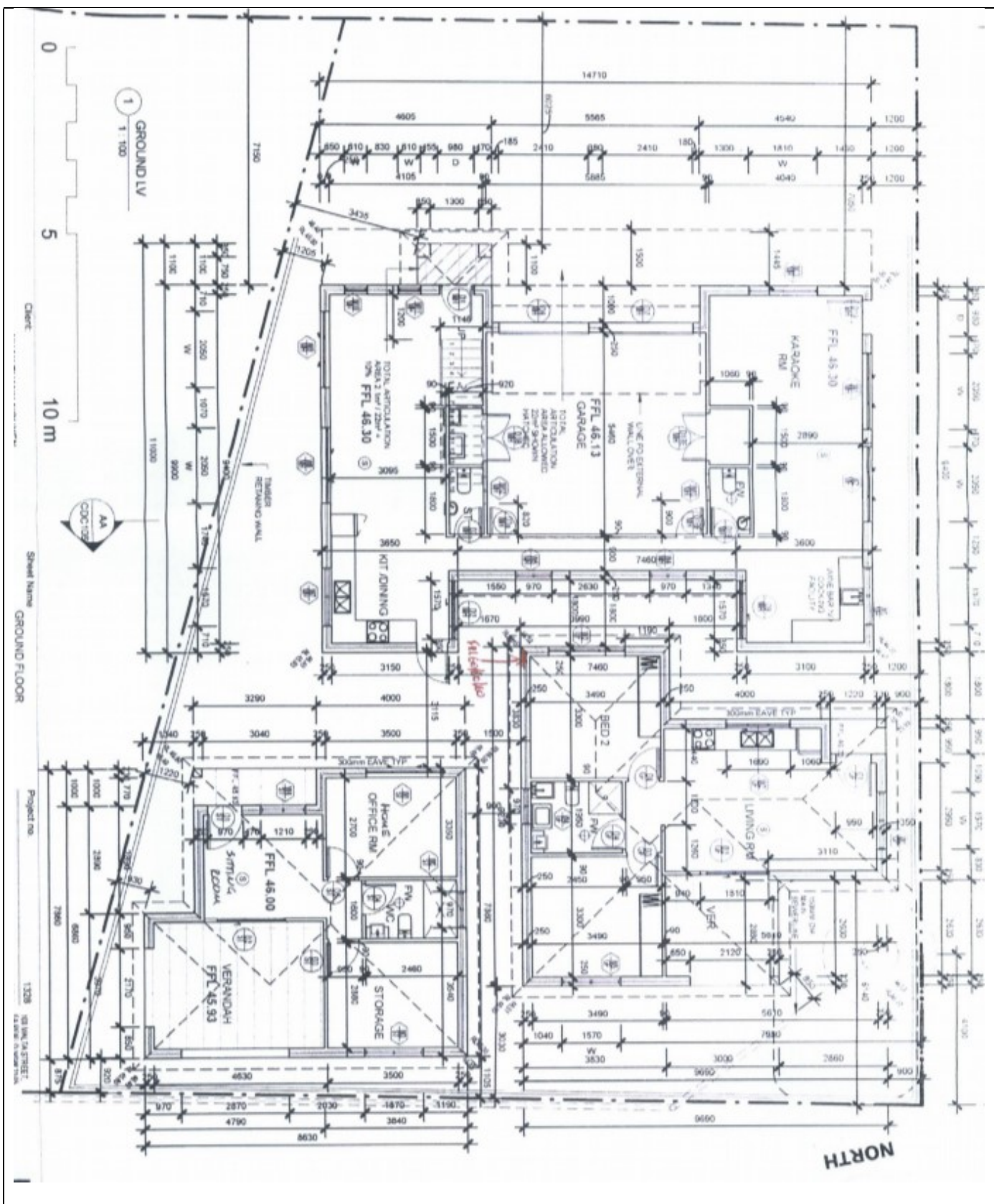
- o **Approx. 3 dwellings on site**
- o Main dwelling (4+ Bedrooms) Likely to be turned into a duplex after construction with a total of 4 dwellings on site.
- o Second Dwelling (2 Bedrooms)
- o Studio (2 bedrooms)



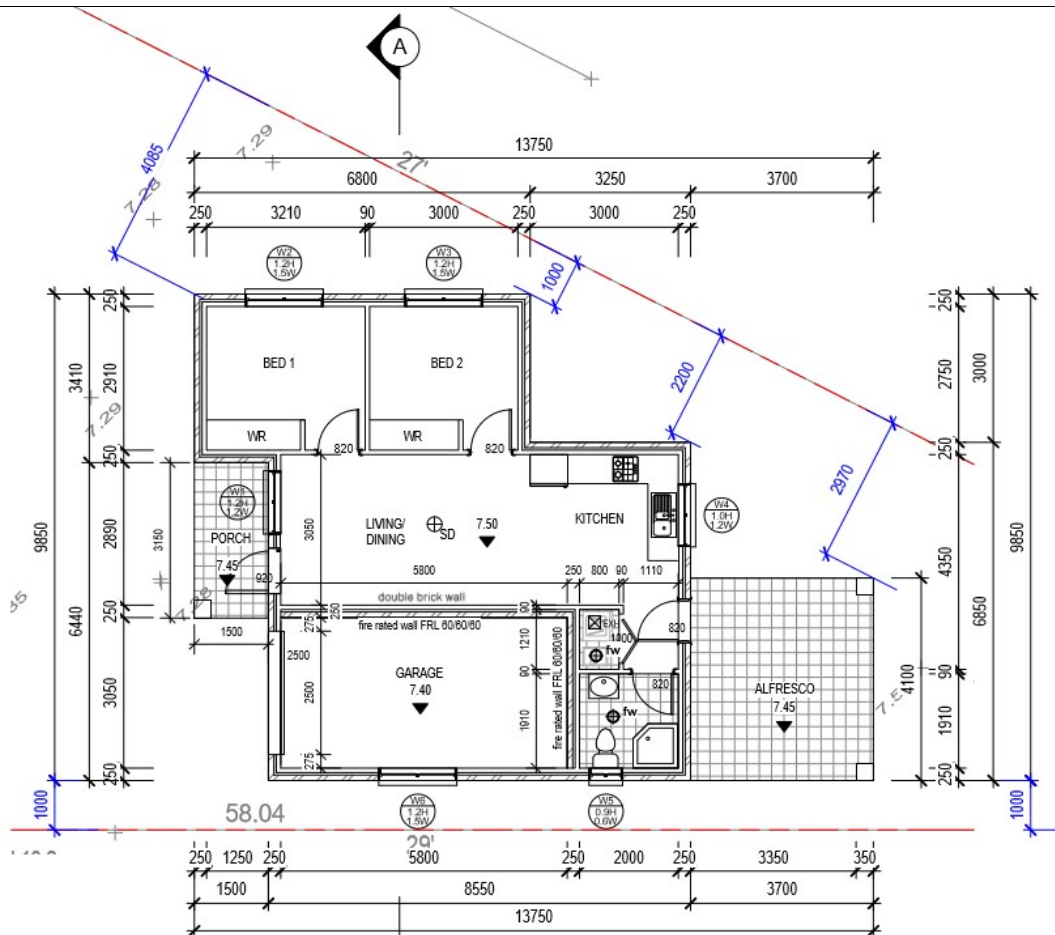
New two storey dwelling, secondary dwelling and studio

- The proposed new dwelling (main dwelling) is constructed essentially like a mirror duplex. It is our experience that these will be modified after construction to turn it into two dwellings.
- Secondary dwelling contains two bedrooms.
- Studio contains a bedroom and a home office which will likely be a second bedroom. The verandah is almost completely enclosed and will likely be converted into a large living area or more bedrooms.



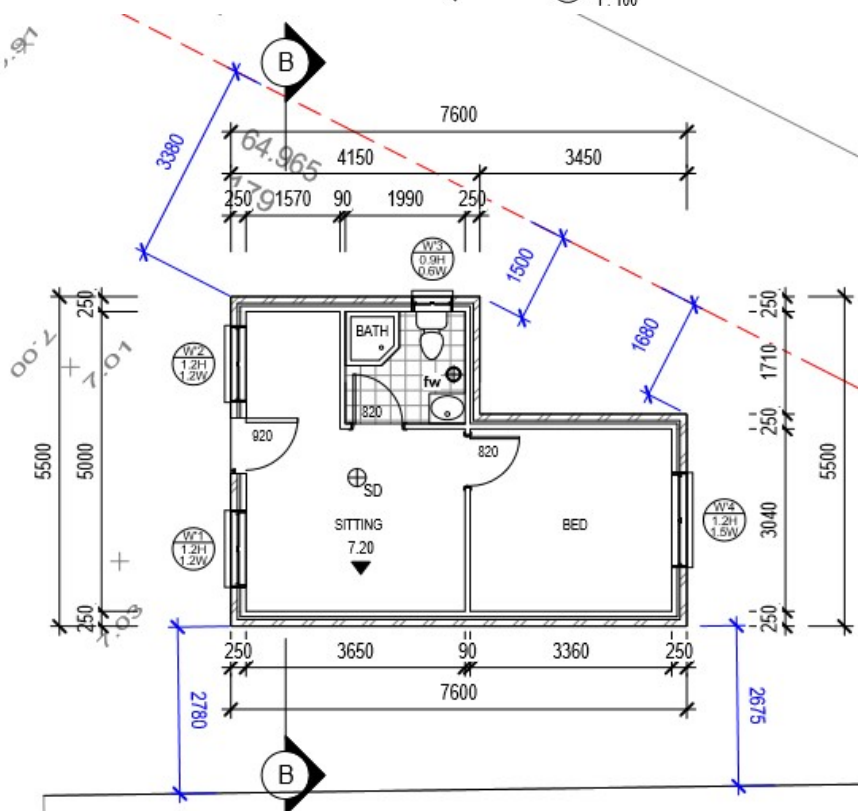


5. 50: SMOKE DETE
SMOKE ALARMS TC
AS 3786-2014 & COI



1 GROUND FLOOR PLAN
1:100

⊕ SD : SMOKE D
TO COMF



1 STUDIO FLOOR PLAN
1:100

(Doc Id: 787852)

30 August 2021

Kristie Allen
Deputy Secretary, Strategy and Reform
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Subject: Housing Reform Package

Attention: Housing Policy Team

ABN 86 023 614 567

Administration Centre:
2 Court St Forbes NSW 2871

All correspondence to:
General Manager
PO Box 333
Forbes NSW 2871

General Enquiries:
T 02 68 502 300
F 02 68 502 399

After Hours Call Centre:
1300 978 633

Email & Web:
forbes@forbes.nsw.gov.au
www.forbes.nsw.gov.au

Dear Kristie,

Council refers to the Housing Reform Package placed on Public Exhibition, including the proposed *Housing State Environmental Planning Policy*.

Council has reviewed the proposed SEPP and Explanation of Intended Effect and generally are supportive of the reforms.

Council raises concerns regarding proposed Clause 54 Development on Flood Control Lots. This clause introduced flooding controls above and beyond what is in many Development Control Plans across the state. In particular, the following:

- Preventing Secondary Dwellings in Flood Storage and High Hazard lots (including Low Hazard Flood Storage);
- Requiring that vehicular access must not be inundated by more than 0.3m in the event of 1:100 ARI flood; and
- Car parking spaces must not be lower than the 1:20 ARI flood event


Flood patterns and behaviour across NSW is different in every floodplain, and it is not always appropriate to prevent development broadly in different flood categories. In the instance of the Forbes Shire, three days warning is generally provided in advance of a Lachlan River flood. This pre warning provides enough time to adequately prepare and action site based flood management plans to allow appropriate response outcomes.

Council Development Control Plans and Flood Risk Management Plans are created in accordance with the NSW Floodplain Manual, and within the context of the local floodplain by professional hydraulic engineers. It is suggested that Clause 54 be amended to require compliance with DCP Flooding controls, and if they do not exist, in accordance with the controls listed in the draft SEPP.

I trust this information is of assistance. Should you have any further enquiries please contact Eliza Noakes, Town Planner, (020) 6850 2300 (Option 1).

Yours faithfully,

Mathew Teale

A handwritten signature in black ink, appearing to read 'Mathew Teale', with a long horizontal stroke extending to the right.

**ACTING DIRECTOR
PLANNING AND GROWTH**

From: Rod Fox <rod.fox@1stcity.com.au>
Sent: Thursday, 26 August 2021 5:36 PM
To: [REDACTED]
Cc: DPE PS Housing Policy Mailbox
Subject: SEPP Change Objection

Follow Up Flag: Follow up
Flag Status: Flagged

To: Local Government and Economic Policy Division

NSW Planning

Hi Lewis,

I am writing to object to the Draft Housing SEPP currently on exhibition (seniors housing). From reading the policy I understand that seniors housing independent living units will no longer be allowed to be developed in R2 residential zone.

This change in policy will have detrimental impact to the aging residents in the eastern suburbs. We have been buying property in Woollahra LGA for many years and there is a shortage of suitable accessible housing to downsize to and the demand is stronger each year.

The standard units on the market are not designed for accessibility and do not offer the circulation (both within the unit and in common areas such as garage and lobbies) and "no step" guidelines of seniors living units. Minute design details like location of power points, night lights in the bathroom and suitable door handles etc are all the design features that makes everyday life so much easier and enable older people to stay independent and age in place.

The policy suggests that all the senior living units should be concentrated in vertical high rise in the middle of a shopping centre. I find this policy direction very restrictive and unsuitable for our LGA:

- Woollahra/Waverley LGA has one of the highest percentage of its residents over 55 year of age, hence more important to have the housing choice for downsizers
- Woollahra/Waverley LGA has a steep topography and currently there is no large unit zone sites, hence by restricting seniors housing units in R2, it will mean no housing choice
- Most people in this age group do not want to move to a large vertical development, which they find more isolating than a boutique development where residents have company and can care for each other.

Recent government statistic shows:

Most older people (95.3%) were living in households, with 4.6% (181,200 people) living in cared-accommodation. Of all older Australians:

- men were more likely to be living in households (96.8%) compared with women (94.2%)
- women living in households were almost twice as likely to live alone (33.7%) than men (18.1%)
- the likelihood of living in cared-accommodation increased with age from 1.4% of people aged 65 to 79 years (similar to 2015) to 14.3% of people aged 80 years and over (a decrease from 16.1% in 2015)

The statistics show over 95% of older people still living in household and Housing SEPP policy should ensure there are suitable transition housing types rather than just focusing on the in cared-accommodation for 4% of the older population.

Not only will low-rise boutique senior developments have a lesser visual impact, extended-families will find it much easier to visit/care for the residents.

As someone in the property sector we are on the ground every day and know what people are requiring and demanding, I want to remain in the familiar LGA and not be forced into an urban jungle of residential towers.

I sincerely hope NSW planning will take into consideration my concerns and many others in this local community that feels the same way.

Kind Regards,

Rod Fox

Principal

1ST CITY FOX + JACOBSON

M 0404 888 274 T 02 8377 4888 F 02 8377 4887

A Level 1, 14 Newcastle Street, Rose Bay NSW 2029



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[REDACTED]

From: [REDACTED]
Sent: Thursday, 19 August 2021 9:57 AM
To: DPE PS Housing Policy Mailbox
Cc: [REDACTED]
Subject: FW: Housing Diversity SEPP (co-living)

From: Edward Fernon <edward@freedomdevelopment.com.au>
Sent: Thursday, 19 August 2021 09:53
To: [REDACTED]
Cc: [REDACTED] Rhys Williams <rhys@veriu.com.au>
Subject: RE: Housing Diversity SEPP (co-living)

Hi Sandy,

I hope you are going well at this difficult time. Instead of resubmitting the same document for the housing diversity SEPP I thought I would provide comments on the proposed changes. I must stress again that the current proposal is still unworkable in its current form.

First, co-living must remain as commercial residential due to the GST implications which will not allow the developer to claim back the GST as they intend to hold the asset unlike build to sell developers.

Second, the parking rates particularly in highly accessible areas needs to reduce if not be removed. I have been forced to take all my 5 boarding houses through the Land and Environment Court due to Council's strong opposition. Although we comply with the FSR, height, setbacks etc. Council often want to make it as difficult as possible. One way they do this is to enforce the 1:2 car parking ratio, which firstly based on all the research which I have sent previously is unnecessary and also a lot of the sites where you want co-living such as next to train stations the lots are narrow and these high carparking rates are difficult to achieve.

Third, I propose that the FSR bonus be retained in its current form but at a minimum should match the internal communal area proposed in the development. Not only will co-living developers need to build communal areas at significant cost with no direct link to revenue, this also takes away from the FSR available for the rooms. We need to be promoting good quality communal spaces and to do this there should be a bonus attached. Furthermore, Build to sell developers do not need to provide communal space which further promotes build to sell over co-living.

The other proposed provisions also need further consideration but I believe if the three points above are addressed then the other provisions can be managed.

Regards,

Regards,



Edward Fernon

Managing Director

Office Address: Suite C, Building 30, Cockatoo Island NSW 2039

Postal Address: PO Box 446, Drummoyne NSW 1470

Phone: 1300 207 733

Mobile: 0401 005 645

Web: www.freedomdevelopment.com.au

Freedom Development Group

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 7:02 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Tue, 31/08/2021 - 19:02

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Gerard

Last name

Clancy

Organisation name

n/a

I would like my submission to remain confidential

No

Info

Email

gerryclancy63@gmail.com

Suburb

Tongarra

Postcode

2527

Submission

I have a simple question. These times involve a housing crisis, ongoing, worsening. A time when homelessness is spiking at disturbing rates. A time when it is evident my adult children will likely never afford a house of their own, unless there is a complete re-think of housing strategies. I have a simple notion - that if i live on a large block of land, zoned E3 in Shellharbour, with many acres of cleared land, why cannot someone like me be allowed to build environmentally friendly dwellings for family? There are great advances in solar systems, grey water treatment, composting toilets, etc. Why are we not allowed to help our younger generations so? Please, thanks. Gerard

I agree to the above statement

Yes

Public Exhibition for Draft Housing SEPP

Your Name	Kate Wooll, Business Manager Strategic Planning
Your Organisation	Goulburn Mulwaree Council, Locked Bag 22, Goulburn NSW
Postcode	2580
Phone	02 4823 4444
Email	kate.wooll@goulburn.nsw.gov.au
Stakeholder group	<input type="checkbox"/> Industry <input checked="" type="checkbox"/> Council <input type="checkbox"/> Aboriginal Community <input type="checkbox"/> Community <input type="checkbox"/> State Agency

Submission Details

Exhibition on NSW Planning Portal.

Submissions close on Sunday, 29 August 2021.

Public Consultation Draft – State Environmental Planning Policy (Housing) 2021

General Comment

Goulburn Mulwaree Council is generally supportive of the proposed changes to the regulatory framework for State Policy on Housing by combining the various State Environmental Planning Policies (SEPPs) relating to housing into the one document.

It is noted that the existing SEPP provisions for caravan parks, camping grounds and manufactured home estates, will be transferred to the proposed Housing SEPP (generally in their current form) and that a further comprehensive review of these provisions will be carried out in late 2021. Council is concerned that there appears to be a loophole in the current provisions in relation to the use of caravans or mobile homes which is being abused in rural areas. Council is currently experiencing a development boom with an associated boom in unauthorised development including land clearing and occupation of rural lots (with or without dwelling entitlements) by unauthorised dwellings. This has significant implications in relation to planning, infrastructure, safety (as these areas are all bushfire prone) and budget/resourcing for Council compliance officers. Clear rules around the permissibility of these structures is required as a matter of urgency. Many of these mobile homes whilst loosely described as caravans would require towing by semi-trailers due to the size and are being connected to services as permanent structures. Control of this through the *Local Government Act* is largely limited to s.68 applications which cannot extend to the removal of the structure if allowed under SEPP provisions.

This submission discusses some of the specific changes identified in clauses/schedules as set out in the public consultation draft.

Clause 3 – the aims of the policy are supported.

Chapter 1 - Preliminary

Clause 9 (2) (a) this provision is supported.

Chapter 2 Affordable Housing

**Division 1 – Infill
Affordable Housing**

Clause 12 – Council supports the use of the different statistical criteria for the regions from Greater Sydney for the purposes of establishing whether a household is taken to be a very low to moderate income household.

Clause 15 (b) the definition of non-heritage land should not include land within a heritage conservation area? Heritage conservation areas should be included as heritage land.

**Division 2 Boarding
Houses**

Clause 23 (2) (a) - the definition of non-heritage land should not include land within a heritage conservation area? Heritage conservation areas should be included as heritage land.

Clause 25 – Council agrees that boarding house development that receives the benefits of being a LAHC development should be kept in perpetuity as affordable housing and by a registered community housing provider.

Clause 26 – Council supports the restriction on subdivision of boarding houses.

**Division 3 Boarding
Houses – Land and
Housing Corporation**

Clause 31 – Council supports the restriction on subdivision of boarding houses developed by LAHC.

**Division 4 Supportive
Accommodation**

The provisions on supportive accommodation are noted and are supported, however the provision does not seem to indicate whether this support is provided by a social housing provider – should this be clarified?

**Division 5 RFBs – social
housing providers, public
authorities and joint
ventures**

Clause 35 (1) (b) applies to Goulburn Mulwaree. Council supports the inclusion of this provision to Goulburn on the basis that Clause 37 (4) (b) and (c) allows Council to consider compatibility with surrounding land uses and “another matter” i.e. such as heritage or heritage conservation in order for design to be sympathetic to heritage character. Most of the area within 400m of the B3 zone in Goulburn is a heritage conservation area.

**Chapter 3 Diverse
Housing**

**Part 1 Secondary
Dwellings**

Council supports the introduction of a new optional clause 5.5 of the Standard Instrument (Local Environmental Plans) Order 2006 for secondary dwellings in rural zones.

Council supports the opportunity for greater discretion to be able to set the maximum size for secondary dwellings in a rural zone. The change to allow councils to set a maximum size for secondary dwellings in a rural zone and the maximum distance a secondary dwelling should be from the principal dwelling are supported.

Clause 54 – Development Standards for Flood Control Lots.

Given the costs associated with flood studies, most rural areas do not have flood studies (as they are not feasible due to low development levels). Furthermore, the availability of data to inform flood studies in rural areas is often limited. There appears to be a presumption in this Part that flood affectation will be

known. This is often only determined as a result of site inspections or more detailed consideration of site constraints through viewing mapping (contours, drainage courses etc.). Complying development if occurring in areas without flood studies is potentially introducing an increased risk factor for human safety in more isolated locations? Where there is an absence of a flood study, either a flood assessment should be undertaken as per 54(1) but not limited to a “flood control lot” or the development require development consent and a DA?

Part 2 Group Homes

Council has no objection to the transfer of the current Group Home provisions to the draft Housing SEPP.

Part 3 Co-Living Housing

Council supports the introduction of a new regime for development for the purposes of co-living housing: see Part 3 of Chapter 3. However, does not support the exclusion of heritage conservations from the definition of heritage land. The additional floor space bonuses could have a negative impact on heritage conservation areas?

Part 4 Seniors Housing

Clause 67 - Council generally agrees with the introduction of prescribed zones for seniors housing (with the exception of the RE2 zone and SP1 zone as discussed below).

The inclusion of the RU5 Village zone is supported where reticulated water and sewer systems (see comments on Clause 76) are in place and where a Strategic Bushfire Study has identified that the location is suitable and can be evacuated in case of an emergency. Increasing the density of some villages is problematic given isolation issues and the lack of emergency services infrastructure. Many villages may not be suitable for increased density. Some RU5 zoned villages in the Goulburn Mulwaree area barely have any servicing at all and are a loose collection of dwellings. Council’s LEP does permit seniors housing but subject to development consent only. Council would object to the extension of any complying development provisions to this zone.

Council objects to RE2 Private Recreation Zone being included as a prescribed zone. These areas can be quite large and include areas such as golf courses/clubs etc. affected by flooding or other infrastructure limitations. Whilst it is acknowledged that Clause 76 applies to this zone, there are potentially other issues which may limit the appropriateness of these sites – primarily flooding?

Clause 68 (1) (b) the definition of environmentally sensitive land is quite limited only extends to land identified as biodiversity value land on the BOSET map. Effectively this form of housing can occur on land which may be a critical habitat or containing a critically endangered ecological community? Most of these sensitive areas in Goulburn Mulwaree are not mapped on the BOSET map as yet?

Clauses 69 and 70 – why do these restrictions on development in Sydney in relation to heritage conservation areas not also apply to the regions/rural areas outside of Sydney?

Clause 72 - Council supports the change in the definition of ‘seniors’ to raise the age from 55 to 60.

Clause 76 -It is noted that the Seniors Housing SEPP does not currently apply to land within the area covered by the Sydney Drinking Water Catchment (SDWC), however, this policy would now apply this SEPP to the SDWC. The restriction in clause 76(1)(c) to seniors living development in RU5 zone being limited to areas with reticulated water and sewage is supported but should be extended to the other applicable zones in Clause 76 also?.

In relation to the inclusion of the SP1 zone Clause 76(1) (b) should only apply if the SP1 zone has not been identified by a public authority or State Agency? If the land has been identified by a State agency it should be identified as surplus? It should also be serviced by reticulated water and sewer (some churches in rural areas have been zoned SP1 in the past for example and may be unserviced or on lots below the minimum lot size for the area?). These areas may be adjoining RU5 Village zones and should have the same limitations?

Division 8 – Vertical Villages – Council has no objection to vertical villages but does question the suitability of site adjoining heritage items (whether on the State Heritage Register or not) given the additional building height allowance of 3.8m in Clause 99(2) (b). In areas such as Goulburn, height limits are often set and considered in relation to major CBD land mark heritage buildings such as the Goulburn Post Office and the 15m height limit. Council is currently reviewing height limits in the Goulburn CBD with a view to looking for opportunity areas for increasing height limits, but this is in the context of providing for sight lines to key heritage landmarks and maintaining the heritage character of the conservation area.

Schedule 1 Affordable Housing Principles

Schedule 1 (7) - Council supports the introduction of a definition of an ‘independent living unit’.

Schedule 2 – Complying Development-secondary dwellings

Refer previous comments on secondary dwellings in locations where no flood study is available (comments on Clause 54).

Schedule 3- Complying Development Group Homes

Goulburn Mulwaree Council is located in the Sydney drinking water catchment and would question the application of complying development provisions for group homes in areas which are not connected to reticulated sewer?

Schedule 4 – Environmentally Sensitive Land	<p>Council supports the greater clarity around the identification of environmentally sensitive land. Should this be extended? For instance, the mapping of areas of outstanding value are not comprehensive and does not include areas simply mapped under the Biodiversity Values Map. For example biodiversity in the Goulburn Mulwaree LGA includes substantial areas of Critically Endangered Box Gum Woodland and Derived Grasslands – most of which is not mapped on the BOSET map and can occur within urban areas?</p> <p>Further clarity around tree/vegetation removal requirements is required for complying development. Typically there is a lack of clarity around timing of seeking tree clearing approval from Council – sometimes this occurs during the CDC assessment process, before or after. Assessment and approval of tree clearing should occur prior or during the CDC assessment process.</p>
Schedule 5 – Standards concerning accessibility and useability for hostels and independent living units	<p>No comment.</p>
Schedule 6 - Provisions consequent on commencement of State Environmental Planning Policy (Housing) 2021	<p>Savings provisions are noted.</p>
Schedule 7 Amendment of other environmental planning instruments	<p>Council notes that Development of residential care facilities over \$20 million has been added to SEPP (State and Regional Development) as State Significant Development.</p>
Schedule 8 Amendment of local environmental plans	<p>Council has no objection to the amendment to GMLEP 2009 (8.20) in relation to boarding houses in the R2 Low Density Residential Zone.</p>

21 September 2021

Housing Policy Team
NSW Department of Planning, Industry and Environment

Proposed Housing SEPP – Consultation draft

Thank you for giving us an opportunity to comment on this important piece of legislation. Greens Councillors across NSW are committed to increasing affordable housing. We believe that everyone has the right to access affordable, safe, secure, healthy, community-oriented housing that is appropriately designed, constructed and located. We have made the following comments and suggestions with that principle in mind.

Affordable housing in perpetuity

Consistent with Principle 6 of the SEPP, the legislation must include controls to maintain affordable housing in perpetuity. All references to 15 year timeframes should be removed. Infill sites are extremely limited, especially in established suburbs close to transport, health and other support services. This one-off opportunity to create affordable housing on these sites must not be wasted.

Mechanisms to check that housing built under the SEPP is actually affordable should be added, with Councils given regulatory powers. Without these checks and controls, the provisions will simply provide a Trojan Horse to increase height and density, and drive developer profits.

Two-yearly reviews, as called for by Local Govt NSW, should be included to ensure the SEPP is working to meet affordable housing targets.

R2 Zone

The provisions given to LAHCs are likely to result in developments that are out of scale with other development allowed in R2 zones. This will have impacts on community cohesion and local amenity for new and existing residents.

21 days is not sufficient for councils to comment on plans under the self-assessment provisions. This should be increased to a minimum of 40 days.

Blanket provisions

The blanket provisions included to not allow councils to determine the appropriateness of the location and setting based on infrastructure and services, including health and transport, and the affects on local amenity and building standards.

Co-living

Floor space ratios should remain consistent with updated Local Environment Plans. Local Councils have gone to great efforts to meet housing targets set by the State Govt. Many have already optimised allowable FSRs and densities and this should be respected where it can be demonstrated.

Seniors' housing

Business zones are not appropriate sites for seniors living. These provisions will increase the likelihood of conflict of use issues. They will lead to the loss of employment lands, and may result in poor service provision and access difficulties.

Accessibility

Any increases to FSR should only be allowed where all parts of the development are made fully wheelchair accessible. There should be no increases to FSR or building heights if this does not result in fully accessible housing.

Second dwellings

Provisions must be made in the SEPP or elsewhere that allow Councils to gain additional rates revenue when second dwellings are erected. Increasing housing density through second dwellings rather than subdivision results in the need for additional services, including rubbish collection, libraries, childcare, roads, parks, footpaths and swimming pools, with no increase in rates revenue. This ultimately results in decreased amenity for all residents in the LGA and is unacceptable.

No additional parking space for second dwellings is workable in areas with good public transport services but in car dependent areas, especially in Western Sydney, this provision will push more vehicles onto road verges, effectively narrowing streets and potentially impeding emergency services access.

Flood affected land

Any increases in density should be assessed for their increased burden on flood evacuation routes. Land along flood evacuation routes, especially on the routes out of the Hawkesbury-Nepean Valley, is not suitable for increased density. While the land itself may not be severely flood affected, evacuation delays in major floods will trap fleeing residents, creating risks to life.

It is not reasonable to expect people, especially the aged or people with disabilities, to move to flood refuges and wait out a flood. Any development near flood prone land should have access to a safe and time-efficient flood evacuation route.

Boarding house standards

Any increase in space must not be taken from green space

Twelve square metres is not a reasonable dwelling size. A single car garage is 21 square metres. The standards proposed to nothing to improve the living conditions of our most vulnerable. There are no provisions for on-site managers, which were selectively implemented in the previous SEPP. This places additional burdens on existing local services and leaves providers and developers with few responsibilities to balance their financial gains.

Energy efficiency and heat mitigation

There is no mention of building standards that promote energy efficiency or allow for heat mitigation. Western Sydney regular experiences temperatures in excess of 38 degrees. Buildings must be constructed to avoid excessive heat and allow residents to get cool. Passive solar design, air flow, shade, green space and effective insulation are all vital to ensure that vulnerable residents can maintain safe temperatures without the use of expensive air conditioning.

Should you have any questions, please contact Danielle Wheeler on 0422 668 027 or at Danielle.wheeler@nsw.greens.org.au.

Yours sincerely,

Danielle Wheeler

Planning and Environmental Law Organiser
Greens NSW

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Thursday, 26 August 2021 11:20 AM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Attachments: 190222-ward-secondary-dwelling.pdf

Submitted on Thu, 26/08/2021 - 10:53

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Andy

Last name

Lemann

Organisation name

greenyflat.com.au

I would like my submission to remain confidential

No

Info

Email

andylemann@hotmail.com

Suburb

Mittagong

Postcode

2575

Submission file

[190222-ward-secondary-dwelling.pdf](#)

Submission

To Whom It May Concern:

I would like to make two brief comments about the Draft Housing SEPP 2021.

On Page 50 (Schedule 2 - Part 2 - Item 4 (1) it states that "the floor area of a secondary dwelling, EXCLUDING AN ATTACHED ANCILLARY STRUCTURE, must not exceed... 60sqm".

However on Page 51 under item3 it states that "floor area means the sum of the areas within the outer face of the external walls of each storey of a dwelling, INCLUDING AN ATTACHED ANCILLARY STRUCTURE".

There is a clear contradiction between these two items which needs to be clarified.

This is a VERY important issue, especially for the elderly or people with a disability. As an example, I have attached drawings for a granny flat that was built in Welby a few years ago. I drew the plans for my friends David and Mary Reid. Mary is in a wheelchair so the house is designed for wheelchair accessibility. As such it was a struggle to fit just one bedroom, one bathroom and a kitchen/living/dining space into 60 sqm. The garage also needed to be attached and on the same floor level as the house for wheelchair access, plus it needed to be 4m wide in order to allow room to get Mary out of the car and into her wheelchair. So the garage ended up requiring 28sqm.

If that area had to be INCLUDED in the 60sqm floor area limit, then there's no way we could have fitted a wheelchair accessible home into the remaining 32sqm.

So I STRONGLY encourage you to make it perfectly clear in the SEPP that the 60sqm floor area limit for secondary dwellings EXCLUDES an attached ancillary structure.

Otherwise it will discriminate against the elderly and people with disabilities who NEED an attached garage.

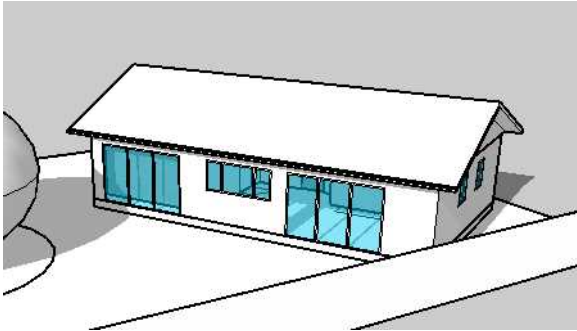
Secondly, on page 54, (Schedule 2, Part 3, Item 12(c)) it states that "A setback must be calculated at the closest point to the boundary from the building line." However, I couldn't find any definition of what "the building line" means. Does it mean "the exterior wall of the building"? If so, is there any limit to how close the roof overhang can come to a boundary? In item 11(b)(v) on the same page it states that fascias and gutters are exempt from the setback requirements but it doesn't mention roof overhang or eave. This needs to be clarified otherwise there is a very grey area regarding how much roof overhang is allowable.

Thank you for considering my comments and please email me if you need further clarification.

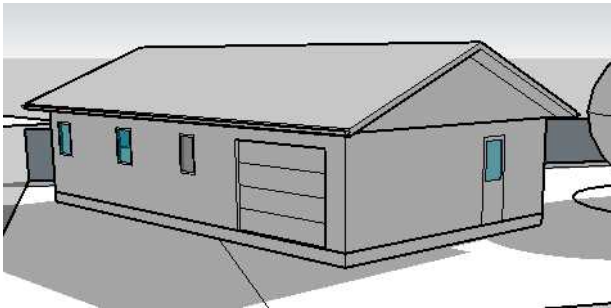
Sincerely,
Andy Lemann

I agree to the above statement
Yes

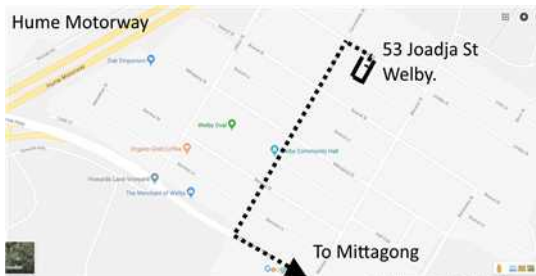
WARD SECONDARY DWELLING.



Model viewed from NW



Model viewed from SE



Location Map

GENERAL REQUIREMENTS

- 1.1. All work to comply with the following:
- 1.2. The Building Code of Australia (BCA) and all relevant Australian Standards as outlined below.
- 1.3. The approved plans, Construction Specifications and engineering details.
- 1.4. The requirements of the NSW Building Sustainability Index (BASIX) as detailed in the BASIX report. If more stringent requirements are shown in the plans or specifications then those shall be complied with.
- 1.6. Any conditions of consent or requirements of the Complying Development Certificate.
- 1.7. Product manufacturer's installation instructions and acceptable building practices.
- 1.8. Products, materials or other items specified below or noted on the plans must not be substituted without the prior written approval of the owner.

BASIX COMMITMENTS (see BASIX Certificate for details):

WATER

1. Minimum 2,000 litre rainwater tank collecting roof water from min. 100sqm with connections to all indoor fixtures plus at least one outdoor tap.
2. Min. 3 star rated showerheads.
3. Min. 3 star rated taps.
4. Min. 3 star rated toilets.

THERMAL COMFORT

5. Floor - Concrete slab on ground
6. External walls (framed, metal clad) min. R2.2 insulation.
7. Ceiling – min. R2.2 insulation plus min. 55mm blanket.
8. Roof – light colour (solar absorptance <0.475) with gable end vents.
9. Insulation must be installed in accordance with NCC and relevant Australian Standards.
10. Windows - Double clear glazing with aluminium frame to windows as noted in schedules. NO Low E glass to be located to North Elevation.

ENERGY

11. Electric storage water heater (or one with higher energy rating)
12. Reverse-cycle A/C to living area (min. 3star)
13. Rangehood to kitchen, ducted to exterior with Manual on/off switch.
14. Exhaust fan to bathroom, ducted to exterior with manual on/off switch.
15. CFL or LED lamps in all light fixtures.
16. Window or skylight to kitchen and bathroom.
17. Induction cooktop & electric oven.
18. Well-vented fridge space
19. Min. 1.0kW Solar PV system installed (NOTE: extra solar panels have been installed on existing house roof in accordance with the BASIX apportionment rules. With 3 bedrooms in the existing house and 1 bedroom in the proposed secondary dwelling, the INPUT FACTOR for the proposed dwelling is 0.36. With a total of 6.0kW of solar, the amount apportioned to the proposed secondary dwelling is $6.0 \times 0.36 = 2.16\text{kW}$. - see attached note from installer)

David Reid

53 Joadja St,
Welby. NSW. 2575.

WARD SECONDARY DWELLING

PROPERTY INFORMATION

Address

53 Joadja St
Welby, NSW. 2575

Lot: 202
DP: 614349

Site Area: 1012sqm

Dwelling size: 59sqm
Dwelling height: 4.6m

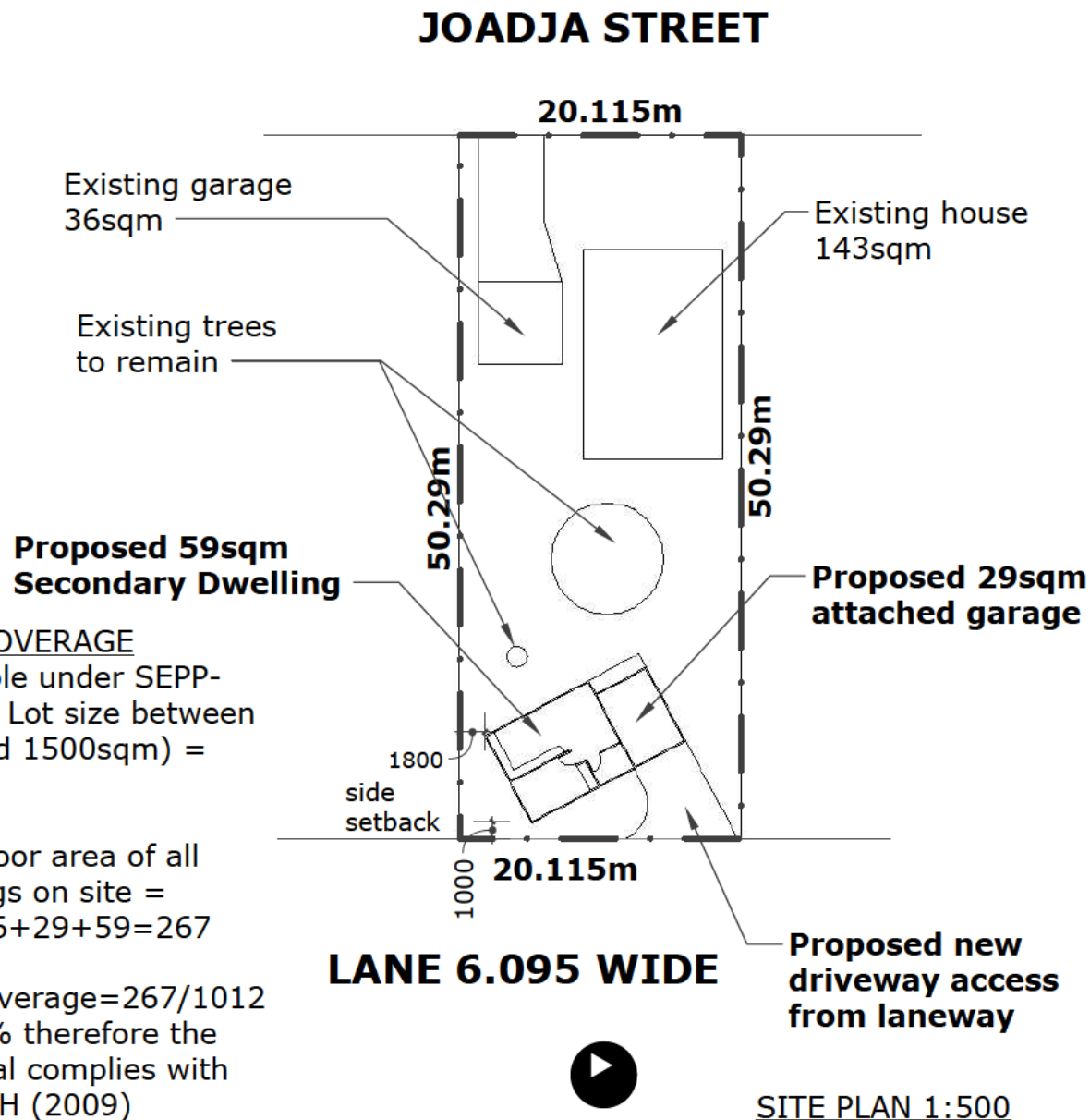
SETBACK CALCULATIONS based on SEPP
(Affordable Rental Housing) 2009

Side Setback = $1.5\text{m} + (1/4 \times \text{height over } 3.8\text{m})$
 $= 1.5 + (4.6 - 3.8)/4$
 $= 1.5 + 0.2 = 1.70\text{m}$

Rear setback.

According to the SEPP Schedule 1, Part 3, Item 10(3), a dwelling on a lot that has a rear boundary with a laneway may have a building line that abuts that boundary for up to 50 per cent of the length of that boundary.

In this case the width of the dwelling is 8.41m and the width of the rear boundary to the laneway is 20.115m so there is no rear setback requirement.



SITE COVERAGE

allowable under SEPP-AH (for Lot size between 900 and 1500sqm) = 40%

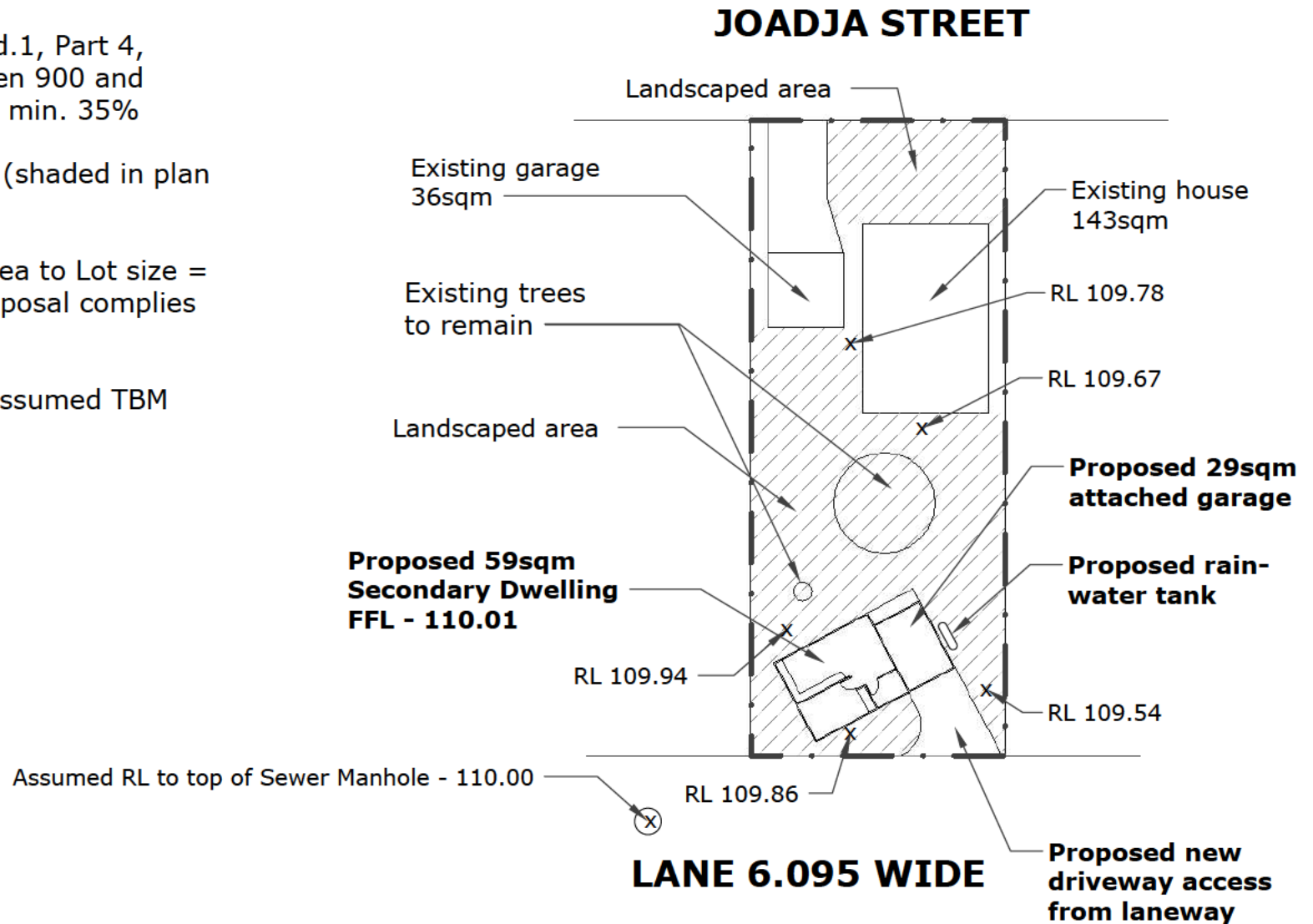
Total floor area of all buildings on site =
 $143 + 36 + 29 + 59 = 267$

Site Coverage = $267 / 1012 = 26.4\%$ therefore the proposal complies with SEPP-AH (2009)

LANDSCAPE PLAN NOTES:

- 1) Site is virtually flat
- 2) Under SEPP-AH (Sched.1, Part 4, 16(1)(c) - a lot between 900 and 1500sqm must have a min. 35% landscaped area)
- 3) Total landscaped area (shaded in plan at right) = 590 sqm
- 4) Lot size = 1012sqm
- 5) Ratio of landscaped area to Lot size = 58% therefore the proposal complies with SEPP-AH (2009).

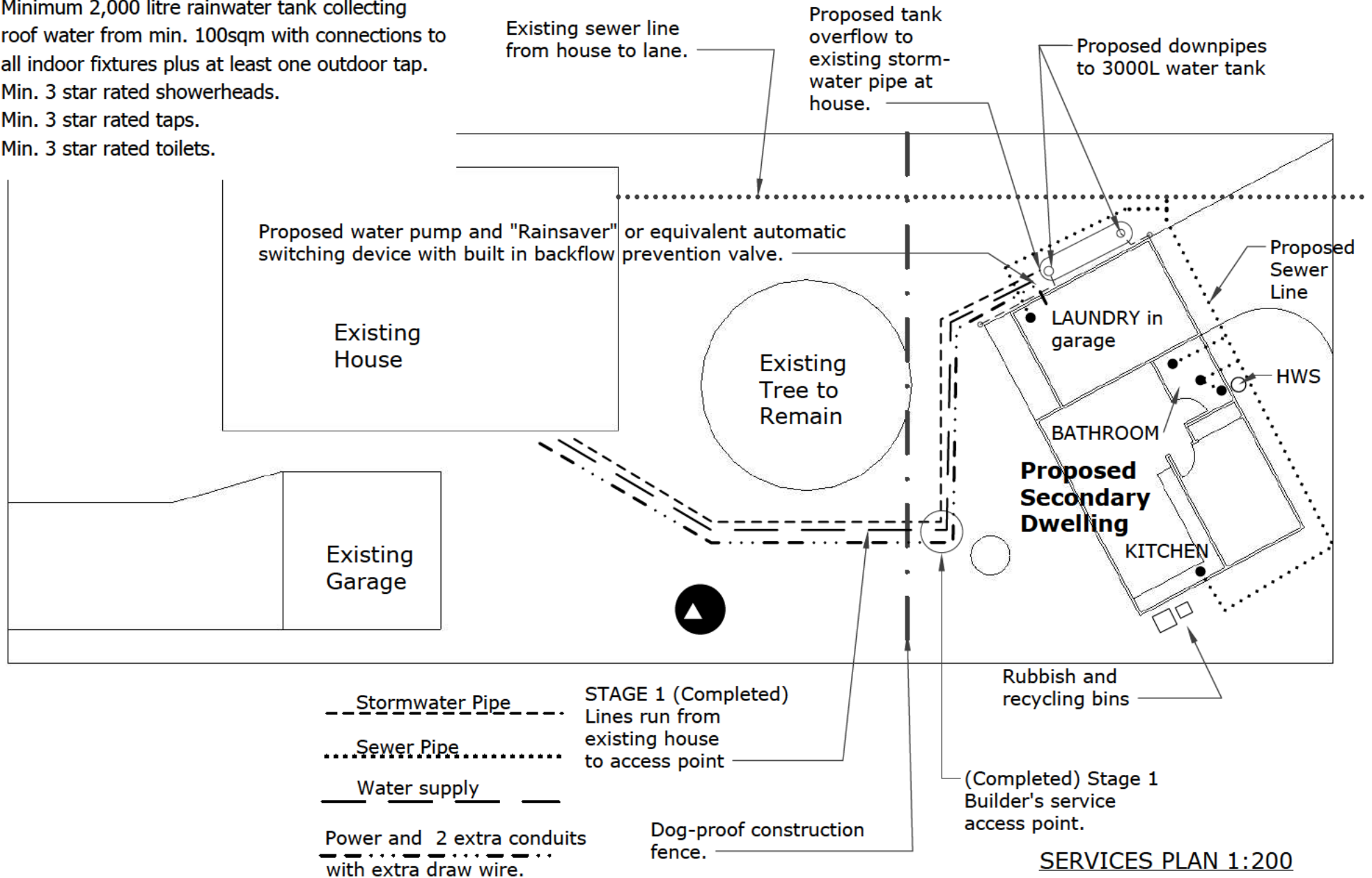
- Five spot heights and an assumed TBM are shown.



LANDSCAPE PLAN 1:500

BASIX WATER NOTES

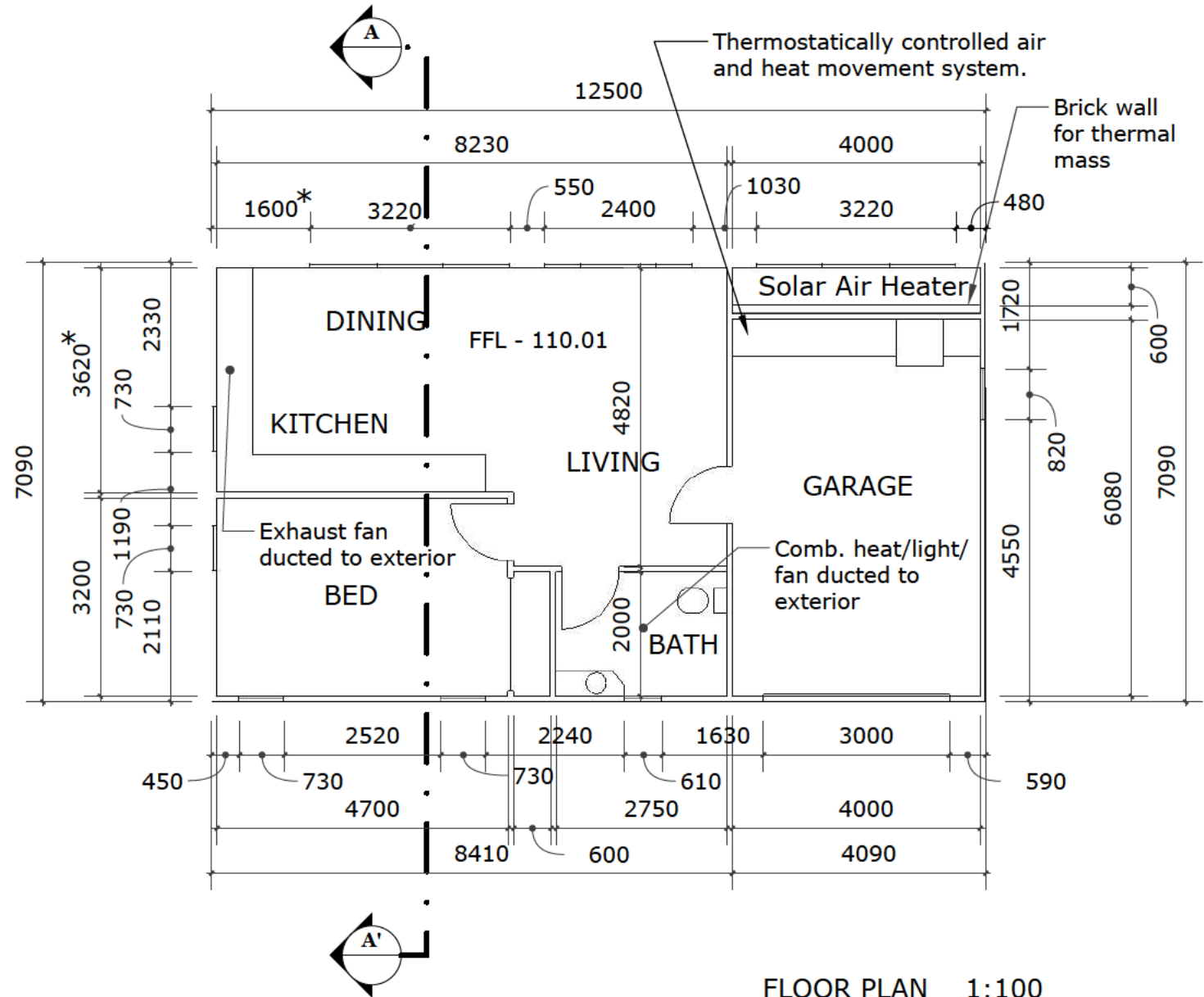
1. Minimum 2,000 litre rainwater tank collecting roof water from min. 100sqm with connections to all indoor fixtures plus at least one outdoor tap.
2. Min. 3 star rated showerheads.
3. Min. 3 star rated taps.
4. Min. 3 star rated toilets.



SERVICES PLAN 1:200

NOTES

- Do not scale from this drawing.
- Written dimensions take precedence.
- All dimensions shown to edge of wall framing
- All wall frames 90mm UNO
- All walls drawn to face of stud. 90mm timber framing unless noted otherwise.
- All dimensions to be confirmed on site and any discrepancies brought to owner's attention
- * Asterisked dimensions have special requirements detailed in the Additional Specification Requirements.



Roof.

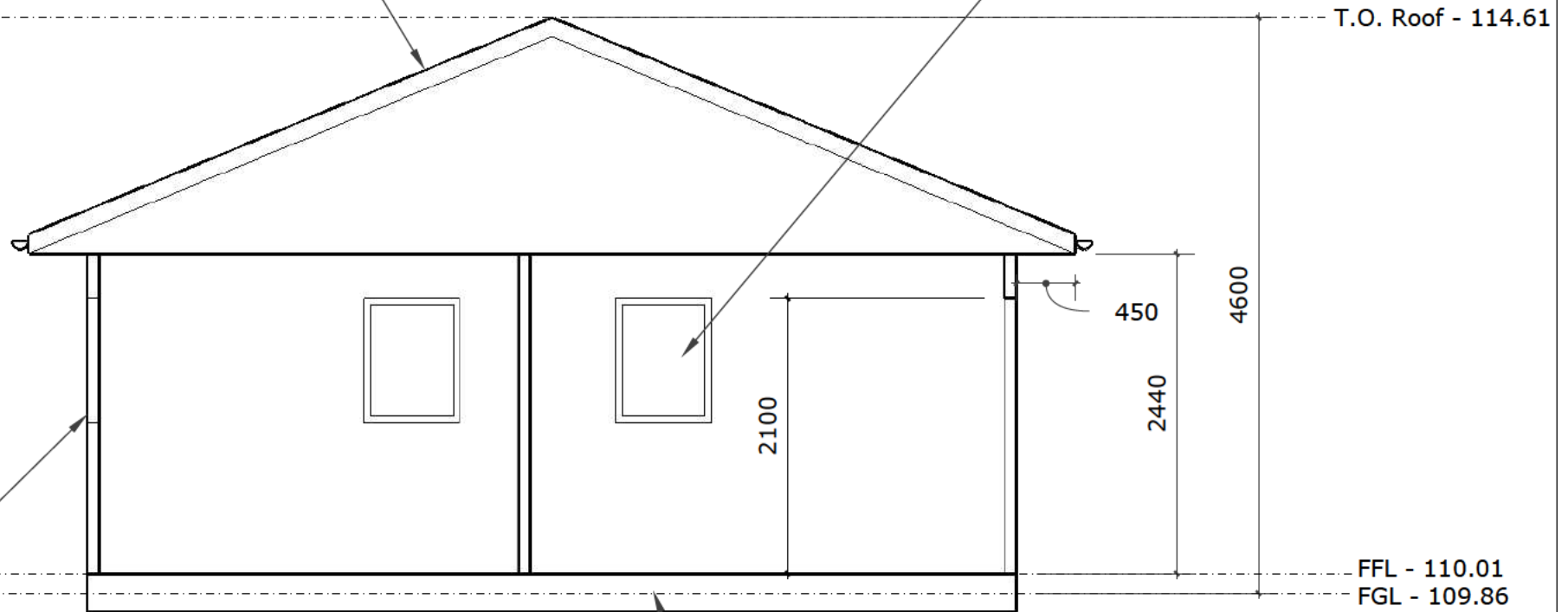
Corrugated Colorbond
"Surfmist" over (min.75mm)
foil-backed roofing blanket
over Roof Trusses per
manufacturer's design
with R4.0 "Earthwool" ceiling
insulation and gyprock

NOTE:

Wall and roof framing, sizing and
spacing to be installed as per the
NCC, AS 1684 TIMBER FRAMED
CONSTRUCTION and any
manufacturer's requirements.

Windows.

Double-glazed

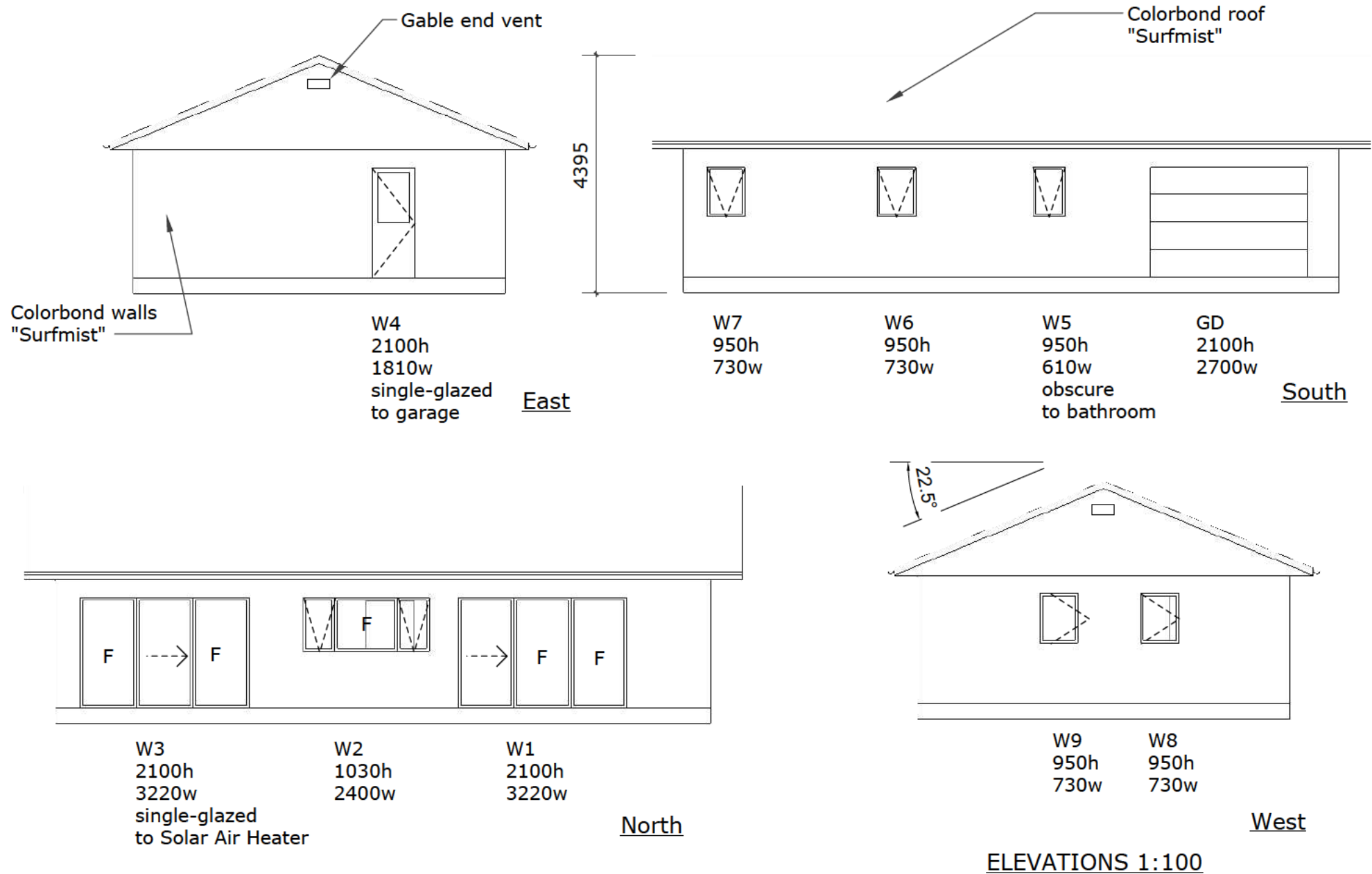
**Walls.**

Corrugated Colorbond cladding over
"Hardiebreak" thermal break strips (@ 900 centres)
"Surfmist" over "Hardiewrap"
sarking over H2 treated timber framed walls
per manufacturer's design
with R2.5 "Earthwool" insulation and gyprock.

Floor.

Concrete slab per
engineer's design

SECTION 1:50



[REDACTED]

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 2:36 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Attachments: [REDACTED]-submission-21-08-07.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sat, 07/08/2021 - 14:35

Submitted by: [REDACTED]

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

[REDACTED]

Last name

[REDACTED]

Organisation name

Gus Fares Architects Pty Ltd

I would like my submission to remain confidential

Yes

Info

Email

[REDACTED]

Suburb

[REDACTED]

Postcode

[REDACTED]

Submission file

[REDACTED]

Submission

NSW Department of Planning

Industry and Environments

To the Minister of Planning
The Hon. Rob Stokes

SUBMISSION

Ref: Housing State Environmental Planning Policy (Housing SEPP) Submission

Dear Mr Stokes

I am writing to you this Submission as a registered architect who have designed since the introduction of the Affordable Housing SEPP 2009 hundreds of projects from Boarding Houses to Multi- Dwellings to Residential Flat Buildings.

Affordable Housing in General

It has been a long and hard ride to get these kinds of projects approved due to the stubbornness of Councils, who in the Media fight for affordable housing but, oppose to any form or shape of any development that is titled affordable housing. Therefore, any new SEPP you introduce under Affordable House that give the Council the power to approve will see most applications ending up in the Land & Environmental Court as usual, your New SEPP should be firm on Compliances with no power of Council to refuse application that do comply 100% with the SEPP.

Boarding Houses

Our firm had designed of over 20 Boarding Houses since 2009 and have seen the changes through the years since 2009 (mostly to the worse); I have written to the department in few occasions objecting to the changes of the Boarding Houses Criteria, but it seems that The Department always cave in to Councils objections and lastly when the changes to the minimum car parking from 1 in 5 rooms increased to 1 in 2 rooms 90% of boarding house projects stopped; With the introduction of new stringent criteria like the rental through a Community Housing Provider (who by the way charge more than a realestate agent and not act in best interest of the owners) and with the choice to Councils to remove the Boarding house from their R2 zoning you have finally put the final nail in the coffin of Boarding Houses, I don't see any developer would waste an R3 or R4 zoned land for a Small Boarding house in which adding the cost of the land and the construction cost to be above the end value and return, I am yet to meet a naïve developer who would invest in a losing gamble with their land like that.

Co-Living

This is a new form of housing which replaces the boarding house; is in bases similar to my above argument, I do not see any developer would waste a high-density zoned land for a Co-Living with cost of land and construction above the end value and return. This form of development if not proposed in R2 Zoning with more incentives would not go anywhere. Developers simply would not take this option. There are not many lands zoned R3 and R4 and therefore it is not feasible to engage in a Co-Living project in these zoning whilst High Density with potential subdivision is more lucrative to the developers.

The Other parts of the SEPP

I will not comment on the other parts as they are minuscules and not many developers are really interested in Granny flats in the rural areas, whilst the senior living might have some advantages but removing the Senior Living from Rural areas will have a negative effect, and I don't see may developers would be interested.

Where from here?

If the State Government is serious about affordable housing should do something that encourage the private sector to provide for that; this SEPP will have the opposite effects. Developers whilst they might care about the community but at the end it is their business and bottom line that what make them invest; Sorry to Say this SEPP will not cut it for them.

My Suggestions

I suggest that the Department consider the models of many other countries with allowing the developments of small studios apartments (Condominiums) of say 30-40sqm or 1-2 beds of 50-60sqm that can be strata subdivided in all Residential zonings, with small development in R2, little bigger in R3 and larger in R4 with some incentives in FSR; And I suggest that the department not to push for

mega size apartments of 100-150sqm for a starter to people who just entering the market. Sizes, abundance and prices matter for affordability, therefore a large number of small studios which can be purchased for low prices can drive affordability, all other measure would not work in my opinion.

I can only see government bodies doing affordable housing in the future if this SEPP will be passed.
The Private Sector would not be interested in non-for-profit developments.

Thank you for considering my submission

Yours faithfully

██████████
Architect NSWARB ██████████

I agree to the above statement
Yes

07 August 2020

**NSW Department of Planning
Industry and Environments**

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Thank you for considering my submission

Yours faithfully

Architect NSWARB

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, 4 August 2021 4:59 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Wed, 04/08/2021 - 16:59

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Wade

Last name

Morris

Organisation name

GWH Build

I would like my submission to remain confidential

No

Info

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Submission

The reduced parking provisions in clause 64 Non-discretionary development standards—the Act, s 4.15 should be extended to include the Newcastle City Centre. This would acknowledge the significant investment that has occurred in the Newcastle light rail project. It would also facilitate greater housing diversity to support the continuing urban renewal, including housing options for students given the growth educational establishments within the City area.

I agree to the above statement

Yes

Your Ref: Housing SEPP

10 September 2021

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

Dear Sir/Madam

Submission – Housing SEPP

Hawkesbury City Council (Council) would like to thank you for the opportunity to make a submission on the above mentioned 'Housing SEPP' currently on exhibition until 29 August 2021.

Council welcomes the Housing SEPP, however, would like to express the level of confusion that has been created in understanding and seeing the delivery of housing related SEPP since the Housing Diversity SEPP EIE was exhibited in September 2020. The Housing Diversity SEPP EIE indicated consolidation of the following SEPPs:

- 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).

The EIE also proposed to introduce three new land use terms to help facilitate housing projects that will stimulate economic recovery.

1. Build-to-rent
2. Co-Living
3. Student Housing

However, the notification of the making of statutory instrument, NSW Government Gazette and Bill Information published on **12 February 2021** indicated amendments to:

- Affordable Rental Housing State Environmental Planning Policy 2009 (SEPP);
- State and Regional Development SEPP 2011; and
- Design Quality of Residential Apartment Development SEPP 65.

Simply, the proposed Housing Diversity SEPP was not made and gazetted and instead some of the intentions of the proposed Housing Diversity SEPP was delivered through the amendment of the above three SEPPs.

The gazettal of the above SEPPs created a level of confusion in understanding from Council staff perspective whether the gazettal reflected the Explanation of Intended Effect – New Housing Diversity SEPP, for which Council had made a submission or other works of the DPIE. Before the gazettal of the above three SEPPs there was no conversation from the DPIE to inform Councils about why the Housing Diversity SEPP is not going ahead as it was exhibited through its EIE. To date, there has been no clarity provided to any councils about the convoluted nature of the Housing Diversity/ Housing SEPP delivery. This confusion remains and is further exacerbated by the current exhibition of the proposed 'Housing SEPP'.



Having reviewed the Housing SEPP information on exhibition, Council's detailed comments on the amendment are as follows:

What has changed since the exhibition of the proposed Housing Diversity SEPP EIE?

The content of the proposed Housing Diversity SEPP has changed in a number of ways since the exhibition of the EIE. In particular:

- The Housing SEPP will consolidate five SEPPs instead of the originally proposed three;
- 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;
- 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
- A separate definition of, and provisions for, student housing is no longer being included.

Council Comment:

The initial EIE exhibition of the proposed Housing Diversity SEPP, then later amendment and gazettal of works alternative to the exhibition of the Housing Diversity SEPP and the current exhibition of the proposed Housing SEPP with a number of changes is creating a significant amount of confusion in understanding the actual intentions of the DPIE and the delivery of housing through SEPP.

It is suggested that the DPIE exhibit a fresh EIE on the proposed Housing SEPP to eliminate the layers of confusion already created through these suits of work that is coming through DPIE. It is also suggested that the DPIE engage Councils to have discussions on the impact of the changes anticipated to be delivered through housing SEPP at the initial stage of planning of these works, rather than expecting councils to make submissions when the work is already done and is difficult to reverse or amend.

The proposed Housing SEPP now consolidates an additional two SEPPs being Manufactured Home Estates SEPP and Caravan Parks SEPP. However, there is no explanation provided through the FAQ or through the draft Housing SEPP as to how these two SEPPs cascade into the proposed SEPP. This is creating more confusion in terms of understanding the intentions of DPIE to consolidate these five SEPPs.

It is evident that the DPIE is trying to deliver the Housing related SEPP in a haste, hence, all these convoluted layers of works are being exhibited or gazetted. The rushed delivery of the Housing SEPP is likely to create more issues moving forward for the DPIE and Councils in general.

How does the proposed Housing SEPP differentiate between affordable housing and diverse housing?

The proposed Housing SEPP separates the different housing types into affordable housing and diverse housing. This provides 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 Comment:

It is a biased outcome without broader consideration given to the impact of this provision within a community in a holistic manner. The provision can create angst and division within communities and an on-going issue for councils to deal with the complaints of biasness.

Council does not support this change.



Why is there no definition for student housing?

Following consideration of stakeholder feedback, the DPIE considers that it is appropriate to no longer propose 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.

Council Comment:

A clear definition for 'people associated with the education facility' should be provided. Does this mean that the person has to be a student, or can be a staff working at the campus? How about a contractor associated with the facility? What kind of accommodation will this be? Will this accommodation aim to accommodate single person or families? What level of association with education facility will meet the criteria for the person to live on campus?

It seems that the expansion of the on-campus accommodation to people associated with the educational facility is too broad and can lead to a number of land use related concerns on campus including safety of students and campus facilities. The campus establishment will turn into a residential community. There should be more discussion between DPIE, Education Establishments and Councils to understand the intention of this development to ultimately come up with a concerted outcome that is socially, economically, and environmentally viable.

Boarding Houses:

Boarding houses will be required to provide affordable housing in perpetuity. The Housing SEPP proposes an updated definition of affordable housing households and a requirement that boarding houses be managed by registered community housing providers (CHPs). Registered CHPs will be required to apply the NSW Affordable Housing Ministerial Guidelines. These guidelines provide guidance for the setting of rates of rent which ensure eligible households are not under housing stress.

Registered CHPs are overseen by the Registrar of Community Housing, who from time to time may require them to demonstrate that the rents they are charging for boarding houses are affordable.

How will these changes affect boarding house DAs that have been approved?

The new provisions will not be retrospective, so they will not impact on boarding houses that have already been approved or built. However, the new provisions will apply where an application is lodged for major alterations or additions to a boarding house.

Council Comment:

Removal of boarding house provisions from LEP and limiting it to community housing providers (CHP) only will have a significant impact on the Hawkesbury LGA. Boarding House is a tool within the housing diversity provision and its limitation will have significant impact on Hawkesbury's housing delivery and diversity target.

There is very low probability that a CHP will opt to invest in the Hawkesbury given the flooding and higher insurance premium constraints. This will leave the Hawkesbury waiting and deprived of affordable housing development. The current LEP provision at least provides opportunity for



landowners within the LGA to develop boarding house and at the same time assist council to achieve its housing diversity and affordability targets.

Council does not support this change.

Co-living housing:

The new co-living housing provisions will enable developers to continue delivering this form of housing, which provides a ready-to-occupy form of accommodation. Co-living housing will provide a primary place of residence for all occupants and will not allow for short-term tourist and visitor accommodation.

A central feature of co-living housing will be the community that is encouraged by the co-living manager. The manager will be responsible for implementing the development's plan of management, and although they may not be on site at all times, they will be contactable by phone 24/7. 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.

Depending on their size, private rooms may accommodate 1 or 2 people. Because the emphasis of these developments is on shared communal spaces, private rooms will be small (upwards of 12sqm for an individual and 16sqm for a couple) but may include kitchen and bathroom facilities. Shared indoor and outdoor spaces will encourage residents to come together to relax and socialise. Co-living will typically be built in highly connected areas, where residents have convenient access to work, study, and recreation opportunities.

Does a density bonus apply to co-living housing?

A time limited density bonus of 10% will apply to co-living housing until 1 August 2024. The density bonus will help to ensure ongoing supply of co-living housing, which will be particularly important as part of the State's COVID recovery, due to the decreased income and increased housing stress many are experiencing as a result of the pandemic.

What is the difference between boarding houses and co-living housing?

Boarding houses and co-living housing will be similar in terms of their built form and operation. However, boarding houses will benefit from a larger (25%) FSR bonus and will be required to be used as affordable housing in perpetuity.

Council Comment:

The Housing Diversity SEPP EIE indicated Co-Living provisions as follow:

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

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

Co-living developments will be permitted in zones R4 High Density Residential, B4 Mixed Use, and R3 Medium Density Residential.

The co-living provisions seems to have been altered significantly from what it was indicated as in the Housing Diversity SEPP. The new SEPP seems to set a benchmark to have a minimum of 6 private



room leading up to 30 or 40 private rooms. This development also encourages a co-living manager, indicating a full scale co-living complex kind of development.

The Housing Diversity SEPP EIE indicated that the co-living developments were exclusive to R4, B4 and R3 zones. 'Co-living will typically be built in highly connected areas, where residents have convenient access to work, study, and recreation opportunities.

However, the draft Housing SEPP states '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'. This means that in Hawkesbury co-living development can take place in R1, R3, B1 and B2 zones.

A time limited density bonus of 10% to co-living housing until 1 August 2024 is not a viable timeframe as this SEPP is still in draft and 2021 lockdowns is likely to prolong till the end of the year. Given that this consultation is only taking place now, there is not enough awareness and understanding of this provision made available to the general public at large. This short timeframe can lead to a lot of prospective developers missing out on the incentive. It is therefore suggested to give a longer (5 Year) timeframe starting from when the Housing SEPP becomes effective.

Boarding Houses to have an increased FSR up to 25% and to be used as affordable housing in perpetuity vs co-living, which is similar built and form but not an affordable housing in perpetuity because it is built as part of the State's COVID recovery, due to the decreased income and increased housing stress many are experiencing as a result of the pandemic.

It is still unclear as to what is the mechanism to ensure that the boarding houses remain as affordable housing in perpetuity? What if the CHP sell the boarding house, then what happens?

It is also not clear whether the NSW State Government has done its calculations to work out how long it will take to for the State, the businesses and normal working-class people (especially those who lost their jobs and businesses in COVID) to recover from their income losses? This information can provide an indication of the lifespan of co-living provision.

Also, the notion of providing affordable housing in an already volatile situation where Sydney has been grappling with the issue for almost more than 2 decades will be defeated by not keeping co-living housing as affordable housing in perpetuity).

Seniors Housing:

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 removes the need for technical assessment of sites by the applicant and council and department officers. Prescribed zones make seniors housing permissible in the zone with development consent.

How were the prescribed zones chosen?

The prescribed zones are Residential zones (R1-R4) and Business zones (B1-B8), RE2 Private Recreation, RU5 Village, SP1 and SP2 (Hospital). Prescribed zones were chosen following a review of the zones where the Seniors SEPP currently applies. The proposed prescribed zones are a combination of zones where Seniors Housing is permissible in the relevant Local Environmental Plan (LEP) or the Seniors SEPP currently applies.

Some prescribed zones are also restricted by certain land uses or adjoining land uses. For example, land zoned RE2 Private Recreation, SP1 Special Purposes and SP2 Infrastructure must currently be used for certain land uses. Also, at least 50% of land adjoining sites zoned RE2 and SP1 must be residential prescribed zones.

The SEPP only applies to Residential Care Facilities in the R2 Low Density Residential Zone.



The SEPP only applies to land zoned RU5 Rural Village where the land is serviced by reticulated water and sewerage, within 50 kilometres of a 24-hour health services facility and not mapped by the Metropolitan Rural Area exclusion.

Councils can list seniors housing land use types as a permitted land use under their LEPs should they wish the SEPP provisions to apply to another zone not specified.

Is seniors housing permissible in rural zones and industrial zones?

Rural and industrial zones have not been included in the list of prescribed zones in the Housing SEPP. If a council wants to permit seniors housing in its rural and/or industrial zones, it can do so by amending its LEP through the planning proposal process.

Council Comment:

This offer is an opportunity for Council to increase its seniors housing capacity.

Does the Metropolitan Rural Area exclusion still apply?

Yes, however, seniors housing standards can now be applied to residential (R1-R4) and business (B1-B7) zoned land within the Metropolitan Rural Area (MRA). Residential and business zoned land has been exempted as this is where development has already occurred and where services are available. The seniors housing provisions will not apply to other land in the MRA.

Restricting the application of the seniors housing provisions to residential and business zoned land will ensure that the original intent of the MRA exclusion zone is retained. By maintaining the current restrictions for seniors housing in rural, environmental and transitional zoned land, the rural character of these areas continues to be protected.

Council Comment:

This offer is an opportunity for Council to increase its seniors housing capacity.

Why did the building height definition change?

The building height definition has been updated to be consistent with Standard Instrument LEP definition. Also, the development standards have been amended to provide a height of 9 metres for independent living units and 9.5 metres residential care facilities to account for the differences in definitions. The additional building height is provided to support the unique requirements of seniors housing. An allowance for rooftop plant and machinery has also been provided, recognising the service requirements for seniors housing.

Why have the site analysis requirements for seniors housing been removed?

Schedule 1 of the Environmental Planning and Assessment Regulation 2000 lists the information and documentation to be included with all development applications. This includes site analysis requirements. It is not necessary to repeat this requirement in the Housing SEPP.

Why has the seniors age changed?

The minimum age threshold for seniors is currently 55 years in the Seniors SEPP. This aligns with the 'preservation age' of the Superannuation Industry (Supervision) Regulations 1994. These regulations have recently been changed to increase the age that people can gain access to reserved superannuation funds from 55 years to 60 years in 2025. The Housing SEPP has been amended to align with the new age threshold.



Council Comment:

Hawkesbury City Council supports and welcomes the changes to the seniors housing provisions.

Hawkesbury City Council is committed and always willing to work closely with the State Government (Department of Planning, Industry and Environment) in ensuring that Council meets its housing targets set by NSW Planning Frameworks and that Council provides a diversity of housing to meet the changing needs of the residents.

Yours faithfully

Sunehla Bala

Strategic Land Use Planning Coordinator

Hawkesbury City Council

☎ (02) 45604544 | 📠 (02) 4587 7740 | 🌐 w.hawkesbury.nsw.gov.au

Proposed Housing SEPP 2021 Submission

Thank you for the opportunity to provide feedback. Comments below are related to the Draft Document.

Affordable Housing

Agree with most principles in Schedule 1 and the statement that acknowledges that there is a need for affordable housing within each area of the state however it should be acknowledged that the greatest need is in the Greater Sydney area where the bulk of our state population resides and where rentals and house prices have risen dramatically over the last 15 years.

A mandated % needs to be determined as it is in other major global cities. London for example has a requirement of 30 to maximum 50% in all new developments. Sydney needs a similar target and on all new builds on government land at least 50% should be mandated for affordable rentals and social housing.

Strongly agree with Principle 8 "Affordable housing is to consist of dwellings constructed to a standard that, in the opinion of the consent authority, is consistent with other dwellings in the area

Strongly agree that the "social housing provider must be a registered entity within the meaning of the Australian Charities and Not-for-profits Commission Act 2012 of the Commonwealth."

Strongly disagree with last part of Principle 3 Agree that "Affordable housing be made available to very low income -less than 50% , & low income households - -50-less than 80% " but strongly disagree that "it should be made available to moderate income households -80-120%. (of median household income)" If made available to moderate income earners, the very low & low income groups that it should be designed to assist would miss out in favor of moderate income residents.

12 (a) Agree that no more than 30% of income should be paid in rent.

Floor Space Ratio

Information needs to be more precise. – formulae are confusing and open to misinterpretation and misuse.

Non- discretionary development standards –the Act, 4.15 (b) &(c) 35m2 of landscaped area per dwelling should apply equally to social housing provider or any developer, not just social housing developments.

(f) & (g) parking provision outlined in (f) should apply to social housing as well.

20. Must be used for affordable housing for at least 15 years. Why only 15 years and not in perpetuity?

Agree that affordable housing component should be used for affordable housing & AH be managed by a registered community housing provider and not the developer

Boarding Houses

23 – 2 (ii) Strongly disagree that Floor Space Ratio can have "an additional 25 % of the maximum permissible floor space if used for the purpose of the boarding house. As it undermines Local Councils' LEPs and increases bulk & height of buildings and reduces resident's amenity.

The Council Boarding House Working Group recommended that the existing FSR bonus be reduced to a flat 10%.

(e) mentions “at least 3 hours of direct solar access 9-3 in midwinter in at least 1 communal living area but there is no mention of solar access in private rooms. Solar access is necessary and this requirement is totally inadequate. Seniors housing mentions 70% of dwelling receive at least 3 hours of direct sunlight (9-3 midwinter) in living rooms & private open spaces.

“Adequate numbers of bathrooms, kitchens and laundry facilities “ is mentioned but there needs to be a minimum number per potential residents not just rooms.

Balconies should not be counted as “Open Space” as they have in previous DA’s.

Communal Open Space should be provided on each residential floor

Parking provision should be consistent for social housing provider and other developers and no less than 0.5, preferably the 1 space as mentioned in (J) (!)

25. Page 16. Strongly agree (a) boarding house will be used for boarding house, and (b) it will be managed by a registered community housing provider and that the boarding house is used for affordable housing in perpetuity

Division 3 Boarding Houses – Land & Housing Corporation

28. Page 16 Boarding houses permitted without development consent
Concern that Council should be involved in the consent process rather than just being “notified of the development and appointing a Council contact person”
Agree that LAHC Boarding Houses should be no higher than 8.5 metres.

Part 3 Retention of existing affordable housing Page 21

Strongly agree that existing affordable housing needs to be saved.

Strongly disagree that 5 years is adequate as a relevant period to determine previous low-rentals. It should be at least 15 years considering the exponential increase in rentals over the last 5 years.

Part 3 Co-living housing 64 Page 32 (2) (11) Strongly disagree with “an additional 10% of the maximum permissible for floor space ratio if the additional floor space is used for the purposes of co-living housing. “Bonus” 10% should be removed because Co-living rentals are often not “affordable” and the developer is already benefitting through smaller rooms, shared facilities and reduced parking provision.

Parking provision of 0.5 inadequate considering that many rooms will house 2 people. Good to see minimum sizes for private room gross floor areas.

- (i) Would like to see more specific minimal requirements for bathrooms, laundry facilities, kitchen facilities & communal living areas for each floor. available for the use of each occupant rather than just ‘adequate’.

Seniors Housing

No mention of lift requirements

Division 7 Non Discretionary development standards for hostels & residential care

Concern over parking provision

(g) at least 1 parking space for every 10 beds in hostel

(h) for residential care at least 1 per every 15 beds

(l) 1 parking space for every 2 employees & 1 for Ambulance

The above allowances appear to be inadequate if they also cover visiting parking as many of the visitors would be elderly and require parking very close to hostels and residential care.

Division 8 Development of Vertical Villages (for Seniors)

No justification for Floor Space Ratio bonuses of :

- (i) 15% for independent living units
- (ii) 20% for residential care facility&
- (iii) 25% of the maximum permissible if used only for the purpose of independent living and residential care facility or both

This is confusing & unnecessary. Why 25%? Why not 10% as suggested by Council Working Party for Boarding Houses.

The building height should not exceed the maximum permissible building height by no more than 3.8 m. is supported.

CONCERNS

- Within the Aims of the new Housing Diversity SEPP and The Key components of the new Housing Diversity SEPP there is no mention of the need to provide **Quality housing** or need for livability, good amenity and sustainable development.
- The approach to facilitate delivery of affordable housing has an emphasis on reducing costs for developers and fast tracking developments and reducing amenity to residents, through provision of smaller rooms, more shared facilities & limited parking & car spaces
- There's no mention of projects such as Community Housing projects overseas where you can rent to buy to enable people on lower incomes to eventually buy an affordable home.
- Crime Prevention is mentioned in housing for Seniors but not other categories and security is very important for Boarding Houses.
- Most of the projects described provide accommodation for singles or couples yet there is a desperate need for Affordable housing for families.
- The need to provide for diversity for housing for all different family sizes is a serious omission. In Affordable housing and LAHC developments there should be a mandated formula for dwelling types, 1,2 and 3 bedrooomed in order to provide Social & affordable housing for diverse community groups. It has long been recognized that aggregating affordable accommodation in one location is poor practice and diversity of apartments, terraces in size and number of bedrooms is to be recommended.
- What has happened to Rent- to -Buy and Student Accommodation controls as mentioned in Explanation of Intended Effect for a new Housing Diversity SEPP 2020
- On a personal note. As a Senior the thought of living in a "Vertical Tower" of seniors is most unappealing, especially considering the need for social distancing and care in an Aged Care Facility in times of a Pandemic.

Heather Davie
PO Box 663
Marrickville 2204
Phone 0434948453
Please contact me if any clarification is needed

[REDACTED]

From: [REDACTED]
Sent: Monday, 30 August 2021 9:07 AM
To: DPE PS Housing Policy Mailbox
Subject: FW: DPIE Housing Policy
Attachments: 53-57 Beaumont St - Hero Exterior - 2021 Aug - Rev B - HR.jpg; stella aerial image.jpeg

Follow Up Flag: Follow up
Flag Status: Flagged

[REDACTED]



Planning,
Industry &
Environment

From: Hilda Cheong <hcheong@windesea.com.au>
Sent: Sunday, 29 August 2021 4:45 PM
To: [REDACTED]
Subject: DPIE Housing Policy

To: Local Government and Economic Policy Division

NSW Planning

I am writing to object to the Draft Housing SEPP currently on exhibition (seniors housing). From reading the policy I understand that seniors housing independent living units will no longer be allowed to be developed in R2 residential zone.

This change in policy will have detrimental impact to the aging residents in the eastern suburbs and for the development industry that currently develop independent seniors living units in Waverley/ Woollahra LGA.

Our recently completed project at Rose Bay comprises eleven 2-4 bedroom units, see attached image of Stella development. This project has successfully provided housing choice to many local residents with age ranging from 60 – 93. This project fits in nicely in the streetscape and has enabled many residents to age in place. Many downsizers are voicing that there is a lack of large accessible units for them to move into.

This project has all the design features that makes everyday independent living possible:

- No steps
- Stretcher lift
- 6 meter driveway with wider car spaces
- Plentiful storage
- Extra wide foyer and in unit circulation
- Seamless indoor and outdoor access
- Specially designed joinery handles for the aged
- Due to the larger unit size and separate “wing” design where the master bedroom is separated from secondary bedrooms, we are seeing a pattern of co-living (brother, sister, aunt, uncle) and multi-generational living arrangements where the more able family member is looking after the elderly.

The other image is also seniors Living unit in Rose Bay currently under DA process. Both of these projects fit in very well within the streetscape and lower in height than the surrounding homes.

This draft policy is forcing all seniors living units to be built in the high density R3 and R4 zones. In LGA like Waverley/Woollahra LGA, R3/R4 sites over 1000 sqm and 20 meter frontage just don't exist.

If one comes up on the market, the chance it already has an interwar unit block on it. Again, these buildings are protected from a heritage standpoint and cannot be converted to seniors accessible units nor demolished for seniors living units.

Commercial viability of seniors living in R3/R4 zone

Even if there is such a R3/R4 high density site, developers will not propose seniors housing ILU for the following reasons:

- Land cost is too expensive for seniors apartment – as per sqm rate is not as favourable as a normal apartment due to the restricted target market.
- Investors will not buy seniors housing with the over 55 covenant on title, hence the unit can only be sold to owner occupiers over 55 years of age.
- Due to the required circulation space for seniors apartment, an average 110 sqm 3 bedder will need to be 140 sqm. Hence, seniors development does not work well with developers that focuses on faster turn around of smaller units (under 100 sqm)
- More costly construction for seniors housing as the whole site has to be accessible and cannot contain any steps etc. Stretcher lift has to be provided, fire sprinklers etc.
- Much more difficult to obtain project finance from banks due to the restricted target market/buyer pool. Developers need to provide more cash injection for seniors housing than other type of developments.

Co-living housing model

From a commercial viability standpoint, developers will not enter into the co-living seniors housing model (Serviced self-care housing) as against ILU for the following reasons:

- It is impossible to obtain finance to build this type of housing, as banks will not finance a project that does not have the adequate pre-sales. There is no exit strategy to pay down the construction loan. Without bank support, developers will rather invest their capital in other areas.

- Even if the project finance of the major banks are interested, the credit assessor will have to assess the suitability of both developer (for DA and construction) and the aged care service provider (as long term management). In majority of cases, these two very distinct business models do not blend well and fought with business risks.
- Co-living seniors housing development is only for the very few long term retirement village operators and these operators have totally different expertise to the building development sector.

Seniors living accommodation in Waverley/Woollahra

Due to the hilly topography of these LGA, the opportunity for vertical villages in this area and the potential view impact means there will never be any vertical villages for seniors housing.

Even finding a suitable “seniors” site in R2 zone with 1000 sqm land, 20 meter frontage, <400 meters to amenities and complying gradient often takes 3-4 years. Hence, with introduction of Housing SEP, I’m very sure that there will be no seniors housing stock for these LGA. Sadly to say, these LGA have one of the largest aging population in the state of NSW.

Woollahra/Waverly LGA

I have attached the 2020 Waverley housing strategy – the executive summary highlights the huge shortage of seniors housing for a fastly ageing population. All the unit sites that is within 400m walking distance to public transport is already developed with vertical villages – e.g Bondi Junction

The Housing SEPP suggests that all the senior living units should be concentrated in vertical high rise in the middle of a shopping centre. If NSW Planning undertakes a survey of older people, they will find that most older people find it much easier to transition to a boutique development than a vertical village.

Neighbourly support (both emotional and physical) in a boutique seniors development is totally not recognised by NSW Planning when this Draft Housing SEPP was developed.

With kind regards

Hilda Cheong



Hilda Cheong | Director | hcheong@windesea.com.au | M 0414607398
Pertama Development Pty Ltd.
 Suite 124, 8 Quay Street
 Sydney NSW 2000
 Australia

This email is private and confidential to the intended recipient. If you are not the intended recipient, then please do not copy it, circulate it or take any action in reliance on it. Kindly notify me that it has been misdirected and then delete it. Thank you.

From: [REDACTED]
Sent: Monday, 9 August 2021 2:53 PM
To: Hilda Cheong <hcheong@windesea.com.au>
Subject: DPIE Housing Policy

Hi Hilda,

I'm following up on our phone call earlier to provide the Department's Housing Policy email as requested:
housingpolicy@planning.nsw.gov.au

Kind regards,

[REDACTED]
Housing Policy

Local Government and Economic Policy Division

T 02 8289 6701 | E housingpolicy@planning.nsw.gov.au

Locked Bag 5022 | PARRAMATTA NSW 2124

www.dpie.nsw.gov.au



**Planning,
Industry &
Environment**

The Department of Planning, Industry and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Disclaimer: The information in this message is intended to be general information only and does not constitute professional advice and should not be relied upon as such. Recipients should seek independent professional advice and refer to the relevant legislation before taking action or relying on any such matter contained in this message.



31 August 2021

Director - Housing Policy
NSW Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2000

Submitted via the NSW Planning Portal

Dear Sir/Madam

Housing SEPP Consultation Draft

Thank you for the opportunity to comment on the new *Housing State Environmental Planning Policy (SEPP) Consultation Draft* and supporting documents.

It is understood that the new Housing SEPP consultation draft and supporting documents have been prepared, following feedback collated during the exhibition of the Explanation of Intended Effect (EIE) in September 2020, to provide an overview of proposed new and amended planning provisions prior to the intended finalisation of the Housing SEPP in October 2021. It is also understood that several changes have occurred since the EIE was exhibited, including renaming to the *Housing SEPP*, the inclusion of two additional SEPPs (SEPP 36 – Manufactured Home Estates and SEPP 21 – Caravan Parks), deletion of student housing definition, changes to affordable housing provisions for Land and Housing Corporation (LAHC) developments and secondary dwelling provisions in the rural zones. It is recognised that the Housing SEPP will include the recently made provisions for short term rental accommodation and further amendments will be made to incorporate the build-to-rent housing provisions following finalisation.

The comments contained in this letter are officer-level comments only as the matter has not been reported to the elected Council for a formal view or resolution due to the limited exhibition period provided. For completeness, a copy of Council's previous submission in response to the *Explanation of the Intended Effects for the Housing Diversity SEPP* is attached below.

Council's concerns and feedback on the Consultation Draft and supporting documents are provided below.

1. Exhibition Period

Due to the limited consultation period to provide feedback and lengthy lead times for Council meetings, Council staff have been unable to report the matter to the elected Council to resolve an endorsed position on the draft SEPP. Further, the four-week exhibition period is insufficient to allow detailed consideration of the implications of the SEPP and how it relates to Council's adopted strategies, including the recently adopted Local Housing Strategy and Employment Land Study. Concerns are also raised that DPIE has not published a Report on Submissions from exhibition of the EIE in September 2020 to outline how issues raised have been considered and addressed in the draft SEPP.

Given the significant volume of legislative reforms being progressed through NSW planning system, reviewing and providing feedback for all items has significant resource implications for Councils. Although these resource implications cannot be examined as part of this exhibition, it is requested that

DPIE consider a staggered rollout for future legislative reforms to ensure adequate opportunity for Council review and input.

2. Consolidation of SEPPs

The proposed consolidation and reduction in the number of State policies is supported. Notwithstanding, Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies. Council already has concerns with the growth in housing needs and related infrastructure requirements and has prepared a Local Strategic Planning Statement (LSPS) and Housing Strategy to manage future growth and change. State policies which introduce further residential dwelling typologies and development pathways may exacerbate the perception of overdevelopment and reduce the benefits of local planning.

3. Proposed provisions under Part 2 Affordable Housing

Boarding houses – As noted in Council's previous submission on the EIE, the proposal to no longer mandate boarding houses as a permissible land use in the R2 Low Density Residential zones is welcomed and supported. It is understood that boarding houses will be prohibited in the R2 zone, with the *Hornsby Local Environmental Plan 2013* (HLEP) to be amended to reflect this position. It is also understood that Councils have an option to continue permit this housing type in R2 zones, where by 'accessible area' requirements will apply. Notwithstanding, it is recommended that the wording of Clause 22 be reviewed prior to finalisation to clarify that a proposal cannot be made for a boarding house on a R2 zoned site that meets the accessibility criteria where boarding houses are prohibited under a LEP.

The proposed FSR bonus outlined in Clause 23 of the SEPP does not discern its application for Councils with no current floor space ratio provisions in their local planning instruments. It is suggested that a definitive provision under Clause 23 clarifying the appropriate application of the FSR bonus should be included prior to finalisation.

The requirement under Clause 25 of the draft SEPP to rent boarding houses at affordable rates in perpetuity is welcomed and supported. Clause 25(1) prescribes that development consent must not be granted unless the consent authority is satisfied that the boarding house will be used for affordable housing and will be managed by a registered housing provider.

Although the proposed amendments to the *Environmental Planning and Assessment Regulations 2000* (EP&A Regulations) set out requirements for details to be supplied on affordability and management at Occupation Certificate stage, it is unclear what information would be required at DA stage for Council to be satisfied that a boarding house will meet affordability requirements under Clause 25. It is recommended that clear guidelines in the SEPP or the *Environmental Planning and Assessment Regulations 2000* be provided which has clear standards and/or information thresholds at DA stage so that the intention of providing affordable housing in perpetuity is not undermined.

Land And Housing Corporation (LAHC) developments – The proposal to allow NSW LAHC to continue to develop boarding houses in the R2 zone, regardless of land ownership, is not supported. Although the HLEP does not permit boarding houses in the R2 zone, the draft SEPP will override local planning controls resulting in similar planning issues and conflicts as privately developed boarding houses due to bulk, scale and nature of use. These issues are further compounded by the new self-assessment pathway (permitted without development consent) provided under Clause 28 of the draft SEPP, as the increase in density and the associated infrastructure implications are unlikely to be given full consideration under this process.

It is also noted that the proposed affordability provisions that allow LAHC boarding house developments to revert back to market rates after 15 years is short-sighted.

It is suggested that the prohibition in R2 zones, development application process and the provision for affordability in perpetuity should equally apply to the NSW LAHC to achieve appropriate planning outcomes.

4. Proposed provisions under Part 3 Diverse Housing

Secondary dwellings in rural areas – It is recognised that changes to the minimum permitted size of secondary dwellings in rural areas of Hornsby Shire has been included in the draft legislation to be implemented into the HLEP. This will increase the maximum permitted size of secondary dwellings from 60 square metres to 120 square metres and retain the control to limit secondary dwellings to 33% of the size of the principal dwelling. This amendment is in accordance with Council's adopted position and is supported.

As a positive change from the provisions outlined in the EIE, it is recognised that the draft SEPP will continue to not provide a complying development pathway for secondary dwellings in rural areas. A development application is the most appropriate process for secondary dwellings in rural areas as it allows detailed consideration of servicing (waste water disposal areas for unsewered areas for instance), vehicular access (appropriate level of driveway construction), environmental impacts / constraints, as well as notification to adjoining properties.

Group homes – It is acknowledged that the draft SEPP will continue to permit group homes in the prescribed zones outlined in the *Affordable Housing SEPP*, with a comprehensive review of group home provision to proceed in late 2021. Council should be notified and given the opportunity to provide feedback during the proposed review later in the year.

It is also noted that a complying development pathway still remains available to group home developments in R2 zones which is not supported. Although it is acknowledged that this housing typology may be required in the R2 zone, it is considered that the complying development route is not the best approach and a merit assessment is preferable.

Co-living developments – It is understood that the draft SEPP will introduce a new housing typology, 'co-living', which is a new age boarding house type development with no affordability requirements, and is proposed to only be permitted in zones where Council permits co-living, residential flat buildings (RFBs) and shop-top housing. It is also understood that Councils may choose to permit co-living developments in R2 zones, where development standards outlined in Clause 64 and 65 of the draft SEPP will be applicable. For Hornsby Shire, the draft SEPP would permit co-living developments in all zones except R2.

Concern is raised with the permissibility of co-living developments in business zones due to potential impacts on the commercial function of the zones and displacement of employment opportunities. Further, this form of development would be inconsistent with Council's Employment Land Study which recommends retaining employment land for employment purposes.

The provision to prohibit subdivision for co-living developments under Clause 66 of the SEPP is noted and supported having regard for the design standards of smaller rooms and communal living space requirements, similar to boarding house developments.

It is noted that the exhibition material outlines the development of new design guidelines for seniors housing, BTR housing, boarding houses and co-living in the second half of 2021 focusing on solar access, ventilation, storage, visual and acoustic privacy, shared amenities and building maintenance. Although the development on new design guidelines is supported, concern remains as to amenity impacts associated with small room sizes and the resultant potential density in excess of infrastructure provisions. Further, concern is also raised with the proposed minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the location of the development (i.e. within close proximity to a railway station).

It is also noted that the draft SEPP does not provide development standards for maximum building height or reference to the integration of development standards outlined in Council's LEP, nor is it clearly demonstrated how proposed co-living development controls will maintain local character. It is recommended that maximum building height and other development standards for co-living developments should be in line with controls outlined in Council's LEP and DCP.

5. Proposed provisions under Part 4 Seniors Housing

Definition of ‘Environmentally Sensitive Land’ – The proposed definition of ‘Environmentally sensitive land’ updated under Schedule 4 of the draft SEPP provides greater clarity for all stakeholders and is supported. As previously noted as a key concern, the interpretation of land classified as ‘environmentally sensitive land’ has been a contentious area of the Seniors SEPP for a number of years and the subject of several development application and Land Environment Court (LEC) appeals at substantial cost to Council.

Building height – It is acknowledged the updated definition of ‘building height’ will be consistent with *Standard Instrument LEP* which will provide clarity for all stakeholders and is supported. However, concern is raised with the amended development standards for building heights outlined in Clause 74 and Clause 96 of the draft SEPP prescribing a maximum building height of 9m for independent living units and 9.5m for residential care facilities (excluding servicing equipment). The proposed height controls are in excess of the 8.5m prescribed maximum building height in the R2 zone under the *Hornsby LEP 2013* and will result in buildings out of character in bulk and scale of a low-density residential setting. It is recommended that the height development standards under an LEP apply for all forms of seniors housing developments.

Abolition of Site Compatibility Certificates (SCC) – The proposal to remove the definition of ‘land zoned primarily for urban purposes’ and to introduce prescribed zones for seniors housing developments resulting in the abolition of site compatibility certificates (SCCs) is welcomed and supported. As outlined in the previous submission on the EIE, the current SCC process equates to a spot rezoning without a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework, Ministerial Directions, and community consultation.

Prescribed zones – The amendment under Clause 67 of the draft SEPP to outline prescribed zones for seniors housing developments, including Residential zones R1-R4, Business zones B1-B8, Special zones SP1 and SP2, Recreation zone RE2 and Rural zone RU5 is supported in principle, as this would provide certainty for all stakeholder and would not apply to residential or business lands located in the metropolitan rural area (MRA) exclusion zone.

Concern is raised with the proposal to permit seniors housing developments in business zones. Permitting this housing typology within business zones would be inconsistent with the priorities and actions of Council’s recently adopted LSPS and Employment Lands Study, which include objectives to retain and grow business and commercial areas of the Hornsby Shire. Further, seniors housing developments would result in development incompatibility, reduction employment capacity, inconsistencies with zone objectives and infrastructure pressures.

Location and access provisions – The proposed amended provisions for location and access to facilities for independent living units and residential care facilities are welcomed. The amended provisions may help to ensure that seniors developments are located appropriately in well serviced areas and do not rely on third party or point to point transport.

However, concern is raised with the wording proposed for Clause 82(1) of the draft SEPP, as it differs from a similar provision in Clause 26 of the Seniors SEPP as well as Clause 83(1) of the draft SEPP. It is recommended that the wording is amended as follows for consistency and to strengthen the intention of the access to services and facilities clause:

*“Development consent must not be granted for development for the purposes of an independent living unit unless the consent authority ~~has considered whether~~ **is satisfied that** residents will have adequate access to facilities and services—*

- a) directly, or*
- b) by a transport service that complies with subsection (2), or*
- c) on-site.”*

Vertical villages – It is acknowledged that the draft SEPP proposes to introduce a new seniors housing typology, vertical villages, and permit this development only on land where Council permits residential flat buildings. In Hornsby Shire, vertical villages would be permitted under the SEPP in R3, R4 and B1 zones. Although the proposed FSR bonus for vertical villages would not apply in the Hornsby LGA, the amendment to allow vertical villages to exceed the maximum building height by 3.8m would result in developments that are inconsistent with local bulk and scale, as well as undermining local strategic planning, and is not supported.

It is also noted that no definition for ‘vertical villages’ is provided in the draft SEPP or amendments to the Standard Instrument. It is recommended that a definition is provided for clarity and consistency.

Moratorium on the application of the SEPP within HCAs – A transfer of Council’s previous request for a continuation of the moratorium on the application of the Seniors SEPP within heritage conservation areas, with the exception of two identified sites, to the draft Housing SEPP is acknowledged and welcomed. It is noted that a permanent exemption from the application of seniors housing developments in HCAs would be preferable, as Council’s Seniors Housing Demand and Supply Review demonstrate that underlying demand in Hornsby Shire would not be detrimental to supply in the future. An exemption in perpetuity would allow Councils the opportunity to plan locally by preparing a local Seniors Housing Strategy.

6. Other issues

Updated definitions – Concerns are raised with the definition included in the draft SEPP for “*non-heritage land*”, which defined as land:

- a) *not containing a heritage item, and*
- b) *not the subject of an interim heritage order under the Heritage Act 1977, and*
- c) *not listed on the State Heritage Register.*

This definition should be amended to include “*not within a heritage conservation area*”. It is suggested that development under the SEPP should be prohibited in Heritage Conservation Areas. Council has continually lobbied for the ability to maintain the local character of Hornsby Shire’s heritage conservation areas by exempting these areas, in particular, from the application of State policies that dilute local government planning provisions.

Clause 4.6 variations – The decision to not proceed with a proposal to allow development standards for seniors housing developments to be varied using Clause 4.6 of the Standard Instrument to a maximum of 20% as outlined in the EIE is supported. The current Clause 4.6 review undertaken by DPIE is acknowledged and appreciated as a more suitable pathway as Clause 4.6 variations have been a contentious area for Council resulting in proposals being designed to the maximum variation rather than attempting to design within development standards.

Local Housing Strategies – It is unclear as to the relationship between Housing SEPP and Council’s recently adopted Local Housing Strategy. The proposed introduction of new affordable and diverse housing typologies and provisions may provide developers with alternative routes to increase density in areas not suitable, ultimately having implications for Councils ability to effectively analyse housing projections and further, their ability to successfully monitor housing growth moving forward. It is also noted that these proposed provisions may act as a disincentive for buy-in for some Councils to prepare an affordable housing strategy.

Character overlay – Concern is raised with regards to the relationship between the Housing SEPP and the application of the proposed draft local character clause and mapping overlays. It is understood that the draft local character clause will allow Councils to insert a reference to local character in their Local Environmental Plans via a local character statement and map, with the option to exclude certain areas from the Low-Rise Housing Diversity Code. It is unclear whether proposed developments under the Housing SEPP will be excluded from the same areas within an LGA. Further, it is also unclear whether proposed developments under the Housing SEPP will be required to demonstrate consistency with applicable local character statements.

Design Excellence – Council has implemented amendments to the HLEP to strengthen its Design Excellence provisions and Design Excellence is a key priority of the Hornsby LSPS. The key issues raised with the new and amended housing typologies include concerns relating to compatibility with local character and amenity. Although the need for affordable and diverse housing in Hornsby Shire is acknowledged, Council requires the ability to plan locally and for the SEPP provisions to not compromise the ability to achieve well designed buildings with sufficient setbacks, landscaping, communal living, open spaces and car parking.

Development Contributions - Concern is raised with regard to the application of development contributions and whether Section 7.11 or 7.12 contributions would be applicable to all new types of developments and regardless of developer or landowner. As previously noted, for councils to provide necessary local infrastructure to support development, it is strongly recommended that there should not be exemptions to the payment of development contributions, particularly due to the scale of some of the new housing typologies.

Build-to-rent (BTR) housing – It is acknowledged that the exhibition material notes that new provisions for BTR Housing were introduced under Phase Two changes in February 2021 as an amendment to the *Affordable Housing SEPP* to permit BTR housing in all zones that permit residential flat buildings, as well as B3, B4 and B8 zones. In Hornsby Shire, the SEPP permits BTR housing developments in R3, R4 and B1, as well as other identified business zones. Notwithstanding, Council reiterates the concerns raised in the previous submission on the EIE including zone permissibility and compatibility, design standards, car parking rates and subdivision provisions (please see attached submission). The introduction of the BTR typology as a one size fits all approach to varying LGA characteristics is generally not compatible to Council development standards or its adopted strategies.

Thank you again for the opportunity to comment on the Housing SEPP consultation draft. Should you require any clarification in relation to any of the matters raised, please contact Fintan Langan on 9847 6686 during business hours.

Yours faithfully



Debra Clydsdale
Acting Manager, Strategic Land Use Planning Branch

TRIM Reference: F2004/07599-02

Attachments:

1. Submission on Explanation of Indented Effect for the new Housing Diversity SEPP – 15 September 2020



15 September 2020

Director - Housing Policy
NSW Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2000

Dear Sir/Madam

Explanation of Intended Effect for a new Housing Diversity SEPP

Thank you for the opportunity to comment on the *Explanation of Intended Effect for a new Housing Diversity State Environmental Planning Policy (SEPP)*. The purpose of this letter is to confirm Council's draft submission which was sent ahead of its meeting on 9 September 2020.

Council has now considered Group Manager's Report No. PL19/20 (further copy attached) and resolved as follows:

1. *A submission regarding the proposed Housing Diversity State Environmental Planning Policy be forwarded to the Department of Planning, Industry and Environment outlining the issues raised in Director's Report No. PL19/20 including (but not limited to):*
 - a. *Support for the proposal to no longer mandate boarding housing as a permissible use in the R2 – Low Density Residential zone;*
 - b. *Raise concern in relation to the proposal to mandate build-to-rent housing in the R3 Medium Density zone and the B3 Commercial Core zone; and*
 - c. *Raise concern with any proposal to amend State Environmental Planning Policy (Affordable Rental Housing) 2009 that would include rural secondary dwellings and provide a complying development pathway.*
2. *Following the release of a draft State Policy or making of a Policy by the State Government concerning Housing Diversity, a Councillor Workshop be held to discuss the implications of the Policy for Hornsby Shire and possible changes to Council's planning controls in response.*
3. *The Workshop consider any related findings following the exhibition of the Hornsby Shire Housing Strategy, Affordable Housing Discussion Paper and Seniors Housing Demand and Supply Review.*

Although the resolution includes two additional points concerning a Councillor workshop, the content of the report and submission have not changed and have been endorsed. For completeness, another summary of Council's concerns and feedback on the EIE is provided below and in detail in the attached report.

1. Consolidation of SEPPs

The concept of reducing the number of State policies is supported. However, Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies. Council already has concerns with the growth in housing needs and related infrastructure requirements and has been requested to prepare a Local Strategic Planning Statements and Housing Strategy to manage future growth and change.

State policies which introduce further residential dwelling typologies and development pathways may exacerbate the perception of overdevelopment and reduce the benefits of local planning.

2. Build-to-rent (BTR) housing

Council objects to the proposal to mandate BTR housing in any land use zone, especially in outer-ring areas. There are differences not only between Metropolitan Sydney and regional areas which the EIE acknowledges, but also within Metropolitan Sydney itself. Introduction of BTR housing as a one size fits all approach to inner, middle and outer ring suburbs does not respect their different characteristics. The BTR definition is not compatible with Hornsby Council's development standards or its strategies for employment land.

Concern is raised with the proposal to mandate BTR housing as a permissible use in the R3 – Medium Density Residential. The EIE describes BTR as high density and the definition cites a minimum of 50 dwellings, which would not be compatible with an R3 Medium Density area. It is also unclear how Hornsby Council could uphold its development standards for height and building envelope in any assessment of a permissible use which includes in its definition a minimum 50 dwellings.

Concern is also raised with the proposal to mandate BTR housing as a permissible use in the B3 – Commercial Core zone. Introducing stand-alone residential accommodation as a permitted use could displace employment floorspace and make it difficult for councils to meet jobs targets set out in District Plans. Many councils, including Hornsby, have experienced similar issues with 'serviced apartment' style developments. The proposal to permit this type of development in the B3 zone does not adequately consider longer term implications on housing and employment markets, nor does it align with the preliminary recommendations of Council's draft Employment Land Study, one of which is to achieve no net loss of commercial floorspace.

The EIE outlines that a consent authority would generally assess a BTR housing application against the design quality principles in the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). Concern is raised regarding the application of these design principles for this new form of development in the context of the local character and the planning controls in the Hornsby Development Control Plan.

Concern is raised with the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the size of the dwelling or the scale and adequacy of public transport in close proximity. A clear understanding of locational requirements and what is a well-located and accessible area should be requested to avoid impacts from increased on-street parking generation.

Concern is also raised to BTR housing being transitioned to a strata-subdivided apartment development after 15 years. Subdivision of BTR housing should be prohibited in any zone in perpetuity as subdivision would undermine the intention and definition of this new type of residential accommodation.

3. Purpose-built student housing

The proposal to allow councils to decide the permissibility for this use is supported. The SEPP should go further to apply locational criteria, such as within a set radius to a university campus or a railway station close to, or servicing, the campus.

The EIE states that no minimum car parking would be required for a student housing development. Although this would effectively serve non-vehicle owning international students, it fails to accommodate students that may be vehicle owners which may ultimately lead to on-street parking pressure within the vicinity of these developments.

4. Co-living Developments

Integration of the design of co-living developments with the development controls in Council's LEP is not clearly demonstrated and concern is raised with how local character would be maintained.

Concern is raised with amenity impacts associated with small room sizes and the resultant potential density in excess of infrastructure provision and the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the location of the development (i.e. within close proximity to a railway station).

Co-living developments should not be permitted in business zones due to potential impacts on the commercial function of the zones and displacement of employment opportunities.

5. Proposed amendments to the Affordable Rental Housing SEPP

Boarding houses - The proposal to no longer mandate boarding houses as a permissible use in the R2 Low Density zone is welcomed and supported. However, the proposed provisions that would allow NSW LAHC to continue to develop boarding houses on government-owned land in the R2 zone would lead to the same planning issues and conflicts due to bulk, scale and nature of use. The prohibition should equally apply to the NSW LAHC.

Boarding houses should be rented at affordable rates in perpetuity. Allowing boarding houses to revert back to market rates would undermine the intention of amending the definition to include affordability.

Secondary dwellings in rural zones - The intent of the proposed SEPP to allow councils to set a maximum size for secondary dwellings in rural areas is welcomed and supported. However, it is unclear from the EIE how an amendment to the Affordable Rental Housing SEPP would give Council this discretion.

Concern is raised if it were proposed that the Affordable Rental Housing SEPP be amended to apply to rural zones. Council supports a local place-based approach to planning and would not want rural secondary dwellings to be encompassed under a State policy rather than under Council's LEP and DCP controls. Objection is also raised to any amendment which also included a complying development pathway for rural secondary dwellings.

Approval of a secondary dwelling in rural areas as complying development is not appropriate and is better suited to the development application process. The DA process allows detailed consideration of servicing (waste water disposal areas for unsewered areas for instance), vehicular access (appropriate level of driveway construction), environmental impacts / constraints, as well as notification to adjoining properties.

An amendment to Clause 5.4(9) of the Standard Instrument is supported to retain the ability to plan locally, with discretion to set a maximum size in square metres for the rural areas.

Group homes - Concern is raised to the proposed "quicker and easier process" for converting an existing dwelling into a group home as there may be additional locational and/or site constraints to be considered to determine whether an existing dwelling is fit for purpose for a group home. There is no indication of the appropriate assessment pathway, for example, where an existing heritage listed dwelling is proposed to be converted to a group home. Council recommends that heritage items should be excluded from any "quicker and easier process".

6. Proposed amendments to the Seniors Housing SEPP

Update definitions, provisions and Schedule 1 - The proposal to update definitions within the SEPP and the terminology in Schedule 1 are supported for clarity and consistency. The interpretation of land classified as 'environmentally sensitive land' has been a contentious area of the Seniors SEPP for a number of years and the subject of several development application and Land Environment Court (LEC) appeals at substantial cost to Council.

The Schedule should be reviewed with input from Council staff, and a workshop with assessment planners would be appreciated once the Schedule has been redrafted. Council has had issues in the past with flood control lots and the Terrestrial Biodiversity Map in particular.

The proposal to amend the provisions for location and access to facilities are welcomed, to ensure that seniors developments are located appropriately in well serviced areas and do not rely on third party or point to point transport.

Application of local development standards - Council continues to lobby for the ability to plan locally and is supportive of any amendments which allow local controls to prevail rather than one-size fits all State policies.

Concern is raised with the proposal to allow development standards in the Seniors SEPP to be varied using Clause 4.6 of the Standard Instrument to a maximum of 20%. Although the use of a Clause 4.6 variation provides a certain degree of flexibility for developments, a 20% difference would not be considered a minor variation to existing development standards. Specifying a maximum 20% variation may lead to proposals designed to the maximum variation rather than attempting to design within development standards.

Further, Clause 4.6 variations have been the subject of numerous Court cases. The Department should review the effectiveness and interpretation of Clause 4.6 before finalising the proposed SEPP.

Site Compatibility Certificates (SCC) - A contributing factor for the expiration of an SCC before a DA is approved is the site-specific planning issues with seniors housing proposals in areas where seniors housing would otherwise be prohibited by local planning controls. The SCC process equates to a rezoning without a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework, Ministerial Directions, and community consultation.

The current process under the Seniors Housing SEPP does not adequately address these considerations as part of the SCC process and results in development applications being assessed on a site where the land use is not otherwise permitted. The Site Compatibility Certificate process should be aligned with the Planning Proposal process to ensure suitability of the land use prior to lodgement of a development application.

7. Proposed amendments to social housing provisions for NSW Land And Housing Corporation (LAHC)

Self-assessment of dwellings by the LAHC - Concern is raised with the proposal to increase the self-assessment cap, as the increase in density and the associated infrastructure implications are unlikely to be given full consideration under this process. The proposal will remove further planning responsibilities from councils and it is unclear how developments would achieve compliance with Council's desired built form outcomes.

Car parking requirements for LAHC development - Concern is raised with proposals for low minimum car parking rates in the absence of locational requirements (such as being within a radius of a train station) which generally results in on-street parking pressure within the vicinity of these developments.

Subdivision of Government-owned land - The EIE does not provide sufficient detail concerning the criteria for proposed subdivision without consent and a blanket approach for all Government-owned would not achieve the desired outcomes within varying land use zones.

Lift access exemption - Concern is raised to this exemption being provided as a cost saving measure at the expense of providing a fundamental accessibility requirement. The absence of a lift in a multi-storey development would reduce amenity, attractiveness and viability of developments for the market at which they are aimed. Residents of a Government owned seniors housing development should not be subject to limited accessibility and amenity, given that the key tenants form part of the ageing population and mobility is, or can become, an issue.

8. Other issues

Design Excellence - Council is currently progressing amendments to the HLEP 2013 to strengthen its Design Excellence provisions. Design excellence is a key priority of the Hornsby Local Strategic Planning Statement. The issues raised with the proposed SEPP include concerns relating to compatibility with local character and

amenity. Although the need for affordable rental housing in Hornsby Shire is acknowledged, the SEPP provisions should not compromise the ability to achieve well designed buildings with sufficient setbacks, landscaping, communal living, open spaces and car parking.

Development Contributions - Concern is raised with regard to the application of development contributions and whether Section 7.11 or 7.12 contributions would be applicable to all new types of developments and regardless of developer or landowner. For councils to provide necessary local infrastructure to support development, it is suggested that there should not be exemptions to the payment of development contributions, particularly due to the scale of some of the new housing typologies.

Once again thank you for the opportunity to comment. Council will forward a copy of the meeting minutes to confirm this submission after its meeting on 9 September 2020.

Should you require any clarification in relation to any of the matters raised, please contact Fintan Langan on 9847 6686 during business hours.

Yours faithfully

A handwritten signature in black ink, appearing to read 'K Vickery', with a stylized, cursive script.

Katherine Vickery
Manager, Strategic Land Use Planning Branch

TRIM Reference: F2004/07599-02

Attachments:

1. Director's Report No. PL19/20
2. Hornsby Shire Council Meeting Minutes – 9 September 2020

13 EXHIBITION OF THE PROPOSED HOUSING DIVERSITY STATE ENVIRONMENTAL PLANNING POLICY

EXECUTIVE SUMMARY

- The Department of Planning, Industry and Environment (DPIE) is proposing to prepare a new Housing Diversity State Environmental Planning Policy (SEPP).
- Three existing housing-related SEPPs are being reviewed to ensure they are fit-for-purpose and reflect current conditions and community expectations for NSW residents.
- The proposed Housing Diversity SEPP would consolidate and update the three existing housing related State policies, introduce new land use terms to assist facilitate housing projects and amend planning provisions to provide greater certainty for all stakeholders.
- Three new definitions are proposed under the new SEPP for build-to-rent housing, purpose-built student housing and co-living housing, with applicable planning provisions.
- This report outlines the key amendments and provisions for the new SEPP which are contained in the exhibited Explanation of Intended Effect, discusses the implications for Hornsby Shire and notes areas of support and matters of concern.
- It is recommended that a submission in response to the proposed Housing Diversity SEPP be submitted to DPIE which outlines the matters raised in Director's Report No. PL19/20.

RECOMMENDATION

THAT a submission regarding the proposed Housing Diversity State Environmental Planning Policy be submitted to the Department of Planning, Industry and Environment outlining the issues raised in Director's Report No. PL19/20 including (but not limited to):

1. Support for the proposal to no longer mandate boarding houses as a permissible use in the R2 - Low Density Residential zone.
2. Raise concern in relation to the proposal to mandate build-to-rent housing in the R3 Medium Density zone and the B3 Commercial Core zone.
3. Raise concern with any proposal to amend State Environmental Planning Policy (Affordable Rental Housing) 2009 that would include rural secondary dwellings and provide a complying development pathway.

PURPOSE

The purpose of this Report is to present an overview of the proposed *Housing Diversity State Environmental Planning Policy* (SEPP), its application for housing diversity within the Hornsby LGA and seek Council's endorsement for a submission to the DPIE in response to the proposed new SEPP.

BACKGROUND

Currently, the NSW Government has three SEPPs to facilitate the delivery of diverse housing types. These include *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*, and *State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)*.

State Environmental Planning Policy (Affordable Rental Housing) 2009 facilitates the increased supply and diversity of affordable rental and social housing in NSW through expanded permissibility, floor space ratio bonuses and reduced car parking rates for various types of affordable rental housing.

State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 aims to increase the supply and diversity of residences that meet the needs of seniors or people with a disability. The Seniors SEPP facilitates new seniors housing development by setting permissibility at the State level and providing less stringent planning requirements than would otherwise apply to other forms of housing. For more than a decade, Hornsby Council has raised concerns that the Seniors SEPP overrides Council's local planning controls.

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) allows all NSW local government areas to implement an affordable housing contribution scheme for a particular area.

These SEPPs have been in place for some time and the NSW Government has identified that, with a growing and ageing population coinciding with the impacts of the COVID-19 pandemic, the housing needs and preferences of the community have changed and will continue to change in the future.

The proposed Housing Diversity SEPP would consolidate and update the existing housing related State policies and its aim is to deliver a planning framework under a single instrument that will assist NSWs economic recovery following COVID-19, provide an adaptive format capable of meeting future requirements and facilitates the delivery of housing targets for the State's changing and growing population.

DISCUSSION

DPIE has publicly exhibited an Explanation of Intended Effect (EIE) for the proposed Housing Diversity SEPP, which aims to introduce new land use terms to assist facilitate housing projects and amend certain planning provisions to provide greater certainty for all stakeholders. This report presents an outline of the key components of the proposal as outlined in the EIE (copy attached) for a new Housing Diversity SEPP and the implications for Hornsby Shire.

1. Consolidation of existing housing related SEPPs

The new SEPP would consolidate the *Affordable Rental Housing SEPP*, the *Seniors SEPP* and *SEPP 70* to streamline the planning system by reducing the number of State policies.

Comment

Although it is difficult to determine potential implications arising from the new SEPP based solely on the EIE, the concept of reducing the number of State policies is supported. Streamlining three separate existing housing related SEPPs may provide greater clarity and understanding.

However, for more than a decade, Hornsby Council has raised concerns about State policies which override local planning controls, in particular the Seniors SEPP. Council already has concerns with the

growth in housing needs and related infrastructure requirements and has been requested to prepare a Local Strategic Planning Statements and Housing Strategy to manage future growth and change. State policies which introduce further residential dwelling typologies and development pathways may exacerbate the perception of overdevelopment and reduce the benefits of local planning.

Recommendation

It is recommended that Council's submission outline support for the proposal to consolidate and streamline the planning system by reducing the number of State policies. Notwithstanding, the submission should also note that Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies.

2. Introduction of New Housing Types

The EIE outlines three definitions for new housing types in the Standard Instrument LEP, including build-to-rent housing, purpose-built student housing and co-living developments.

DPIE indicates that these are being introduced to support new investment and address concerns with boarding houses including the lack of affordability of boarding house rooms. The boarding house definition would be amended to include a requirement that boarding house rooms are affordable (see below under 3.1 Boarding Houses). This would exclude purpose-built student housing and co-living developments as they are not truly "affordable" or managed by a community housing provider.

The EIE includes proposed definitions and planning provisions, permissibility requirements and development standards for the new housing types as follows:

2.1 Build-to-rent (BTR) housing

Build-to-rent housing is purpose-built high-density rental housing, situated close to transport and amenity, held in single ownership and professionally managed. It is designed to attract institutional investment with long-term leases. The building would not be able to be strata subdivided for the first 15 years (subdivision would be prohibited in the B3 – Commercial Core zone in perpetuity).

The EIE states that the NSW Government is seeking to provide more certainty for this type of development and encourage build-to-rent housing. It is suggested that this development type responds to the need for more rental housing during the recovery from COVID-19 and would generate more construction jobs.

The proposed definition for 'build-to-rent housing' is *"a building or place that contains at least 50 self-contained dwellings that are offered for long term private rent, is held within a single ownership, is operated by a single management entity, and includes on-site management."*

BTR housing is proposed to be mandated in the R3 – Medium Density Residential zone (where residential flat buildings are permitted), R4 – High Density Residential, B3 – Commercial Core and B4 – Mixed Use zones. Councils can decide the permissibility within other land use zones.

The development controls for BTR housing developments would include the following:

- Height and floor space ratio controls determined within Council's LEP.
- A minimum 0.5 car parking space per dwelling (or lower maximum parking rate if a Council's development control plan specifies).
- A minimum lease term, with no availability for short-term rental accommodation.

The EIE seeks feedback on appropriate provisions for BTR housing in regional areas, which may be of a smaller scale and could take the form of multi-dwelling housing or terraces rather than apartments.

Comment

Concern is raised with the proposal to mandate BTR housing as a permissible use in the R3 – Medium Density Residential zone. The EIE describes BTR as high density and the definition cites a minimum of 50 dwellings, which would not be compatible with an R3 Medium Density area. It is also unclear how Council would uphold its development standards for height and building envelope in any assessment of a permissible use which includes in its definition a minimum of 50 dwellings.

Concern is also raised with the proposal to mandate BTR housing as a permissible use in the B3 – Commercial Core zone. Introducing stand-alone residential accommodation as a permitted use could displace employment floorspace and make it difficult for councils to meet jobs targets set out in District Plans. Many councils, including Hornsby, have experienced similar issues with ‘serviced apartment’ style developments. The proposal to permit this type of development in the B3 zone does not adequately consider longer term implications on housing and employment markets, nor does it align with the preliminary recommendations of Council’s draft Employment Land Study, one of which is to achieve no net loss of commercial floorspace.

The EIE outlines that a consent authority would generally assess a BTR housing application against the design quality principles in the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). Concern is raised regarding the application of these design principles for this new form of development in the context of the local character and the planning controls in the Hornsby Development Control Plan.

BTR housing in accordance with the definition proposed and mandated in the R3 and R4 zones would impact on the character and landscape setting of Hornsby Shire. There are differences not only between Metropolitan Sydney and regional areas which the EIE acknowledges, but also within Metropolitan Sydney itself. Introduction of BTR housing as a one size fits all approach to inner, middle and outer ring suburbs does not respect their different characteristics.

Concern is also raised with the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the size of the dwelling or the scale and adequacy of public transport in close proximity. This may result in on-street parking pressure within the vicinity of these developments.

The transition of BTR to a strata-subdivided apartment development after 15 years would undermine the intention and definition of this new type of residential accommodation. Subdivision of BTR housing should be prohibited in any zone in perpetuity.

Recommendation

It is recommended that Council’s submission object to the mandating of BTR housing in any land use zone, especially in outer-ring areas. The submission should also raise concerns regarding the integration and compatibility of the BTR definition with Council’s development standards and its strategies for employment land. A clear understanding of locational requirements and what is a well-located and accessible area should be requested to avoid impacts from increased on-street parking generation. Council’s submission should also seek prohibition of subdivision of BTR housing at any time in any zone.

2.2 Purpose-built student housing

Under the current planning framework, student housing does not have a separate definition and is developed under the boarding house provisions of the *Affordable Rental Housing SEPP*.

The EIE proposes to introduce a new definition for ‘student housing’ which would refer to “*a building that provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods and may incorporate some fully self-contained dwellings.*”

Student housing is not proposed to be mandated in any zones, as universities across the State have widely varying land use contexts. Therefore, councils would decide the permissibility for this use. The development standards for student housing developments would include the following:

- Height and floor space ratio controls determined within Council's LEP to maintain local character.
- No minimum car parking space requirement due to the expectation of close proximity to educational establishments.
- Non-discretionary minimum bicycle and motorcycle parking requirements.
- A minimum 10m² room size, with the option to reduce room sizes while also achieving adequate internal amenity through shared facilities.
- Requirements for indoor and outdoor communal areas depending on size and proximity to relevant education establishments.

The EIE states that DPIE may develop guidelines and would monitor the outcomes from the introduction of this new use to ensure the resulting developments are meeting the needs of residents and that local impacts are acceptable.

Comment

The proposal to allow councils to decide the permissibility for this use is supported. The SEPP should go further to apply locational criteria, such as within a set radius to a university campus or a railway station close to, or servicing, the campus.

The EIE states that no minimum car parking would be required for a student housing development. Although this would effectively serve non-vehicle owning international students, it fails to accommodate students that may be vehicle owners which may ultimately lead to on-street parking pressure within the vicinity of these developments.

The EIE does not outline design guidelines for purpose-built student housing. However, it is indicated that specific design guidelines are to be developed to address built form, amenity, storage, solar access, ventilation and privacy.

Recommendation

It is recommended that Council's submission outline support for allowing councils to decide the permissibility for student housing, suggest the inclusion of a locational requirement for LGAs that contain universities, tertiary education facilities or large railway stations close to campuses and the inclusion of minimum car parking rates to cater for students who may own vehicles.

2.3 Co-living Developments

As with student housing, co-living developments do not currently have a separate definition and are developed under the boarding house provisions of the *Affordable Rental Housing SEPP*, defined as 'new-generation boarding houses'.

The EIE proposes to introduce a new definition for co-living developments which would refer to "*a building held in single ownership that provides tenants with a principal place of residence for 3 months or more, includes on-site management and a communal living room, 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.*"

Co-living developments are proposed to be mandated in the R3 – Medium Density Residential zone (where residential flat buildings are permitted), R4 – High Density Residential and B4 – Mixed Use zones. Councils can decide the permissibility within other land use zones.

The development standards for co-living developments would include the following:

- Height and floor space ratio controls determined within Council's LEP to maintain local character.
- A non-discretionary minimum 0.5 car parking space requirement to allow councils to consider less parking when appropriate.
- A minimum 30-35m² room size to sit between boarding house and studio apartment room sizes.
- A minimum 20m² communal living space, plus 2m² per each room over 10 rooms.
- 4m² per room private open space.
- 25% of the site area for communal open space, or less if all dwellings exceed minimum private open space requirements.

The EIE states that DPIE may develop guidelines and would monitor the outcomes from the introduction of this new use to ensure the resulting developments are meeting the needs of residents and that local impacts are acceptable.

Comment

Mandating Co-living developments in the R3 and R4 zone is consistent with the current mandated permissibility of boarding houses. However, integration with the development controls in Council's LEP is not clearly demonstrated and concern is raised with how local character would be maintained. Concern is raised with amenity impacts associated with small room sizes and the resultant potential density in excess of infrastructure provision.

Concerns are raised with permitting co-living developments in business zones due to potential impacts on the commercial function of the zones and displacement of employment opportunities.

The EIE states one of the reasons for the introduction of the definition of Co-living developments is to allow this type housing with self-contained rooms with private bathroom and kitchenette facilities to occur without an affordability requirement to cater for demand and the growth in single person households. However, single person households may be vehicle owners and concern is raised with the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the location of the development (i.e. within close proximity to a railway station).

Recommendation

It is recommended that Council's submission raise concerns with amenity impacts, low car parking rates which do not appear to be dependent on the location of the development (in proximity to transport) and request clarification on how local character would be maintained with the introduction of Co-living developments in the R3 and R4 zone.

3. Proposed amendments to the Affordable Rental Housing SEPP

Since the introduction of the Affordable Rental Housing SEPP, councils and communities have raised concerns about the boarding house provisions. Key concerns include the lack of affordability of boarding house rooms, the excessive scale and bulk of some boarding house developments and the compatibility of boarding house development with low-density residential areas. The proposed Housing Diversity SEPP seeks to address those concerns through a number of changes as follows:

3.1 Boarding houses

Permissibility

The EIE proposes that boarding houses would no longer be mandated in R2 - Low Density Residential zones, in response to concerns regarding compatibility of such development with low-density residential areas.

However, provisions would be included in the Housing Diversity SEPP to ensure that the NSW Land and Housing Corporation (LAHC) would be able to continue to develop boarding houses (limited to 12 rooms) on government-owned land in the R2 zone, regardless of permissibility within an LEP.

Definition

The EIE proposes that the definition of boarding house would be amended to require the building to be managed by a registered not-for-profit community housing provider (CHP) to ensure that they are affordable. DPIE is seeking feedback on whether to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, or in perpetuity.

Comment

The proposal to no longer mandate boarding houses as a permissible use in the R2 Low Density zone is welcomed and supported. Boarding houses are often incompatible with other development in the R2 Low Density Residential zone due to their bulk, scale and nature of use. However, the proposed provisions that would allow NSW LAHC to continue to develop boarding houses on government-owned land in the R2 zone would lead to the same planning issues and conflicts due to bulk, scale and nature of use.

The introduction of an affordability requirement and management by a community housing provider is supported. Given the purpose of boarding houses, the objectives of the Affordable Rental Housing SEPP and the need for affordable rental housing stock in Hornsby Shire, the affordability requirement should be in perpetuity.

Recommendation

It is recommended that Council's submission outline support for no longer mandating boarding houses as a permissible use in the R2 – Low Density Residential zone and suggest that the prohibition equally apply to the NSW LAHC. The submission should advocate that boarding houses be rented at affordable rates in perpetuity. Allowing boarding houses to revert back to market rates would undermine the intention of amending the definition to include affordability.

3.2 Secondary dwellings in rural zones

Currently, the Affordable Rental Housing SEPP permits secondary dwellings in urban areas. Secondary dwellings in rural zones are permitted under the HLEP 2013. The size of secondary dwellings is set under Clause 5.4(9) of the Standard Instrument as either 60m² or a percentage set by Council, whichever is the greater (Hornsby Council sets 33% as the percentage for rural areas).

In response to concerns from councils that the Standard Instrument clause does not have the flexibility to prescribe a different square metre size for urban and rural areas, the EIE proposes to amend the Affordable Rental Housing SEPP to allow councils the discretion to set a maximum size for secondary dwellings in rural areas.

Comment

The intent of the proposed SEPP to allow councils to set a maximum size for secondary dwellings in rural areas is welcomed and supported. However, it is unclear from the EIE how an amendment to the Affordable Rental Housing SEPP would give Council this discretion.

Concern would be raised if it were proposed that the Affordable Rental Housing SEPP be amended to apply to rural zones. Council supports a local place-based approach to planning and would not want rural secondary dwellings to be encompassed under a State policy rather than under Council's LEP and DCP controls. Objection should be raised to any amendment which also included a complying development pathway for rural secondary dwellings.

Approval of a secondary dwellings in rural areas as complying development is not appropriate and is better suited to the development application process. The DA process allows detailed consideration of servicing (waste water disposal areas for unsewered areas for instance), vehicular access (appropriate level of driveway construction), environmental impacts / constraints, as well as notification to adjoining properties.

An amendment to Clause 5.4(9) of the Standard Instrument would be a preferred approach to apply to secondary dwellings in both urban and rural areas with the discretion to set a square metre maximum instead of a percentage separately for urban and rural areas. This is consistent with the approach recommended in the Rural Land Study.

Recommendation

It is recommended that Council's submission raise concerns with any proposal to amend the Affordable Rental Housing SEPP to include rural secondary dwellings and provide a complying development pathway. Instead, an amendment to Standard Instrument Clause 5.4(9) should be supported to retain the ability to plan locally, with discretion to set a maximum size in square metres for the rural areas.

3.3 Group Homes

Currently, there is a complying development pathway for group homes. However, the EIE indicates there is uncertainty as to whether there is a complying development pathway for converting an existing dwelling into a group home. The new SEPP proposes to introduce a quicker and easier process to allow an existing dwelling to be used as a group home (presumably the exempt and complying development process).

Comment

Further clarity is required around the "quicker and easier process". There may be additional locational or site constraints that need to be considered to determine whether an existing dwelling is fit for purpose for a group home or potential impacts of traffic and amenity. There is no indication of the appropriate assessment pathway, for example, where an existing heritage listed dwelling is proposed to be converted to a group home.

Recommendation

It is recommended that Council's submission raise concerns and request further clarity on the "quicker and easier process" for conversion of an existing dwelling to a group home. The conversion of heritage items should be excluded from any exempt or complying development pathway due to the requirement for adequate assessment of such a conversion and potential impacts on the heritage significance.

4. Proposed amendments to Seniors Housing SEPP provisions

Some of the recommendations of the Greater Sydney Commission (GSC) investigation into the challenges relating to seniors housing developments in rural areas are proposed to be incorporated into the Housing Diversity SEPP as follows:

4.1 Update definitions, provisions and Schedule 1

The definitions in the Seniors SEPP have not been updated in line with the Standard Instrument LEP, leading to inconsistency in interpretation and application. It is proposed that the definition of 'height', 'people with a disability' and 'AS 2890' are to be amended in line with the Standard Instrument LEP.

The Seniors SEPP does not apply to land identified in Schedule 1 – Environmentally Sensitive Land. Over time, since the introduction of the SEPP in 2004, some of the terms in Schedule 1 have become obsolete and others contested in Court. It is proposed to amend Schedule 1 to better align with current legislation and planning conditions.

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

Comment

The proposal to update definitions within the SEPP and the terminology in Schedule 1 are supported for clarity and consistency. The interpretation of land classified as 'environmentally sensitive land' has been a contentious area of the Seniors SEPP for a number of years and the subject of several development application and Land Environment Court (LEC) appeals and substantial cost to Council.

The Schedule should be reviewed with input from Council staff. A workshop with assessment planners would be appreciated once the Schedule has been redrafted. Council has had issues in the past with flood control lots and the Terrestrial Biodiversity Map in particular.

The proposal to amend the provisions for location and access to facilities are welcomed, to ensure that seniors developments are located appropriately in well serviced areas and do not rely on third party or point to point transport.

Recommendation

It is recommended that Council's submission outline support for the proposal to update definitions, Schedule 1 terminology and location and access provisions. Further, a workshop with assessment planners should be requested once Schedule 1 has been redrafted.

4.2 Application of local development standards

Currently, the Seniors SEPP allows development for the purpose of seniors housing to be carried out 'despite the provisions of any other environmental planning instrument'.

To provide clarity, it is proposed to amend the SEPP provisions so that development standards in an LEP prevail when there any inconsistencies with the Seniors SEPP. Also, under this amendment, development standards in the Seniors SEPP could be varied using clause 4.6 of the Standard Instrument LEP, to a maximum of 20%.

Comment

As discussed above (under 1. Consolidation of existing housing related SEPPs) Council continues to lobby for the ability to plan locally and is supportive of any amendments which allow local controls to prevail rather than one-size fits all State policies.

Concern is raised with the proposal to allow development standards in the Seniors SEPP to be varied using Clause 4.6 of the Standard Instrument to a maximum of 20%. Although the use of a Clause 4.6 variation provides a certain degree of flexibility for developments, a 20% difference would not be considered a minor variation to existing development standards. Specifying a maximum 20% variation may lead to proposals designed to the maximum variation rather than attempting to design within development standards.

Further, Clause 4.6 variations have been the subject of numerous Court cases. The Department should review the effectiveness and interpretation of Clause 4.6 before finalising the proposed SEPP.

Recommendation

It is recommended that Council's submission outline support for any amendments which allow local controls to prevail rather than one-size fits all State policies and request clarification on the detail of how this would be achieved. The submission should object to the proposal to allow a maximum variation of 20% and request an immediate review into the effectiveness and interpretation of the application of Clause 4.6 variations.

Site Compatibility Certificates

The new SEPP proposes to extend how long a Site Compatibility Certificate (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. It is suggested that this timeframe is required to allow the preparation and assessment of seniors housing proposals, and prevent the SCC lapsing before the DA has been determined.

Comment

A contributing factor for the expiration of an SCC before a DA is approved is the site-specific planning issues with seniors housing proposals in areas where seniors housing would otherwise be prohibited by local planning controls. The SCC process equates to a rezoning without a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework, Ministerial Directions, and community consultation.

The current process under the Seniors Housing SEPP does not adequately address these considerations as part of the SCC process and results in development applications being assessed on a site where the land use is not otherwise permitted. This can result in unsuitable development outcomes, especially in Council's rural areas. Although the Seniors SEPP has recently been amended to exclude SCCs in the Metropolitan Rural Area, they can still be applied for under other circumstances in urban areas.

Recommendation

It is recommended that Council's submission raise concerns with the SCC process and request it be aligned with the Planning Proposal process to ensure the suitability of the land use prior to lodgement of a DA.

5. Proposed amendments to social housing provisions for NSW Land and Housing Corporation (LAHC)

The EIE proposes to implement changes to planning provisions within the *Affordable Rental Housing SEPP* and the *Seniors SEPP* to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC). These provisions would align with wider Government priorities set out in Future Directions for Social Housing in NSW (Future Directions) and the draft Discussion Paper on the NSW Housing Strategy and include the following:

5.1 Self-assessment of dwellings by the LAHC

The existing *Affordable Rental Housing SEPP* provisions allow the LAHC to self-assess and deliver small scale redevelopments with up to 20 dwellings and a maximum height of 8.5 m (two storeys). However, the EIE proposes to increase the maximum number of self-assessable dwellings to 60, including all residential development permitted with consent under another environmental planning instrument, or under a local environment plan and facilitated under the Exempt and Complying Development Codes SEPP, with a maximum height of 8.5 m.

The EIE also proposes to update the required design guidelines, including the Seniors Living Policy: Urban Design Guidelines for Infill Development, as well as the LAHC's own design guidelines and standards, to better reflect the increased threshold for self-assessable dwellings.

Comment

Concern is raised with the proposal to increase the self-assessment cap, as the increase in density and the associated infrastructure implications are unlikely to be given full consideration under this process. The proposal will remove further planning responsibilities from councils and it is unclear how developments would achieve compliance with Council's desired built form outcomes.

Recommendation

It is recommended that Council's submission request consideration of the cumulative impacts of increased density and associated infrastructure implications that may result from the increased self-assessment threshold. Further, the submission should advocate for all LAHC self-assessments to adhere to council's Development Control Plans to maintain local character.

5.2 Car parking requirements for LAHC development

The EIE proposes to apply a minimum car parking rate of 0.5 spaces per dwelling for a development undertaken by or on behalf of LAHC, on government-owned land, and 0.2 spaces per room for boarding houses by social housing providers. These reduced parking rates would also apply to the private dwelling component of a seniors housing development under the Seniors SEPP on government-owned land.

Comment

As previously discussed, concern is raised with proposals for low minimum car parking rates in the absence of locational requirements (such as being within a radius of a train station) which generally results in on-street parking pressure within the vicinity of these developments.

Recommendation

It is recommended that Council's submission raise concerns with the likely increased on-street parking pressures generated by low car parking rates in areas not in close proximity to transport nodes.

5.3 Subdivision of Government-owned land

The EIE proposes to support the delivery of the Government's social housing program by allowing subdivision of Government-owned land without consent.

Comment

The EIE does not provide sufficient detail concerning the criteria for proposed subdivision without consent and a blanket approach for all Government-owned land would not achieve the desired outcomes within varying land use zones.

Recommendation

It is recommended that Council's submission object to a blanket approach to Development without consent on Government-owned land and request further details concerning the proposed criteria for this type of development on Government-owned land.

5.4 Lift access exemption

The Seniors SEPP currently includes an exemption for development applications made by, or jointly with, a social housing provider requiring new self-contained dwellings for seniors housing located on or above the second floor to have lift access. The EIE proposes to amend the lift access exemption so it applies to all seniors housing delivered by or on behalf of LAHC, including dwellings not proposed as social housing.

Comment

Concern is raised to this exemption being provided as a cost saving measure at the expense of providing a fundamental accessibility requirement. The absence of a lift in a multi-storey development would reduce amenity, attractiveness and viability of developments for the market at which they are aimed.

The EIE also fails to clearly explain the reasons for this exemption applying to LAHC developments. Residents of a Government owned seniors housing development should not be subject to limited

accessibility and amenity, given that the key tenants form part of the ageing population and mobility is, or can become, an issue.

Recommendation

It is recommended that Council's submission advocate for the retention of the existing lift access requirements for all types of multi-storey seniors housing developments, regardless of the developer or land owner.

6. Other issues

General concerns relating to various aspects of the proposed SEPP are discussed below and include design excellence and the application of development contributions for the provision of infrastructure to support development.

6.1 Design Excellence

Council is currently progressing amendments to the HLEP to strengthen its Design Excellence provisions. Design excellence is a key priority of the Hornsby Local Strategic Planning Statement. The issues raised with the proposed SEPP include concerns relating to compatibility with local character and amenity. Although the need for affordable rental housing in Hornsby Shire is acknowledged, the SEPP provisions should not compromise the ability to achieve well designed buildings with sufficient setbacks, landscaping, communal living, open spaces and car parking.

Recommendation

It is recommended that Council's submission request that further refinements to development standards for the new housing typologies and specific design guidelines be drafted in consultation with councils to ensure design excellence is achieved.

6.2 Development Contributions

As discussed above (under 1. Consolidation of existing housing-related SEPPs) Council already has concerns with the growth in housing needs and related infrastructure requirements. The proposed SEPP would introduce further residential dwelling typologies and development pathways. However, there is no clarity on the application of development contributions and whether Section 7.11 or 7.12 contributions would be applicable to all types of developments and regardless of developer or landowner. For councils to provide necessary local infrastructure to support development, it is suggested that there should not be exemptions to the payment of development contributions, particularly due to the scale of some of the new housing typologies.

Recommendation

It is recommended that Council's submission request confirmation that the proposed SEPP would not permit exemptions to the payment of development contributions for development permitted under the SEPP which would generate infrastructure needs.

CONSULTATION

The Explanation of Intended Effect for the Housing Diversity SEPP is on exhibition until 9 September 2020. DPIE has been provided with an advance copy of Council's draft submission, subject to potential changes and/or endorsement by Council.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

The EIE was prepared to set out the Department of Planning, Industry and Environment's proposal to prepare a new Housing Diversity SEPP to consolidate and update state level planning provisions for diverse and affordable housing types. DPIE advise that the proposed changes set out in the Explanation of Intended Effect will ensure that the residential development sector is well-placed to assist the economic recovery of NSW following the COVID-19 pandemic.

CONCLUSION

The EIE for the proposed Housing Diversity SEPP attached to this report outlines a proposal to consolidate and update the NSW Government's housing related policies, introduce new land use terms to help facilitate housing projects, and amend certain planning provisions to provide greater certainty for all stakeholders.

This report outlines the key changes and proposals outlined in the EIE and the implications for Hornsby Shire and notes areas of support and concern. The proposal to no longer mandate boarding houses as a permissible use in the R2 – Low Density Residential zone as part of the new SEPP is welcomed. However, there are areas of concern with the new SEPP as outlined above, including the proposal to mandate build-to-rent housing in the R3 Medium Density zone and B3 Commercial core and any proposal to amend the Affordable Rental Housing SEPP that would include rural secondary dwellings and provide a complying development pathway.

It is recommended that a submission in response to the proposed Housing Diversity SEPP be submitted to DPIE which outlines the matters raised in this report.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Strategic Landuse Planning – Katherine Vickery - who can be contacted on 9847 6744.

KATHERINE VICKERY
Manager - Strategic Landuse Planning
Planning and Compliance Division

JAMES FARRINGTON
Director - Planning and Compliance
Planning and Compliance Division

Attachments:

1. Explanation of Intended Effect - Housing Diversity SEPP

File Reference: F2004/07599-02

Document Number: D07978652

13 PL19/20 Exhibition of the Proposed Housing Diversity State Environmental Planning Policy

(F2004/07599-02)

RESOLVED ON THE MOTION OF COUNCILLOR MARR, seconded by COUNCILLOR BROWNE,
THAT:

1. A submission regarding the proposed Housing Diversity State Environmental Planning Policy be submitted to the Department of Planning, Industry and Environment outlining the issues raised in Director's Report No. PL19/20 including (but not limited to):
 - a) Support for the proposal to no longer mandate boarding houses as a permissible use in the R2 - Low Density Residential zone.
 - b) Raise concern in relation to the proposal to mandate build-to-rent housing in the R3 Medium Density zone and the B3 Commercial Core zone.
 - c) Raise concern with any proposal to amend State Environmental Planning Policy (Affordable Rental Housing) 2009 that would include rural secondary dwellings and provide a complying development pathway.
2. Following the release of a draft State Policy or making of a Policy by the State Government concerning Housing Diversity, a Councillor Workshop be held to discuss the implications of the Policy for Hornsby Shire and possible changes to Council's planning controls in response.
3. The Workshop consider any related findings following the exhibition of the Hornsby Shire Housing Strategy, Affordable Housing Discussion Paper and Seniors Housing Demand and Supply Review.

FOR: COUNCILLORS BROWNE, DEL GALLEGOS, HEYDE, HUTCHENCE, MARR, MCINTOSH,
NICITA, RUDDOCK, TILBURY AND WADDELL

AGAINST: NIL

From: Fintan Langan <FLangan@hornsby.nsw.gov.au>
Sent: Tuesday, 14 September 2021 1:39 PM
To: [REDACTED]
Cc: DPE PS Housing Policy Mailbox; Wayne Williamson; Katherine Vickery
Subject: FW: Clarification on Housing SEPP

Follow Up Flag: Follow up
Flag Status: Flagged

Hi [REDACTED],

Thanks for your response below in regards to the draft Housing SEPP.

I have tried to call the Housing Policy team

Further to Council's previous queries, concern is raised with regards to the intention of Clause 76(1)(d) in the draft Housing SEPP. It is understood that this clause will only allow seniors housing developments for the purposes of a 'residential care facility' in the R2 zone, however no reasoning has been provided in the exhibition material or prior as to why this particular seniors housing land use type is most suitable for low density residential areas. Due to the level care needed for resident and the requirement to provide services on site, this form of seniors housing land use type is more commercial in nature and incompatible with low density residential areas. In addition, the previous request by Council to exempt the HCA moratorium for the specific sites in Beecroft and Pennant Hills (which has been included in the draft Housing SEPP) are both located in the R2 zones and will now be limited to residential care facility developments only by Clause 76, which does not align with the intention of Council endorsing these exemptions.

I called the Housing Policy team phone number earlier today and left a message, but it is requested that a call back is provided to Council on 9847 6686 to discuss the above concerns as a matter of urgency.

Thanks again,
Fintan



Fintan Langan
Strategic Planner | Strategic Land Use Planning | Hornsby Shire Council
p 02 9847 6686 | e flangan@hornsby.nsw.gov.au | w hornsby.nsw.gov.au



Council recognises the Traditional Owners of the lands of Hornsby Shire, the Darug and GuriNgai peoples, and pays respect to their Ancestors and Elders past and present. We acknowledge and uphold their intrinsic connections and continuing relationships to Country.

From: [REDACTED] **On Behalf Of** DPE PS Housing Policy Mailbox
Sent: Monday, 30 August 2021 8:28 AM
To: Fintan Langan <FLangan@hornsby.nsw.gov.au>
Subject: HPE CM: FW: Clarification on Housing SEPP

[EXTERNAL EMAIL] Do not click any links or attachments unless you know the sender and trust the content is safe. If you are unsure, please check with the HelpDesk.

Hi Fintan

I believe you have already spoken to someone in the team and got confirmation about an extension of time but just making sure we have answered your questions.

Boarding house will be omitted from the R2 zone in the SILEP, councils will not need to do a separate planning proposal. As part of the consultation draft package, we are exhibiting a draft [Standard Instrument Amendment Order](#) which includes this change to the permissibility of boarding houses.

We emailed all councils in April this year asking if they would like to continue permitting boarding houses in the R2 zone once the Housing SEPP is made. The LEPs of interested councils will be amended to re-insert *boarding house* into the land use table for their R2 zone. The details are set out at Schedule 8 of the [consultation draft](#). Where a council chooses to permit boarding house in the R2 zone, the accessible area requirements apply.

A new self-assessment pathway is being created for LAHC to carry out boarding house development. It is proposed that LAHC will be able to self-assess boarding house proposals wherever boarding house is permitted with consent, as well as in the R2 zone. Where developing in the R2 zone, LAHC will also be subject to the accessible area requirements.

In response to your second question, the FSR bonus for boarding houses will only apply where there is an existing FSR standard that applies to the site.

As with boarding houses, co-living will not be permitted in the R2 zone unless a council chooses to permit it in that zone. Where a council permits co-living in their R2 zone, the proposed co-living provisions applicable to that zone will apply.

There is no proposed complying development pathway for co-living housing or boarding houses.

Hope this is helpful, let us know if you have any other questions and we look forward to receiving your submission.

Housing Policy

Local Government and Economic Policy | Department of Planning, Industry and Environment

T 1300 305 695 | E housingpolicy@planning.nsw.gov.au

Locked Bag 5022 | PARRAMATTA NSW 2124

www.dpie.nsw.gov.au



Our Vision: Together, we create thriving environments, communities and economies.

The Department of Planning, Industry and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Disclaimer: The information in this message is intended to be general information only and does not constitute professional advice and should not be relied upon as such. Recipients should seek independent professional advice and refer to the relevant legislation before taking action or relying on any such matter contained in this message.

From: Fintan Langan <FLangan@hornsby.nsw.gov.au>

Sent: Thursday, 26 August 2021 9:53 AM

To: DPE PS Housing Policy Mailbox <housingpolicy@planning.nsw.gov.au>; luke.walton@dpie.nsw.gov.au

Cc: Debra Clydsdale <DClydsdale@hornsby.nsw.gov.au>; Wayne Williamson
<wayne.williamson@dpie.nsw.gov.au>

Subject: Clarification on Housing SEPP

Hi Luke and the team,

Thank you for running the Housing SEPP Information session yesterday. It was very helpful to get a better understanding of the proposed changes in the Housing SEPP consultation draft.

Further to the session yesterday, we just have some additional questions.

1. Boarding House in R2 zones (Clause 22 & Division 2/3)

In last year's submission on the EIE, Hornsby Council noted support for no longer mandating of boarding houses in the R2 zone. It was noted in the Housing SEPP info session yesterday that if Councils wished to opt to continue to permit boarding house developments in the R2 zone, they could do so and according to your team, several Councils have indicated that they would be. However, the wording in the consultation draft doesn't seem to clearly indicate this as the case and boarding houses may still be able to be delivered in R2 zones if they are able to meet 'accessibility criteria'. In this regard, following the implementation of the Housing SEPP and associated amendments to the Standard Instrument, can you please confirm the following:

- That boarding houses will not be permitted in the R2 zone in the Hornsby LEP 2013?
- That if boarding houses are prohibited in R2 zones under the Hornsby LEP, can you confirm that boarding houses will not be able to be developed under the 'accessible areas' criteria in the R2 zone? That if boarding houses are prohibited in R2 zones under the Hornsby LEP, can you confirm that boarding houses will not be able to be developed under the 'self-assessment accessible areas' criteria in the R2 zone for LAHC developments?

2. Boarding houses – FSR bonus (Clause 23)

It is noted that Hornsby Council does not currently have FSR controls within residential zones (only floor area controls in DCP). With regards to the proposed FSR bonus for boarding houses:

- How will the FSR bonus be applied in LGAs with no FSR controls?

3. Co-living (Clause 63)

Due to the wording in Clause 63 being open to interpretation can you please confirm the following:

- Is co-living developments only permitted in zones where Council permits RFB and shop-top housing, or does the SEPP also permit co-living in R2 zoned land? If it does not apply in R2 zoned land, why does some clauses refer to design requirements for R2 zoned land (e.g. Part 3, clause 64(2)(h)).

4. Complying development

As a general question related to both co-living and boarding houses:

- Can you confirm that there is no complying development pathway for co-living and boarding houses?

We would appreciate a response as soon as you are able so that Hornsby Council can finalise our submission regarding the Housing SEPP.

Please don't hesitate to call on 9847 6686 if you have any questions regarding the above queries.

Warm regards,



Fintan Langan

Strategic Planner | Strategic Land Use Planning | Hornsby Shire Council

p 02 9847 6686 | e flangan@hornsby.nsw.gov.au | w hornsby.nsw.gov.au



Council recognises the Traditional Owners of the lands of Hornsby Shire, the Darug and GuriNgai peoples, and pays respect to their Ancestors and I.
We acknowledge and uphold their intrinsic connections and continuing relationships to Country.



16 September 2021

Director - Housing Policy
NSW Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2000

Submitted via email: housingpolicy@planning.nsw.gov.au

Dear Sir/Madam

Addendum to Hornsby Shire Council's submission on the Housing SEPP Consultation Draft

The purpose of this letter is to provide additional comments and feedback to be considered in conjunction with Council's previous submission which was sent on 31 August 2021.

Please note that the comments contained in this letter are officer-level comments only as the matter has not been reported to the elected Council for a formal resolution.

Additional Comment - Seniors Housing in R2 zones (Development Standards)

As noted in Council's 31 August 2021 submission on the draft Housing SEPP, the amendment under Clause 67 to outline prescribed zones for seniors housing developments is supported in principle.

However, this addendum submission raises a query with the intention of Clause 76(1)(d) of the draft SEPP. Clause 76(1)(d) states that seniors housing can only be carried out on land zoned R2 Low Density Residential for the purposes of a 'residential care facility'. It is unclear why this restriction has been imposed and the exhibition material does not provide context or reasoning for the decision to only allow this seniors housing land-use type in low density residential areas.

As you are aware, Council has identified two sites, namely No. 46-50 Hannah Street, Beecroft and No. 17 Killaloe Avenue, Pennant Hills (identified in Clause 69 of the draft SEPP), where an exemption from the Heritage Conservation Area moratorium is appropriate. The sites are both zoned R2 Low Density Residential and the owners of both sites are not-for-profit housing providers whose concept proposals were well progressed prior to the temporary moratorium. It was not Council's intention to restrict the type of seniors housing on these exempted sites to aged care facilities only. However, the introduction of Clause 76(1)(d) of the draft SEPP does this.

Concerns with inappropriate seniors housing developments in low density residential areas are acknowledged and are shared by Council. The concerns stem from the scale and intensity of the developments, not necessarily the type of seniors housing. Residential care facilities may also be inappropriate and incompatible in a low-density environment if the bulk and scale is excessive and commercial in nature.

It is suggested that the development standard in the SEPP for R2 zoned land be based on scale and design rather than the type of seniors housing.

Further, page 4 of Council's 31 August 2021 submission raises concern with the development standards for building heights outlined in Clause 74 and Clause 96 of the draft SEPP prescribing a maximum building height of 9m for independent living units and 9.5m for residential care facilities

(excluding servicing equipment). The proposed height controls are in excess of the 8.5m prescribed maximum building height in the R2 zone under the Hornsby LEP 2013 and would result in buildings out of character in bulk and scale of a low-density residential setting. It is recommended that the height development standards under an LEP apply for all forms of seniors housing developments.

Thank you again for the opportunity to comment on the Housing SEPP consultation draft. Please read this addendum in conjunction with our submission dated 31 August 2021 (copy attached).

Should you require any clarification in relation to any of the matters raised, please contact Fintan Langan on 9847 6686 during business hours.

Yours faithfully

A handwritten signature in black ink, appearing to read 'K Vickery', written in a cursive style.

Katherine Vickery
Manager, Strategic Land Use Planning Branch

TRIM Reference: F2004/07599-02

Attachments:

1. Submission on Housing SEPP Consultation Draft – 31 August 2021



31 August 2021

Director - Housing Policy
NSW Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2000

Submitted via the NSW Planning Portal

Dear Sir/Madam

Housing SEPP Consultation Draft

Thank you for the opportunity to comment on the new *Housing State Environmental Planning Policy (SEPP) Consultation Draft* and supporting documents.

It is understood that the new Housing SEPP consultation draft and supporting documents have been prepared, following feedback collated during the exhibition of the Explanation of Intended Effect (EIE) in September 2020, to provide an overview of proposed new and amended planning provisions prior to the intended finalisation of the Housing SEPP in October 2021. It is also understood that several changes have occurred since the EIE was exhibited, including renaming to the *Housing SEPP*, the inclusion of two additional SEPPs (SEPP 36 – Manufactured Home Estates and SEPP 21 – Caravan Parks), deletion of student housing definition, changes to affordable housing provisions for Land and Housing Corporation (LAHC) developments and secondary dwelling provisions in the rural zones. It is recognised that the Housing SEPP will include the recently made provisions for short term rental accommodation and further amendments will be made to incorporate the build-to-rent housing provisions following finalisation.

The comments contained in this letter are officer-level comments only as the matter has not been reported to the elected Council for a formal view or resolution due to the limited exhibition period provided. For completeness, a copy of Council's previous submission in response to the *Explanation of the Intended Effects for the Housing Diversity SEPP* is attached below.

Council's concerns and feedback on the Consultation Draft and supporting documents are provided below.

1. Exhibition Period

Due to the limited consultation period to provide feedback and lengthy lead times for Council meetings, Council staff have been unable to report the matter to the elected Council to resolve an endorsed position on the draft SEPP. Further, the four-week exhibition period is insufficient to allow detailed consideration of the implications of the SEPP and how it relates to Council's adopted strategies, including the recently adopted Local Housing Strategy and Employment Land Study. Concerns are also raised that DPIE has not published a Report on Submissions from exhibition of the EIE in September 2020 to outline how issues raised have been considered and addressed in the draft SEPP.

Given the significant volume of legislative reforms being progressed through NSW planning system, reviewing and providing feedback for all items has significant resource implications for Councils. Although these resource implications cannot be examined as part of this exhibition, it is requested that

DPIE consider a staggered rollout for future legislative reforms to ensure adequate opportunity for Council review and input.

2. Consolidation of SEPPs

The proposed consolidation and reduction in the number of State policies is supported. Notwithstanding, Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies. Council already has concerns with the growth in housing needs and related infrastructure requirements and has prepared a Local Strategic Planning Statement (LSPS) and Housing Strategy to manage future growth and change. State policies which introduce further residential dwelling typologies and development pathways may exacerbate the perception of overdevelopment and reduce the benefits of local planning.

3. Proposed provisions under Part 2 Affordable Housing

Boarding houses – As noted in Council's previous submission on the EIE, the proposal to no longer mandate boarding houses as a permissible land use in the R2 Low Density Residential zones is welcomed and supported. It is understood that boarding houses will be prohibited in the R2 zone, with the *Hornsby Local Environmental Plan 2013* (HLEP) to be amended to reflect this position. It is also understood that Councils have an option to continue permit this housing type in R2 zones, where by 'accessible area' requirements will apply. Notwithstanding, it is recommended that the wording of Clause 22 be reviewed prior to finalisation to clarify that a proposal cannot be made for a boarding house on a R2 zoned site that meets the accessibility criteria where boarding houses are prohibited under a LEP.

The proposed FSR bonus outlined in Clause 23 of the SEPP does not discern its application for Councils with no current floor space ratio provisions in their local planning instruments. It is suggested that a definitive provision under Clause 23 clarifying the appropriate application of the FSR bonus should be included prior to finalisation.

The requirement under Clause 25 of the draft SEPP to rent boarding houses at affordable rates in perpetuity is welcomed and supported. Clause 25(1) prescribes that development consent must not be granted unless the consent authority is satisfied that the boarding house will be used for affordable housing and will be managed by a registered housing provider.

Although the proposed amendments to the *Environmental Planning and Assessment Regulations 2000* (EP&A Regulations) set out requirements for details to be supplied on affordability and management at Occupation Certificate stage, it is unclear what information would be required at DA stage for Council to be satisfied that a boarding house will meet affordability requirements under Clause 25. It is recommended that clear guidelines in the SEPP or the *Environmental Planning and Assessment Regulations 2000* be provided which has clear standards and/or information thresholds at DA stage so that the intention of providing affordable housing in perpetuity is not undermined.

Land And Housing Corporation (LAHC) developments – The proposal to allow NSW LAHC to continue to develop boarding houses in the R2 zone, regardless of land ownership, is not supported. Although the HLEP does not permit boarding houses in the R2 zone, the draft SEPP will override local planning controls resulting in similar planning issues and conflicts as privately developed boarding houses due to bulk, scale and nature of use. These issues are further compounded by the new self-assessment pathway (permitted without development consent) provided under Clause 28 of the draft SEPP, as the increase in density and the associated infrastructure implications are unlikely to be given full consideration under this process.

It is also noted that the proposed affordability provisions that allow LAHC boarding house developments to revert back to market rates after 15 years is short-sighted.

It is suggested that the prohibition in R2 zones, development application process and the provision for affordability in perpetuity should equally apply to the NSW LAHC to achieve appropriate planning outcomes.

4. Proposed provisions under Part 3 Diverse Housing

Secondary dwellings in rural areas – It is recognised that changes to the minimum permitted size of secondary dwellings in rural areas of Hornsby Shire has been included in the draft legislation to be implemented into the HLEP. This will increase the maximum permitted size of secondary dwellings from 60 square metres to 120 square metres and retain the control to limit secondary dwellings to 33% of the size of the principal dwelling. This amendment is in accordance with Council's adopted position and is supported.

As a positive change from the provisions outlined in the EIE, it is recognised that the draft SEPP will continue to not provide a complying development pathway for secondary dwellings in rural areas. A development application is the most appropriate process for secondary dwellings in rural areas as it allows detailed consideration of servicing (waste water disposal areas for unsewered areas for instance), vehicular access (appropriate level of driveway construction), environmental impacts / constraints, as well as notification to adjoining properties.

Group homes – It is acknowledged that the draft SEPP will continue to permit group homes in the prescribed zones outlined in the *Affordable Housing SEPP*, with a comprehensive review of group home provision to proceed in late 2021. Council should be notified and given the opportunity to provide feedback during the proposed review later in the year.

It is also noted that a complying development pathway still remains available to group home developments in R2 zones which is not supported. Although it is acknowledged that this housing typology may be required in the R2 zone, it is considered that the complying development route is not the best approach and a merit assessment is preferable.

Co-living developments – It is understood that the draft SEPP will introduce a new housing typology, 'co-living', which is a new age boarding house type development with no affordability requirements, and is proposed to only be permitted in zones where Council permits co-living, residential flat buildings (RFBs) and shop-top housing. It is also understood that Councils may choose to permit co-living developments in R2 zones, where development standards outlined in Clause 64 and 65 of the draft SEPP will be applicable. For Hornsby Shire, the draft SEPP would permit co-living developments in all zones except R2.

Concern is raised with the permissibility of co-living developments in business zones due to potential impacts on the commercial function of the zones and displacement of employment opportunities. Further, this form of development would be inconsistent with Council's Employment Land Study which recommends retaining employment land for employment purposes.

The provision to prohibit subdivision for co-living developments under Clause 66 of the SEPP is noted and supported having regard for the design standards of smaller rooms and communal living space requirements, similar to boarding house developments.

It is noted that the exhibition material outlines the development of new design guidelines for seniors housing, BTR housing, boarding houses and co-living in the second half of 2021 focusing on solar access, ventilation, storage, visual and acoustic privacy, shared amenities and building maintenance. Although the development on new design guidelines is supported, concern remains as to amenity impacts associated with small room sizes and the resultant potential density in excess of infrastructure provisions. Further, concern is also raised with the proposed minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the location of the development (i.e. within close proximity to a railway station).

It is also noted that the draft SEPP does not provide development standards for maximum building height or reference to the integration of development standards outlined in Council's LEP, nor is it clearly demonstrated how proposed co-living development controls will maintain local character. It is recommended that maximum building height and other development standards for co-living developments should be in line with controls outlined in Council's LEP and DCP.

5. Proposed provisions under Part 4 Seniors Housing

Definition of ‘Environmentally Sensitive Land’ – The proposed definition of ‘Environmentally sensitive land’ updated under Schedule 4 of the draft SEPP provides greater clarity for all stakeholders and is supported. As previously noted as a key concern, the interpretation of land classified as ‘environmentally sensitive land’ has been a contentious area of the Seniors SEPP for a number of years and the subject of several development application and Land Environment Court (LEC) appeals at substantial cost to Council.

Building height – It is acknowledged the updated definition of ‘building height’ will be consistent with *Standard Instrument LEP* which will provide clarity for all stakeholders and is supported. However, concern is raised with the amended development standards for building heights outlined in Clause 74 and Clause 96 of the draft SEPP prescribing a maximum building height of 9m for independent living units and 9.5m for residential care facilities (excluding servicing equipment). The proposed height controls are in excess of the 8.5m prescribed maximum building height in the R2 zone under the *Hornsby LEP 2013* and will result in buildings out of character in bulk and scale of a low-density residential setting. It is recommended that the height development standards under an LEP apply for all forms of seniors housing developments.

Abolition of Site Compatibility Certificates (SCC) – The proposal to remove the definition of ‘land zoned primarily for urban purposes’ and to introduce prescribed zones for seniors housing developments resulting in the abolition of site compatibility certificates (SCCs) is welcomed and supported. As outlined in the previous submission on the EIE, the current SCC process equates to a spot rezoning without a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework, Ministerial Directions, and community consultation.

Prescribed zones – The amendment under Clause 67 of the draft SEPP to outline prescribed zones for seniors housing developments, including Residential zones R1-R4, Business zones B1-B8, Special zones SP1 and SP2, Recreation zone RE2 and Rural zone RU5 is supported in principle, as this would provide certainty for all stakeholder and would not apply to residential or business lands located in the metropolitan rural area (MRA) exclusion zone.

Concern is raised with the proposal to permit seniors housing developments in business zones. Permitting this housing typology within business zones would be inconsistent with the priorities and actions of Council’s recently adopted LSPS and Employment Lands Study, which include objectives to retain and grow business and commercial areas of the Hornsby Shire. Further, seniors housing developments would result in development incompatibility, reduction employment capacity, inconsistencies with zone objectives and infrastructure pressures.

Location and access provisions – The proposed amended provisions for location and access to facilities for independent living units and residential care facilities are welcomed. The amended provisions may help to ensure that seniors developments are located appropriately in well serviced areas and do not rely on third party or point to point transport.

However, concern is raised with the wording proposed for Clause 82(1) of the draft SEPP, as it differs from a similar provision in Clause 26 of the Seniors SEPP as well as Clause 83(1) of the draft SEPP. It is recommended that the wording is amended as follows for consistency and to strengthen the intention of the access to services and facilities clause:

*“Development consent must not be granted for development for the purposes of an independent living unit unless the consent authority ~~has considered whether~~ **is satisfied that** residents will have adequate access to facilities and services—*

- a) directly, or*
- b) by a transport service that complies with subsection (2), or*
- c) on-site.”*

Vertical villages – It is acknowledged that the draft SEPP proposes to introduce a new seniors housing typology, vertical villages, and permit this development only on land where Council permits residential flat buildings. In Hornsby Shire, vertical villages would be permitted under the SEPP in R3, R4 and B1 zones. Although the proposed FSR bonus for vertical villages would not apply in the Hornsby LGA, the amendment to allow vertical villages to exceed the maximum building height by 3.8m would result in developments that are inconsistent with local bulk and scale, as well as undermining local strategic planning, and is not supported.

It is also noted that no definition for ‘vertical villages’ is provided in the draft SEPP or amendments to the Standard Instrument. It is recommended that a definition is provided for clarity and consistency.

Moratorium on the application of the SEPP within HCAs – A transfer of Council’s previous request for a continuation of the moratorium on the application of the Seniors SEPP within heritage conservation areas, with the exception of two identified sites, to the draft Housing SEPP is acknowledged and welcomed. It is noted that a permanent exemption from the application of seniors housing developments in HCAs would be preferable, as Council’s Seniors Housing Demand and Supply Review demonstrate that underlying demand in Hornsby Shire would not be detrimental to supply in the future. An exemption in perpetuity would allow Councils the opportunity to plan locally by preparing a local Seniors Housing Strategy.

6. Other issues

Updated definitions – Concerns are raised with the definition included in the draft SEPP for “*non-heritage land*”, which defined as land:

- a) *not containing a heritage item, and*
- b) *not the subject of an interim heritage order under the Heritage Act 1977, and*
- c) *not listed on the State Heritage Register.*

This definition should be amended to include “*not within a heritage conservation area*”. It is suggested that development under the SEPP should be prohibited in Heritage Conservation Areas. Council has continually lobbied for the ability to maintain the local character of Hornsby Shire’s heritage conservation areas by exempting these areas, in particular, from the application of State policies that dilute local government planning provisions.

Clause 4.6 variations – The decision to not proceed with a proposal to allow development standards for seniors housing developments to be varied using Clause 4.6 of the Standard Instrument to a maximum of 20% as outlined in the EIE is supported. The current Clause 4.6 review undertaken by DPIE is acknowledged and appreciated as a more suitable pathway as Clause 4.6 variations have been a contentious area for Council resulting in proposals being designed to the maximum variation rather than attempting to design within development standards.

Local Housing Strategies – It is unclear as to the relationship between Housing SEPP and Council’s recently adopted Local Housing Strategy. The proposed introduction of new affordable and diverse housing typologies and provisions may provide developers with alternative routes to increase density in areas not suitable, ultimately having implications for Councils ability to effectively analyse housing projections and further, their ability to successfully monitor housing growth moving forward. It is also noted that these proposed provisions may act as a disincentive for buy-in for some Councils to prepare an affordable housing strategy.

Character overlay – Concern is raised with regards to the relationship between the Housing SEPP and the application of the proposed draft local character clause and mapping overlays. It is understood that the draft local character clause will allow Councils to insert a reference to local character in their Local Environmental Plans via a local character statement and map, with the option to exclude certain areas from the Low-Rise Housing Diversity Code. It is unclear whether proposed developments under the Housing SEPP will be excluded from the same areas within an LGA. Further, it is also unclear whether proposed developments under the Housing SEPP will be required to demonstrate consistency with applicable local character statements.

Design Excellence – Council has implemented amendments to the HLEP to strengthen its Design Excellence provisions and Design Excellence is a key priority of the Hornsby LSPS. The key issues raised with the new and amended housing typologies include concerns relating to compatibility with local character and amenity. Although the need for affordable and diverse housing in Hornsby Shire is acknowledged, Council requires the ability to plan locally and for the SEPP provisions to not compromise the ability to achieve well designed buildings with sufficient setbacks, landscaping, communal living, open spaces and car parking.

Development Contributions - Concern is raised with regard to the application of development contributions and whether Section 7.11 or 7.12 contributions would be applicable to all new types of developments and regardless of developer or landowner. As previously noted, for councils to provide necessary local infrastructure to support development, it is strongly recommended that there should not be exemptions to the payment of development contributions, particularly due to the scale of some of the new housing typologies.

Build-to-rent (BTR) housing – It is acknowledged that the exhibition material notes that new provisions for BTR Housing were introduced under Phase Two changes in February 2021 as an amendment to the *Affordable Housing SEPP* to permit BTR housing in all zones that permit residential flat buildings, as well as B3, B4 and B8 zones. In Hornsby Shire, the SEPP permits BTR housing developments in R3, R4 and B1, as well as other identified business zones. Notwithstanding, Council reiterates the concerns raised in the previous submission on the EIE including zone permissibility and compatibility, design standards, car parking rates and subdivision provisions (please see attached submission). The introduction of the BTR typology as a one size fits all approach to varying LGA characteristics is generally not compatible to Council development standards or its adopted strategies.

Thank you again for the opportunity to comment on the Housing SEPP consultation draft. Should you require any clarification in relation to any of the matters raised, please contact Fintan Langan on 9847 6686 during business hours.

Yours faithfully



Debra Clydsdale
Acting Manager, Strategic Land Use Planning Branch

TRIM Reference: F2004/07599-02

Attachments:

1. Submission on Explanation of Indented Effect for the new Housing Diversity SEPP – 15 September 2020



15 September 2020

Director - Housing Policy
NSW Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2000

Dear Sir/Madam

Explanation of Intended Effect for a new Housing Diversity SEPP

Thank you for the opportunity to comment on the *Explanation of Intended Effect for a new Housing Diversity State Environmental Planning Policy (SEPP)*. The purpose of this letter is to confirm Council's draft submission which was sent ahead of its meeting on 9 September 2020.

Council has now considered Group Manager's Report No. PL19/20 (further copy attached) and resolved as follows:

1. *A submission regarding the proposed Housing Diversity State Environmental Planning Policy be forwarded to the Department of Planning, Industry and Environment outlining the issues raised in Director's Report No. PL19/20 including (but not limited to):*
 - a. *Support for the proposal to no longer mandate boarding housing as a permissible use in the R2 – Low Density Residential zone;*
 - b. *Raise concern in relation to the proposal to mandate build-to-rent housing in the R3 Medium Density zone and the B3 Commercial Core zone; and*
 - c. *Raise concern with any proposal to amend State Environmental Planning Policy (Affordable Rental Housing) 2009 that would include rural secondary dwellings and provide a complying development pathway.*
2. *Following the release of a draft State Policy or making of a Policy by the State Government concerning Housing Diversity, a Councillor Workshop be held to discuss the implications of the Policy for Hornsby Shire and possible changes to Council's planning controls in response.*
3. *The Workshop consider any related findings following the exhibition of the Hornsby Shire Housing Strategy, Affordable Housing Discussion Paper and Seniors Housing Demand and Supply Review.*

Although the resolution includes two additional points concerning a Councillor workshop, the content of the report and submission have not changed and have been endorsed. For completeness, another summary of Council's concerns and feedback on the EIE is provided below and in detail in the attached report.

1. Consolidation of SEPPs

The concept of reducing the number of State policies is supported. However, Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies. Council already has concerns with the growth in housing needs and related infrastructure requirements and has been requested to prepare a Local Strategic Planning Statements and Housing Strategy to manage future growth and change.

State policies which introduce further residential dwelling typologies and development pathways may exacerbate the perception of overdevelopment and reduce the benefits of local planning.

2. Build-to-rent (BTR) housing

Council objects to the proposal to mandate BTR housing in any land use zone, especially in outer-ring areas. There are differences not only between Metropolitan Sydney and regional areas which the EIE acknowledges, but also within Metropolitan Sydney itself. Introduction of BTR housing as a one size fits all approach to inner, middle and outer ring suburbs does not respect their different characteristics. The BTR definition is not compatible with Hornsby Council's development standards or its strategies for employment land.

Concern is raised with the proposal to mandate BTR housing as a permissible use in the R3 – Medium Density Residential. The EIE describes BTR as high density and the definition cites a minimum of 50 dwellings, which would not be compatible with an R3 Medium Density area. It is also unclear how Hornsby Council could uphold its development standards for height and building envelope in any assessment of a permissible use which includes in its definition a minimum 50 dwellings.

Concern is also raised with the proposal to mandate BTR housing as a permissible use in the B3 – Commercial Core zone. Introducing stand-alone residential accommodation as a permitted use could displace employment floorspace and make it difficult for councils to meet jobs targets set out in District Plans. Many councils, including Hornsby, have experienced similar issues with 'serviced apartment' style developments. The proposal to permit this type of development in the B3 zone does not adequately consider longer term implications on housing and employment markets, nor does it align with the preliminary recommendations of Council's draft Employment Land Study, one of which is to achieve no net loss of commercial floorspace.

The EIE outlines that a consent authority would generally assess a BTR housing application against the design quality principles in the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). Concern is raised regarding the application of these design principles for this new form of development in the context of the local character and the planning controls in the Hornsby Development Control Plan.

Concern is raised with the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the size of the dwelling or the scale and adequacy of public transport in close proximity. A clear understanding of locational requirements and what is a well-located and accessible area should be requested to avoid impacts from increased on-street parking generation.

Concern is also raised to BTR housing being transitioned to a strata-subdivided apartment development after 15 years. Subdivision of BTR housing should be prohibited in any zone in perpetuity as subdivision would undermine the intention and definition of this new type of residential accommodation.

3. Purpose-built student housing

The proposal to allow councils to decide the permissibility for this use is supported. The SEPP should go further to apply locational criteria, such as within a set radius to a university campus or a railway station close to, or servicing, the campus.

The EIE states that no minimum car parking would be required for a student housing development. Although this would effectively serve non-vehicle owning international students, it fails to accommodate students that may be vehicle owners which may ultimately lead to on-street parking pressure within the vicinity of these developments.

4. Co-living Developments

Integration of the design of co-living developments with the development controls in Council's LEP is not clearly demonstrated and concern is raised with how local character would be maintained.

Concern is raised with amenity impacts associated with small room sizes and the resultant potential density in excess of infrastructure provision and the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the location of the development (i.e. within close proximity to a railway station).

Co-living developments should not be permitted in business zones due to potential impacts on the commercial function of the zones and displacement of employment opportunities.

5. Proposed amendments to the Affordable Rental Housing SEPP

Boarding houses - The proposal to no longer mandate boarding houses as a permissible use in the R2 Low Density zone is welcomed and supported. However, the proposed provisions that would allow NSW LAHC to continue to develop boarding houses on government-owned land in the R2 zone would lead to the same planning issues and conflicts due to bulk, scale and nature of use. The prohibition should equally apply to the NSW LAHC.

Boarding houses should be rented at affordable rates in perpetuity. Allowing boarding houses to revert back to market rates would undermine the intention of amending the definition to include affordability.

Secondary dwellings in rural zones - The intent of the proposed SEPP to allow councils to set a maximum size for secondary dwellings in rural areas is welcomed and supported. However, it is unclear from the EIE how an amendment to the Affordable Rental Housing SEPP would give Council this discretion.

Concern is raised if it were proposed that the Affordable Rental Housing SEPP be amended to apply to rural zones. Council supports a local place-based approach to planning and would not want rural secondary dwellings to be encompassed under a State policy rather than under Council's LEP and DCP controls. Objection is also raised to any amendment which also included a complying development pathway for rural secondary dwellings.

Approval of a secondary dwelling in rural areas as complying development is not appropriate and is better suited to the development application process. The DA process allows detailed consideration of servicing (waste water disposal areas for unsewered areas for instance), vehicular access (appropriate level of driveway construction), environmental impacts / constraints, as well as notification to adjoining properties.

An amendment to Clause 5.4(9) of the Standard Instrument is supported to retain the ability to plan locally, with discretion to set a maximum size in square metres for the rural areas.

Group homes - Concern is raised to the proposed "quicker and easier process" for converting an existing dwelling into a group home as there may be additional locational and/or site constraints to be considered to determine whether an existing dwelling is fit for purpose for a group home. There is no indication of the appropriate assessment pathway, for example, where an existing heritage listed dwelling is proposed to be converted to a group home. Council recommends that heritage items should be excluded from any "quicker and easier process".

6. Proposed amendments to the Seniors Housing SEPP

Update definitions, provisions and Schedule 1 - The proposal to update definitions within the SEPP and the terminology in Schedule 1 are supported for clarity and consistency. The interpretation of land classified as 'environmentally sensitive land' has been a contentious area of the Seniors SEPP for a number of years and the subject of several development application and Land Environment Court (LEC) appeals at substantial cost to Council.

The Schedule should be reviewed with input from Council staff, and a workshop with assessment planners would be appreciated once the Schedule has been redrafted. Council has had issues in the past with flood control lots and the Terrestrial Biodiversity Map in particular.

The proposal to amend the provisions for location and access to facilities are welcomed, to ensure that seniors developments are located appropriately in well serviced areas and do not rely on third party or point to point transport.

Application of local development standards - Council continues to lobby for the ability to plan locally and is supportive of any amendments which allow local controls to prevail rather than one-size fits all State policies.

Concern is raised with the proposal to allow development standards in the Seniors SEPP to be varied using Clause 4.6 of the Standard Instrument to a maximum of 20%. Although the use of a Clause 4.6 variation provides a certain degree of flexibility for developments, a 20% difference would not be considered a minor variation to existing development standards. Specifying a maximum 20% variation may lead to proposals designed to the maximum variation rather than attempting to design within development standards.

Further, Clause 4.6 variations have been the subject of numerous Court cases. The Department should review the effectiveness and interpretation of Clause 4.6 before finalising the proposed SEPP.

Site Compatibility Certificates (SCC) - A contributing factor for the expiration of an SCC before a DA is approved is the site-specific planning issues with seniors housing proposals in areas where seniors housing would otherwise be prohibited by local planning controls. The SCC process equates to a rezoning without a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework, Ministerial Directions, and community consultation.

The current process under the Seniors Housing SEPP does not adequately address these considerations as part of the SCC process and results in development applications being assessed on a site where the land use is not otherwise permitted. The Site Compatibility Certificate process should be aligned with the Planning Proposal process to ensure suitability of the land use prior to lodgement of a development application.

7. Proposed amendments to social housing provisions for NSW Land And Housing Corporation (LAHC)

Self-assessment of dwellings by the LAHC - Concern is raised with the proposal to increase the self-assessment cap, as the increase in density and the associated infrastructure implications are unlikely to be given full consideration under this process. The proposal will remove further planning responsibilities from councils and it is unclear how developments would achieve compliance with Council's desired built form outcomes.

Car parking requirements for LAHC development - Concern is raised with proposals for low minimum car parking rates in the absence of locational requirements (such as being within a radius of a train station) which generally results in on-street parking pressure within the vicinity of these developments.

Subdivision of Government-owned land - The EIE does not provide sufficient detail concerning the criteria for proposed subdivision without consent and a blanket approach for all Government-owned would not achieve the desired outcomes within varying land use zones.

Lift access exemption - Concern is raised to this exemption being provided as a cost saving measure at the expense of providing a fundamental accessibility requirement. The absence of a lift in a multi-storey development would reduce amenity, attractiveness and viability of developments for the market at which they are aimed. Residents of a Government owned seniors housing development should not be subject to limited accessibility and amenity, given that the key tenants form part of the ageing population and mobility is, or can become, an issue.

8. Other issues

Design Excellence - Council is currently progressing amendments to the HLEP 2013 to strengthen its Design Excellence provisions. Design excellence is a key priority of the Hornsby Local Strategic Planning Statement. The issues raised with the proposed SEPP include concerns relating to compatibility with local character and

amenity. Although the need for affordable rental housing in Hornsby Shire is acknowledged, the SEPP provisions should not compromise the ability to achieve well designed buildings with sufficient setbacks, landscaping, communal living, open spaces and car parking.

Development Contributions - Concern is raised with regard to the application of development contributions and whether Section 7.11 or 7.12 contributions would be applicable to all new types of developments and regardless of developer or landowner. For councils to provide necessary local infrastructure to support development, it is suggested that there should not be exemptions to the payment of development contributions, particularly due to the scale of some of the new housing typologies.

Once again thank you for the opportunity to comment. Council will forward a copy of the meeting minutes to confirm this submission after its meeting on 9 September 2020.

Should you require any clarification in relation to any of the matters raised, please contact Fintan Langan on 9847 6686 during business hours.

Yours faithfully

A handwritten signature in black ink, appearing to read 'K Vickery', with a stylized, cursive script.

Katherine Vickery
Manager, Strategic Land Use Planning Branch

TRIM Reference: F2004/07599-02

Attachments:

1. Director's Report No. PL19/20
2. Hornsby Shire Council Meeting Minutes – 9 September 2020

13 EXHIBITION OF THE PROPOSED HOUSING DIVERSITY STATE ENVIRONMENTAL PLANNING POLICY

EXECUTIVE SUMMARY

- The Department of Planning, Industry and Environment (DPIE) is proposing to prepare a new Housing Diversity State Environmental Planning Policy (SEPP).
- Three existing housing-related SEPPs are being reviewed to ensure they are fit-for-purpose and reflect current conditions and community expectations for NSW residents.
- The proposed Housing Diversity SEPP would consolidate and update the three existing housing related State policies, introduce new land use terms to assist facilitate housing projects and amend planning provisions to provide greater certainty for all stakeholders.
- Three new definitions are proposed under the new SEPP for build-to-rent housing, purpose-built student housing and co-living housing, with applicable planning provisions.
- This report outlines the key amendments and provisions for the new SEPP which are contained in the exhibited Explanation of Intended Effect, discusses the implications for Hornsby Shire and notes areas of support and matters of concern.
- It is recommended that a submission in response to the proposed Housing Diversity SEPP be submitted to DPIE which outlines the matters raised in Director's Report No. PL19/20.

RECOMMENDATION

THAT a submission regarding the proposed Housing Diversity State Environmental Planning Policy be submitted to the Department of Planning, Industry and Environment outlining the issues raised in Director's Report No. PL19/20 including (but not limited to):

1. Support for the proposal to no longer mandate boarding houses as a permissible use in the R2 - Low Density Residential zone.
2. Raise concern in relation to the proposal to mandate build-to-rent housing in the R3 Medium Density zone and the B3 Commercial Core zone.
3. Raise concern with any proposal to amend State Environmental Planning Policy (Affordable Rental Housing) 2009 that would include rural secondary dwellings and provide a complying development pathway.

PURPOSE

The purpose of this Report is to present an overview of the proposed *Housing Diversity State Environmental Planning Policy* (SEPP), its application for housing diversity within the Hornsby LGA and seek Council's endorsement for a submission to the DPIE in response to the proposed new SEPP.

BACKGROUND

Currently, the NSW Government has three SEPPs to facilitate the delivery of diverse housing types. These include *State Environmental Planning Policy (Affordable Rental Housing) 2009*, *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004*, and *State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes)*.

State Environmental Planning Policy (Affordable Rental Housing) 2009 facilitates the increased supply and diversity of affordable rental and social housing in NSW through expanded permissibility, floor space ratio bonuses and reduced car parking rates for various types of affordable rental housing.

State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 aims to increase the supply and diversity of residences that meet the needs of seniors or people with a disability. The Seniors SEPP facilitates new seniors housing development by setting permissibility at the State level and providing less stringent planning requirements than would otherwise apply to other forms of housing. For more than a decade, Hornsby Council has raised concerns that the Seniors SEPP overrides Council's local planning controls.

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) allows all NSW local government areas to implement an affordable housing contribution scheme for a particular area.

These SEPPs have been in place for some time and the NSW Government has identified that, with a growing and ageing population coinciding with the impacts of the COVID-19 pandemic, the housing needs and preferences of the community have changed and will continue to change in the future.

The proposed Housing Diversity SEPP would consolidate and update the existing housing related State policies and its aim is to deliver a planning framework under a single instrument that will assist NSWs economic recovery following COVID-19, provide an adaptive format capable of meeting future requirements and facilitates the delivery of housing targets for the State's changing and growing population.

DISCUSSION

DPIE has publicly exhibited an Explanation of Intended Effect (EIE) for the proposed Housing Diversity SEPP, which aims to introduce new land use terms to assist facilitate housing projects and amend certain planning provisions to provide greater certainty for all stakeholders. This report presents an outline of the key components of the proposal as outlined in the EIE (copy attached) for a new Housing Diversity SEPP and the implications for Hornsby Shire.

1. Consolidation of existing housing related SEPPs

The new SEPP would consolidate the *Affordable Rental Housing SEPP*, the *Seniors SEPP* and *SEPP 70* to streamline the planning system by reducing the number of State policies.

Comment

Although it is difficult to determine potential implications arising from the new SEPP based solely on the EIE, the concept of reducing the number of State policies is supported. Streamlining three separate existing housing related SEPPs may provide greater clarity and understanding.

However, for more than a decade, Hornsby Council has raised concerns about State policies which override local planning controls, in particular the Seniors SEPP. Council already has concerns with the

growth in housing needs and related infrastructure requirements and has been requested to prepare a Local Strategic Planning Statements and Housing Strategy to manage future growth and change. State policies which introduce further residential dwelling typologies and development pathways may exacerbate the perception of overdevelopment and reduce the benefits of local planning.

Recommendation

It is recommended that Council's submission outline support for the proposal to consolidate and streamline the planning system by reducing the number of State policies. Notwithstanding, the submission should also note that Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies.

2. Introduction of New Housing Types

The EIE outlines three definitions for new housing types in the Standard Instrument LEP, including build-to-rent housing, purpose-built student housing and co-living developments.

DPIE indicates that these are being introduced to support new investment and address concerns with boarding houses including the lack of affordability of boarding house rooms. The boarding house definition would be amended to include a requirement that boarding house rooms are affordable (see below under 3.1 Boarding Houses). This would exclude purpose-built student housing and co-living developments as they are not truly "affordable" or managed by a community housing provider.

The EIE includes proposed definitions and planning provisions, permissibility requirements and development standards for the new housing types as follows:

2.1 Build-to-rent (BTR) housing

Build-to-rent housing is purpose-built high-density rental housing, situated close to transport and amenity, held in single ownership and professionally managed. It is designed to attract institutional investment with long-term leases. The building would not be able to be strata subdivided for the first 15 years (subdivision would be prohibited in the B3 – Commercial Core zone in perpetuity).

The EIE states that the NSW Government is seeking to provide more certainty for this type of development and encourage build-to-rent housing. It is suggested that this development type responds to the need for more rental housing during the recovery from COVID-19 and would generate more construction jobs.

The proposed definition for 'build-to-rent housing' is *"a building or place that contains at least 50 self-contained dwellings that are offered for long term private rent, is held within a single ownership, is operated by a single management entity, and includes on-site management."*

BTR housing is proposed to be mandated in the R3 – Medium Density Residential zone (where residential flat buildings are permitted), R4 – High Density Residential, B3 – Commercial Core and B4 – Mixed Use zones. Councils can decide the permissibility within other land use zones.

The development controls for BTR housing developments would include the following:

- Height and floor space ratio controls determined within Council's LEP.
- A minimum 0.5 car parking space per dwelling (or lower maximum parking rate if a Council's development control plan specifies).
- A minimum lease term, with no availability for short-term rental accommodation.

The EIE seeks feedback on appropriate provisions for BTR housing in regional areas, which may be of a smaller scale and could take the form of multi-dwelling housing or terraces rather than apartments.

Comment

Concern is raised with the proposal to mandate BTR housing as a permissible use in the R3 – Medium Density Residential zone. The EIE describes BTR as high density and the definition cites a minimum of 50 dwellings, which would not be compatible with an R3 Medium Density area. It is also unclear how Council would uphold its development standards for height and building envelope in any assessment of a permissible use which includes in its definition a minimum of 50 dwellings.

Concern is also raised with the proposal to mandate BTR housing as a permissible use in the B3 – Commercial Core zone. Introducing stand-alone residential accommodation as a permitted use could displace employment floorspace and make it difficult for councils to meet jobs targets set out in District Plans. Many councils, including Hornsby, have experienced similar issues with ‘serviced apartment’ style developments. The proposal to permit this type of development in the B3 zone does not adequately consider longer term implications on housing and employment markets, nor does it align with the preliminary recommendations of Council’s draft Employment Land Study, one of which is to achieve no net loss of commercial floorspace.

The EIE outlines that a consent authority would generally assess a BTR housing application against the design quality principles in the *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* (SEPP 65). Concern is raised regarding the application of these design principles for this new form of development in the context of the local character and the planning controls in the Hornsby Development Control Plan.

BTR housing in accordance with the definition proposed and mandated in the R3 and R4 zones would impact on the character and landscape setting of Hornsby Shire. There are differences not only between Metropolitan Sydney and regional areas which the EIE acknowledges, but also within Metropolitan Sydney itself. Introduction of BTR housing as a one size fits all approach to inner, middle and outer ring suburbs does not respect their different characteristics.

Concern is also raised with the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the size of the dwelling or the scale and adequacy of public transport in close proximity. This may result in on-street parking pressure within the vicinity of these developments.

The transition of BTR to a strata-subdivided apartment development after 15 years would undermine the intention and definition of this new type of residential accommodation. Subdivision of BTR housing should be prohibited in any zone in perpetuity.

Recommendation

It is recommended that Council’s submission object to the mandating of BTR housing in any land use zone, especially in outer-ring areas. The submission should also raise concerns regarding the integration and compatibility of the BTR definition with Council’s development standards and its strategies for employment land. A clear understanding of locational requirements and what is a well-located and accessible area should be requested to avoid impacts from increased on-street parking generation. Council’s submission should also seek prohibition of subdivision of BTR housing at any time in any zone.

2.2 Purpose-built student housing

Under the current planning framework, student housing does not have a separate definition and is developed under the boarding house provisions of the *Affordable Rental Housing SEPP*.

The EIE proposes to introduce a new definition for ‘student housing’ which would refer to “*a building that provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods and may incorporate some fully self-contained dwellings.*”

Student housing is not proposed to be mandated in any zones, as universities across the State have widely varying land use contexts. Therefore, councils would decide the permissibility for this use. The development standards for student housing developments would include the following:

- Height and floor space ratio controls determined within Council's LEP to maintain local character.
- No minimum car parking space requirement due to the expectation of close proximity to educational establishments.
- Non-discretionary minimum bicycle and motorcycle parking requirements.
- A minimum 10m² room size, with the option to reduce room sizes while also achieving adequate internal amenity through shared facilities.
- Requirements for indoor and outdoor communal areas depending on size and proximity to relevant education establishments.

The EIE states that DPIE may develop guidelines and would monitor the outcomes from the introduction of this new use to ensure the resulting developments are meeting the needs of residents and that local impacts are acceptable.

Comment

The proposal to allow councils to decide the permissibility for this use is supported. The SEPP should go further to apply locational criteria, such as within a set radius to a university campus or a railway station close to, or servicing, the campus.

The EIE states that no minimum car parking would be required for a student housing development. Although this would effectively serve non-vehicle owning international students, it fails to accommodate students that may be vehicle owners which may ultimately lead to on-street parking pressure within the vicinity of these developments.

The EIE does not outline design guidelines for purpose-built student housing. However, it is indicated that specific design guidelines are to be developed to address built form, amenity, storage, solar access, ventilation and privacy.

Recommendation

It is recommended that Council's submission outline support for allowing councils to decide the permissibility for student housing, suggest the inclusion of a locational requirement for LGAs that contain universities, tertiary education facilities or large railway stations close to campuses and the inclusion of minimum car parking rates to cater for students who may own vehicles.

2.3 Co-living Developments

As with student housing, co-living developments do not currently have a separate definition and are developed under the boarding house provisions of the *Affordable Rental Housing SEPP*, defined as 'new-generation boarding houses'.

The EIE proposes to introduce a new definition for co-living developments which would refer to "*a building held in single ownership that provides tenants with a principal place of residence for 3 months or more, includes on-site management and a communal living room, 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.*"

Co-living developments are proposed to be mandated in the R3 – Medium Density Residential zone (where residential flat buildings are permitted), R4 – High Density Residential and B4 – Mixed Use zones. Councils can decide the permissibility within other land use zones.

The development standards for co-living developments would include the following:

- Height and floor space ratio controls determined within Council's LEP to maintain local character.
- A non-discretionary minimum 0.5 car parking space requirement to allow councils to consider less parking when appropriate.
- A minimum 30-35m² room size to sit between boarding house and studio apartment room sizes.
- A minimum 20m² communal living space, plus 2m² per each room over 10 rooms.
- 4m² per room private open space.
- 25% of the site area for communal open space, or less if all dwellings exceed minimum private open space requirements.

The EIE states that DPIE may develop guidelines and would monitor the outcomes from the introduction of this new use to ensure the resulting developments are meeting the needs of residents and that local impacts are acceptable.

Comment

Mandating Co-living developments in the R3 and R4 zone is consistent with the current mandated permissibility of boarding houses. However, integration with the development controls in Council's LEP is not clearly demonstrated and concern is raised with how local character would be maintained. Concern is raised with amenity impacts associated with small room sizes and the resultant potential density in excess of infrastructure provision.

Concerns are raised with permitting co-living developments in business zones due to potential impacts on the commercial function of the zones and displacement of employment opportunities.

The EIE states one of the reasons for the introduction of the definition of Co-living developments is to allow this type housing with self-contained rooms with private bathroom and kitchenette facilities to occur without an affordability requirement to cater for demand and the growth in single person households. However, single person households may be vehicle owners and concern is raised with the proposal for a minimum car parking rate of 0.5 spaces per dwelling which does not appear to be dependent on the location of the development (i.e. within close proximity to a railway station).

Recommendation

It is recommended that Council's submission raise concerns with amenity impacts, low car parking rates which do not appear to be dependent on the location of the development (in proximity to transport) and request clarification on how local character would be maintained with the introduction of Co-living developments in the R3 and R4 zone.

3. Proposed amendments to the Affordable Rental Housing SEPP

Since the introduction of the Affordable Rental Housing SEPP, councils and communities have raised concerns about the boarding house provisions. Key concerns include the lack of affordability of boarding house rooms, the excessive scale and bulk of some boarding house developments and the compatibility of boarding house development with low-density residential areas. The proposed Housing Diversity SEPP seeks to address those concerns through a number of changes as follows:

3.1 Boarding houses

Permissibility

The EIE proposes that boarding houses would no longer be mandated in R2 - Low Density Residential zones, in response to concerns regarding compatibility of such development with low-density residential areas.

However, provisions would be included in the Housing Diversity SEPP to ensure that the NSW Land and Housing Corporation (LAHC) would be able to continue to develop boarding houses (limited to 12 rooms) on government-owned land in the R2 zone, regardless of permissibility within an LEP.

Definition

The EIE proposes that the definition of boarding house would be amended to require the building to be managed by a registered not-for-profit community housing provider (CHP) to ensure that they are affordable. DPIE is seeking feedback on whether to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, or in perpetuity.

Comment

The proposal to no longer mandate boarding houses as a permissible use in the R2 Low Density zone is welcomed and supported. Boarding houses are often incompatible with other development in the R2 Low Density Residential zone due to their bulk, scale and nature of use. However, the proposed provisions that would allow NSW LAHC to continue to develop boarding houses on government-owned land in the R2 zone would lead to the same planning issues and conflicts due to bulk, scale and nature of use.

The introduction of an affordability requirement and management by a community housing provider is supported. Given the purpose of boarding houses, the objectives of the Affordable Rental Housing SEPP and the need for affordable rental housing stock in Hornsby Shire, the affordability requirement should be in perpetuity.

Recommendation

It is recommended that Council's submission outline support for no longer mandating boarding houses as a permissible use in the R2 – Low Density Residential zone and suggest that the prohibition equally apply to the NSW LAHC. The submission should advocate that boarding houses be rented at affordable rates in perpetuity. Allowing boarding houses to revert back to market rates would undermine the intention of amending the definition to include affordability.

3.2 Secondary dwellings in rural zones

Currently, the Affordable Rental Housing SEPP permits secondary dwellings in urban areas. Secondary dwellings in rural zones are permitted under the HLEP 2013. The size of secondary dwellings is set under Clause 5.4(9) of the Standard Instrument as either 60m² or a percentage set by Council, whichever is the greater (Hornsby Council sets 33% as the percentage for rural areas).

In response to concerns from councils that the Standard Instrument clause does not have the flexibility to prescribe a different square metre size for urban and rural areas, the EIE proposes to amend the Affordable Rental Housing SEPP to allow councils the discretion to set a maximum size for secondary dwellings in rural areas.

Comment

The intent of the proposed SEPP to allow councils to set a maximum size for secondary dwellings in rural areas is welcomed and supported. However, it is unclear from the EIE how an amendment to the Affordable Rental Housing SEPP would give Council this discretion.

Concern would be raised if it were proposed that the Affordable Rental Housing SEPP be amended to apply to rural zones. Council supports a local place-based approach to planning and would not want rural secondary dwellings to be encompassed under a State policy rather than under Council's LEP and DCP controls. Objection should be raised to any amendment which also included a complying development pathway for rural secondary dwellings.

Approval of a secondary dwellings in rural areas as complying development is not appropriate and is better suited to the development application process. The DA process allows detailed consideration of servicing (waste water disposal areas for unsewered areas for instance), vehicular access (appropriate level of driveway construction), environmental impacts / constraints, as well as notification to adjoining properties.

An amendment to Clause 5.4(9) of the Standard Instrument would be a preferred approach to apply to secondary dwellings in both urban and rural areas with the discretion to set a square metre maximum instead of a percentage separately for urban and rural areas. This is consistent with the approach recommended in the Rural Land Study.

Recommendation

It is recommended that Council's submission raise concerns with any proposal to amend the Affordable Rental Housing SEPP to include rural secondary dwellings and provide a complying development pathway. Instead, an amendment to Standard Instrument Clause 5.4(9) should be supported to retain the ability to plan locally, with discretion to set a maximum size in square metres for the rural areas.

3.3 Group Homes

Currently, there is a complying development pathway for group homes. However, the EIE indicates there is uncertainty as to whether there is a complying development pathway for converting an existing dwelling into a group home. The new SEPP proposes to introduce a quicker and easier process to allow an existing dwelling to be used as a group home (presumably the exempt and complying development process).

Comment

Further clarity is required around the "quicker and easier process". There may be additional locational or site constraints that need to be considered to determine whether an existing dwelling is fit for purpose for a group home or potential impacts of traffic and amenity. There is no indication of the appropriate assessment pathway, for example, where an existing heritage listed dwelling is proposed to be converted to a group home.

Recommendation

It is recommended that Council's submission raise concerns and request further clarity on the "quicker and easier process" for conversion of an existing dwelling to a group home. The conversion of heritage items should be excluded from any exempt or complying development pathway due to the requirement for adequate assessment of such a conversion and potential impacts on the heritage significance.

4. Proposed amendments to Seniors Housing SEPP provisions

Some of the recommendations of the Greater Sydney Commission (GSC) investigation into the challenges relating to seniors housing developments in rural areas are proposed to be incorporated into the Housing Diversity SEPP as follows:

4.1 Update definitions, provisions and Schedule 1

The definitions in the Seniors SEPP have not been updated in line with the Standard Instrument LEP, leading to inconsistency in interpretation and application. It is proposed that the definition of 'height', 'people with a disability' and 'AS 2890' are to be amended in line with the Standard Instrument LEP.

The Seniors SEPP does not apply to land identified in Schedule 1 – Environmentally Sensitive Land. Over time, since the introduction of the SEPP in 2004, some of the terms in Schedule 1 have become obsolete and others contested in Court. It is proposed to amend Schedule 1 to better align with current legislation and planning conditions.

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

Comment

The proposal to update definitions within the SEPP and the terminology in Schedule 1 are supported for clarity and consistency. The interpretation of land classified as 'environmentally sensitive land' has been a contentious area of the Seniors SEPP for a number of years and the subject of several development application and Land Environment Court (LEC) appeals and substantial cost to Council.

The Schedule should be reviewed with input from Council staff. A workshop with assessment planners would be appreciated once the Schedule has been redrafted. Council has had issues in the past with flood control lots and the Terrestrial Biodiversity Map in particular.

The proposal to amend the provisions for location and access to facilities are welcomed, to ensure that seniors developments are located appropriately in well serviced areas and do not rely on third party or point to point transport.

Recommendation

It is recommended that Council's submission outline support for the proposal to update definitions, Schedule 1 terminology and location and access provisions. Further, a workshop with assessment planners should be requested once Schedule 1 has been redrafted.

4.2 Application of local development standards

Currently, the Seniors SEPP allows development for the purpose of seniors housing to be carried out 'despite the provisions of any other environmental planning instrument'.

To provide clarity, it is proposed to amend the SEPP provisions so that development standards in an LEP prevail when there any inconsistencies with the Seniors SEPP. Also, under this amendment, development standards in the Seniors SEPP could be varied using clause 4.6 of the Standard Instrument LEP, to a maximum of 20%.

Comment

As discussed above (under 1. Consolidation of existing housing related SEPPs) Council continues to lobby for the ability to plan locally and is supportive of any amendments which allow local controls to prevail rather than one-size fits all State policies.

Concern is raised with the proposal to allow development standards in the Seniors SEPP to be varied using Clause 4.6 of the Standard Instrument to a maximum of 20%. Although the use of a Clause 4.6 variation provides a certain degree of flexibility for developments, a 20% difference would not be considered a minor variation to existing development standards. Specifying a maximum 20% variation may lead to proposals designed to the maximum variation rather than attempting to design within development standards.

Further, Clause 4.6 variations have been the subject of numerous Court cases. The Department should review the effectiveness and interpretation of Clause 4.6 before finalising the proposed SEPP.

Recommendation

It is recommended that Council's submission outline support for any amendments which allow local controls to prevail rather than one-size fits all State policies and request clarification on the detail of how this would be achieved. The submission should object to the proposal to allow a maximum variation of 20% and request an immediate review into the effectiveness and interpretation of the application of Clause 4.6 variations.

Site Compatibility Certificates

The new SEPP proposes to extend how long a Site Compatibility Certificate (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. It is suggested that this timeframe is required to allow the preparation and assessment of seniors housing proposals, and prevent the SCC lapsing before the DA has been determined.

Comment

A contributing factor for the expiration of an SCC before a DA is approved is the site-specific planning issues with seniors housing proposals in areas where seniors housing would otherwise be prohibited by local planning controls. The SCC process equates to a rezoning without a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework, Ministerial Directions, and community consultation.

The current process under the Seniors Housing SEPP does not adequately address these considerations as part of the SCC process and results in development applications being assessed on a site where the land use is not otherwise permitted. This can result in unsuitable development outcomes, especially in Council's rural areas. Although the Seniors SEPP has recently been amended to exclude SCCs in the Metropolitan Rural Area, they can still be applied for under other circumstances in urban areas.

Recommendation

It is recommended that Council's submission raise concerns with the SCC process and request it be aligned with the Planning Proposal process to ensure the suitability of the land use prior to lodgement of a DA.

5. Proposed amendments to social housing provisions for NSW Land and Housing Corporation (LAHC)

The EIE proposes to implement changes to planning provisions within the *Affordable Rental Housing SEPP* and the *Seniors SEPP* to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC). These provisions would align with wider Government priorities set out in Future Directions for Social Housing in NSW (Future Directions) and the draft Discussion Paper on the NSW Housing Strategy and include the following:

5.1 Self-assessment of dwellings by the LAHC

The existing *Affordable Rental Housing SEPP* provisions allow the LAHC to self-assess and deliver small scale redevelopments with up to 20 dwellings and a maximum height of 8.5 m (two storeys). However, the EIE proposes to increase the maximum number of self-assessable dwellings to 60, including all residential development permitted with consent under another environmental planning instrument, or under a local environment plan and facilitated under the Exempt and Complying Development Codes SEPP, with a maximum height of 8.5 m.

The EIE also proposes to update the required design guidelines, including the Seniors Living Policy: Urban Design Guidelines for Infill Development, as well as the LAHC's own design guidelines and standards, to better reflect the increased threshold for self-assessable dwellings.

Comment

Concern is raised with the proposal to increase the self-assessment cap, as the increase in density and the associated infrastructure implications are unlikely to be given full consideration under this process. The proposal will remove further planning responsibilities from councils and it is unclear how developments would achieve compliance with Council's desired built form outcomes.

Recommendation

It is recommended that Council's submission request consideration of the cumulative impacts of increased density and associated infrastructure implications that may results from the increased self-assessment threshold. Further, the submission should advocate for all LAHC self-assessments to adhere to council's Development Control Plans to maintain local character.

5.2 Car parking requirements for LAHC development

The EIE proposes to apply a minimum car parking rate of 0.5 spaces per dwelling for a development undertaken by or on behalf of LAHC, on government-owned land, and 0.2 spaces per room for boarding houses by social housing providers. These reduced parking rates would also apply to the private dwelling component of a seniors housing development under the Seniors SEPP on government-owned land.

Comment

As previously discussed, concern is raised with proposals for low minimum car parking rates in the absence of locational requirements (such as being within a radius of a train station) which generally results in on-street parking pressure within the vicinity of these developments.

Recommendation

It is recommended that Council's submission raise concerns with the likely increased on-street parking pressures generated by low car parking rates in areas not in close proximity to transport nodes.

5.3 Subdivision of Government-owned land

The EIE proposes to support the delivery of the Government's social housing program by allowing subdivision of Government-owned land without consent.

Comment

The EIE does not provide sufficient detail concerning the criteria for proposed subdivision without consent and a blanket approach for all Government-owned would not achieve the desired outcomes within varying land use zones.

Recommendation

It is recommended that Council's submission object to a blanket approach to Development without consent on Government-owned land and request further details concerning the proposed criteria for this type of development on Government-owned land.

5.4 Lift access exemption

The Seniors SEPP currently includes an exemption for development applications made by, or jointly with, a social housing provider requiring new self-contained dwellings for seniors housing located on or above the second floor to have lift access. The EIE proposes to amend the lift access exemption so it applies to all seniors housing delivered by or on behalf of LAHC, including dwellings not proposed as social housing.

Comment

Concern is raised to this exemption being provided as a cost saving measure at the expense of providing a fundamental accessibility requirement. The absence of a lift in a multi-storey development would reduce amenity, attractiveness and viability of developments for the market at which they are aimed.

The EIE also fails to clearly explain the reasons for this exemption applying to LAHC developments. Residents of a Government owned seniors housing development should not be subject to limited

accessibility and amenity, given that the key tenants form part of the ageing population and mobility is, or can become, an issue.

Recommendation

It is recommended that Council's submission advocate for the retention of the existing lift access requirements for all types of multi-storey seniors housing developments, regardless of the developer or land owner.

6. Other issues

General concerns relating to various aspects of the proposed SEPP are discussed below and include design excellence and the application of development contributions for the provision of infrastructure to support development.

6.1 Design Excellence

Council is currently progressing amendments to the HLEP to strengthen its Design Excellence provisions. Design excellence is a key priority of the Hornsby Local Strategic Planning Statement. The issues raised with the proposed SEPP include concerns relating to compatibility with local character and amenity. Although the need for affordable rental housing in Hornsby Shire is acknowledged, the SEPP provisions should not compromise the ability to achieve well designed buildings with sufficient setbacks, landscaping, communal living, open spaces and car parking.

Recommendation

It is recommended that Council's submission request that further refinements to development standards for the new housing typologies and specific design guidelines be drafted in consultation with councils to ensure design excellence is achieved.

6.2 Development Contributions

As discussed above (under 1. Consolidation of existing housing-related SEPPs) Council already has concerns with the growth in housing needs and related infrastructure requirements. The proposed SEPP would introduce further residential dwelling typologies and development pathways. However, there is no clarity on the application of development contributions and whether Section 7.11 or 7.12 contributions would be applicable to all types of developments and regardless of developer or landowner. For councils to provide necessary local infrastructure to support development, it is suggested that there should not be exemptions to the payment of development contributions, particularly due to the scale of some of the new housing typologies.

Recommendation

It is recommended that Council's submission request confirmation that the proposed SEPP would not permit exemptions to the payment of development contributions for development permitted under the SEPP which would generate infrastructure needs.

CONSULTATION

The Explanation of Intended Effect for the Housing Diversity SEPP is on exhibition until 9 September 2020. DPIE has been provided with an advance copy of Council's draft submission, subject to potential changes and/or endorsement by Council.

BUDGET

There are no budgetary implications associated with this Report.

POLICY

The EIE was prepared to set out the Department of Planning, Industry and Environment's proposal to prepare a new Housing Diversity SEPP to consolidate and update state level planning provisions for diverse and affordable housing types. DPIE advise that the proposed changes set out in the Explanation of Intended Effect will ensure that the residential development sector is well-placed to assist the economic recovery of NSW following the COVID-19 pandemic.

CONCLUSION

The EIE for the proposed Housing Diversity SEPP attached to this report outlines a proposal to consolidate and update the NSW Government's housing related policies, introduce new land use terms to help facilitate housing projects, and amend certain planning provisions to provide greater certainty for all stakeholders.

This report outlines the key changes and proposals outlined in the EIE and the implications for Hornsby Shire and notes areas of support and concern. The proposal to no longer mandate boarding houses as a permissible use in the R2 – Low Density Residential zone as part of the new SEPP is welcomed. However, there are areas of concern with the new SEPP as outlined above, including the proposal to mandate build-to-rent housing in the R3 Medium Density zone and B3 Commercial core and any proposal to amend the Affordable Rental Housing SEPP that would include rural secondary dwellings and provide a complying development pathway.

It is recommended that a submission in response to the proposed Housing Diversity SEPP be submitted to DPIE which outlines the matters raised in this report.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Strategic Landuse Planning – Katherine Vickery - who can be contacted on 9847 6744.

KATHERINE VICKERY
Manager - Strategic Landuse Planning
Planning and Compliance Division

JAMES FARRINGTON
Director - Planning and Compliance
Planning and Compliance Division

Attachments:

1. Explanation of Intended Effect - Housing Diversity SEPP

File Reference: F2004/07599-02

Document Number: D07978652

13 PL19/20 Exhibition of the Proposed Housing Diversity State Environmental Planning Policy

(F2004/07599-02)

RESOLVED ON THE MOTION OF COUNCILLOR MARR, seconded by COUNCILLOR BROWNE,
THAT:

1. A submission regarding the proposed Housing Diversity State Environmental Planning Policy be submitted to the Department of Planning, Industry and Environment outlining the issues raised in Director's Report No. PL19/20 including (but not limited to):
 - a) Support for the proposal to no longer mandate boarding houses as a permissible use in the R2 - Low Density Residential zone.
 - b) Raise concern in relation to the proposal to mandate build-to-rent housing in the R3 Medium Density zone and the B3 Commercial Core zone.
 - c) Raise concern with any proposal to amend State Environmental Planning Policy (Affordable Rental Housing) 2009 that would include rural secondary dwellings and provide a complying development pathway.
2. Following the release of a draft State Policy or making of a Policy by the State Government concerning Housing Diversity, a Councillor Workshop be held to discuss the implications of the Policy for Hornsby Shire and possible changes to Council's planning controls in response.
3. The Workshop consider any related findings following the exhibition of the Hornsby Shire Housing Strategy, Affordable Housing Discussion Paper and Seniors Housing Demand and Supply Review.

FOR: COUNCILLORS BROWNE, DEL GALLEGOS, HEYDE, HUTCHENCE, MARR, MCINTOSH,
NICITA, RUDDOCK, TILBURY AND WADDELL

AGAINST: NIL



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27 August 2021

Mr Luke Walton
Executive Director
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Luke

Proposed Housing SEPP

Introduction

Thank you for the opportunity to comment on the Proposed Housing SEPP (proposed SEPP). As you will be aware, HIA made a detailed submission to the Explanation of Intended Effect for the new Housing Diversity SEPP in September 2020, and we are pleased to see that comments we made at that time have been recognised in the documents currently on exhibition.

HIA notes the separation in the proposed SEPP of the different housing types into affordable housing and diverse housing, to provide more clarity on the housing types that are intended for consideration within the new policy.

A fundamental principle of HIA's *Housing Affordability Policy* (copy attached) is that every Australian should have access to a home. The concept of the '*Housing Continuum*' (refer diagram below) has been developed by HIA and describes the broad variety of housing types that make up the housing supply chain and provides a comparison of these housing types by tenure and delivery mechanism.



The overarching comments made in HIA's September 2020 submission, were supportive of new policy to encourage the delivery of affordable housing across Metropolitan and Regional NSW, along with new initiatives to include mainstream developers and builders in the delivery of these housing types. However, importantly, it was noted that for development of these new housing types to be taken up by the private sector they must present as a commercially viable proposition for industry. To assess whether a project is commercially viable, industry will require access to clear and detailed project information, during the tender process.

HIA notes that the proposed SEPP will now consolidate five existing SEPPs, in addition to the original three, to include SEPP No. 36 – Manufactured Home Estates and SEPP No. 21 – Caravan Parks. We are also aware that the policy has been made in phases, with provisions for build-to-rent made in advance of the proposed SEPP, and that a definition and provisions for student housing is no longer included.

As the bulk of our comments made in our earlier September 2020 submission related to build-to-rent and student housing, the remarks made within this letter are shorter and relate mainly to the changes to boarding house provisions, the new co-living housing type, secondary dwellings and seniors housing. Our comments in relation to these changes and other provisions are set out below.

Boarding houses

A major change to the proposed SEPP is that boarding houses will now need to be used for affordable housing in perpetuity and operated by a registered community housing provider.

This means that the current planning provisions for boarding houses, including provisions for floor space ratio (FSR) bonuses, will be mostly unavailable to commercial property developers.

HIA also notes that the proposed SEPP will allow the NSW Land and Housing Corporation (LAHC) to self-assess boarding house developments, meaning that the LAHC may benefit from regulatory advantages, not available to private land holders, which may raise 'competitive neutrality' concerns.

Co-living

HIA acknowledges the important function that the new co-living housing type can play in delivering a ready-made form of affordable rental accommodation. Co-living developments will potentially meet the needs of the community, particularly if these developments are built in highly connected areas, where residents have convenient access to work, educational and recreation opportunities.

A key issue that needs to be addressed however, is whether the proposed co-living controls allow this new housing type to be commercially viable for the development industry. The proposed co-living controls include size of development, inclusion of communal spaces and requirement for a co-living manager (on or off-site). We also note that the density bonus is reduced to 10% (compared to the boarding house density bonus of 25%) and is time-limited to apply up to 1 August 2024 only.

HIA is therefore concerned about the commercial viability of this proposal and would be interested to sight economic modelling carried out to test this.

We do note that the Department's frequently asked questions document (page 4) does recognise that the new standards for communal spaces may impact development feasibility in some cases. Together with this we are aware that the car-parking requirements for co-living developments is likely to further impact feasibility. Is there a need for car-parking if co-living developments are proposed to be built in highly connected areas, close to transport nodes and close to residents' work and study places and to recreational facilities.

Over time, HIA recommends that the co-living housing type and associated development standards, should be monitored to ensure that provision of this product is both viable for developers and equally affordable for occupants, whilst meeting both their needs and expectations.

Secondary dwellings

HIA supports the proposal for councils to have the discretion to set a maximum size and distance from the principal dwelling for secondary dwellings in rural zones.

As outlined in our September 2020 submission, we suggest that consideration should also be given to changing the permitted size of secondary dwellings in residential zones. It is suggested that a sliding scale is introduced to determine the size of secondary dwelling permitted depending on lot size. That is the larger the lot, the larger the floor area of the dwelling, rather than capping the floor area of all secondary dwellings at 60m².

Seniors Housing

HIA supports changes to the planning system that will facilitate both diversity and equitable provision of housing stock. In this regard, it appears as though the provision of some forms of housing, including seniors housing, may be disadvantaged should the proposed SEPP be adopted in its current form.

The proposed SEPP makes some significant changes to the existing State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP). These amendments will reduce the provision of seniors housing and are contrary to the SEPP's original purpose to increase opportunities for this housing type. The main concern is the change in locations where seniors housing will be allowed and in particular the exclusion of this type of housing in Zone R2 (with the exception of residential aged care facilities). The removal of the site compatibility certificate provisions will also amplify the restrictions on land for seniors housing.

Further, there appears to be a complete lack of consistency between the proposed seniors housing provisions of the SEPP and the Greater Sydney Commission's District Plans. The District Plans support a mix of dwelling types, a mix of sizes, universal design, including seniors and aged care housing. Further, that the housing must be in the right places to meet demand for different housing types and that housing supply must be coordinated with local infrastructure to create liveable, walkable neighbourhoods with direct, safe and universally designed pedestrian and cycling connections to shops, services and public transport. HIA

believes that exclusion of seniors housing in certain locations, including Zone R2 Low Density Residential is not consistent with this objective.

Further information

Thank you again for the opportunity to comment on the proposed SEPP and should you require any further information on the matters raised in this letter, please contact Cathy Towers, Assistant Director Planning, on telephone no. 9978 3333 or c.towers@hia.com.au.

Yours sincerely
HOUSING INDUSTRY ASSOCIATION LIMITED

A handwritten signature in dark ink, appearing to read 'David Bare', is positioned above the printed name and title.

David Bare
Executive Director NSW

Attachment: HIA Policy *Housing Affordability*

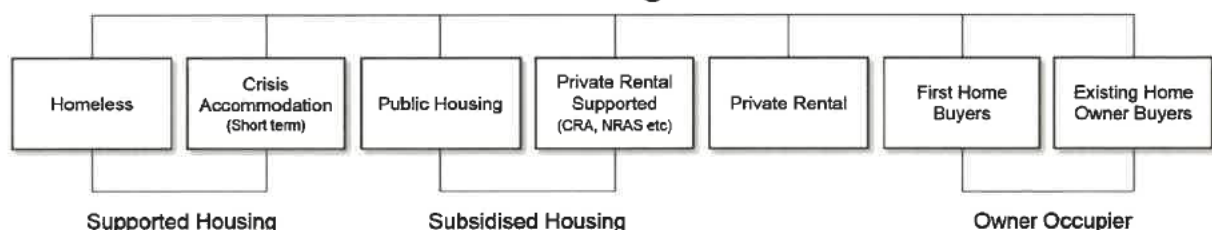


Housing Affordability

Policy Background

- A fundamental tenet of HIA's efforts to promote housing supply is that every Australian should have access to a home. Access to shelter is a basic human need and is critical to allow all Australians to participate in society to their full economic and social potential. Yet despite being a developed and economically advanced nation, housing affordability remains a challenge for many Australians.
- When considering their role in promoting housing supply, all levels of government must acknowledge that housing affordability is a function of an adequate housing supply and that by placing pressure on the supply of new homes for private rental and sale, through poor policy settings, governments effectively place pressure back down the housing supply chain, increasing the number of people seeking government assistance for housing.
- To assist in highlighting the connection between each part of the housing supply chain, HIA has developed the concept of the 'housing continuum'. This allows stakeholders to better describe the broad variety of housing types that make up the housing supply chain and provide a comparison of these housing types by tenure and delivery mechanism (i.e. government, not for profit, private).

The HIA Housing Continuum



May 2015

- Housing affordability is improved as a consequence of an adequate housing supply at an appropriate price for each cohort of the housing continuum.
- Many developers and builders contribute to ensuring sustained levels of housing affordability by offering diversity in product, including housing for the low and moderate income end of the market. Yet overall housing supply continues to fall short of underlying demand year on year.

Policy Issues

- Housing affordability is generally accepted as a term that refers to the relationship between housing costs (rent, mortgage repayments) and a household's total income. It can be applied at the individual dwelling level, but often refers to the conditions across the overall housing market.
- For the housing industry, housing affordability is intended to focus attention on achieving an outcome – that is, to create an environment where a person not currently in the private housing market has the ability to enter it, whether to rent or own.
- When affordability is low, the ability to enter the market is restricted for those on low and moderate incomes. When affordability improves, the ability to enter the market, and remain in the market, for these households also improves.

- Recent state and commonwealth government inquiries into affordable housing have been unable to clarify the various definitions for housing affordability cited by lobby groups, community housing providers, governments and regulators. Attempts to address Australia's housing affordability challenges first requires a clear definition and scoping of the problem. The housing affordability challenge has numerous cohorts, looking through different prisms:
 - Those on public housing waiting lists;
 - Those waiting on community housing providers;
 - Those requiring housing support (housing for the disabled and for emergencies)
 - Those in private rental housing, supported by Commonwealth rental assistance payments;
 - Those experiencing unsustainable increases in private rental costs; and
 - Those saving for a first home.
- HIA has a range of policies aimed at improving housing affordability by addressing specific issues that detract from affordability and supply. This statement aims to set out industry's expectations of government to support housing affordability through a range of avenues.

HIA's Policy Position on Housing Affordability

To address the imbalance between the supply of and demand for housing, which leads to reduced housing affordability, government policies need to:

- Recognise that a continuing undersupply of housing stock contributes to the unaffordability of housing in Australia – across numerous segments of the community.
- Support and enable industry to meet overall housing supply targets by creating the right environment to incentivise a wide variety of housing to be built in the marketplace.
- Support industry to voluntarily assist governments to improve the supply of low and moderate income housing stock (affordable housing), for rent or sale, as a supplement to governments own social and crisis accommodation provision (for example NRAS programs).
- Support and promote initiatives that improve housing supply and therefore housing affordability for all households including:
 - Maintaining abundant land supplies including short, medium and long term land supply in the pipeline for detached housing sites in conjunction with medium density opportunities.
 - Setting clear land supply targets for authorities to ensure land supplied for housing in both greenfield and infill sites are maintained.
 - Addressing the excessive taxation burden on housing.
 - Restricting any further development contributions being levied on housing, particularly those which levy for community infrastructure items that should be funded by general taxation measures.
 - Continuing to support and implement housing based infrastructure rather than place that responsibility back onto industry to fund this.
 - Ensuring a streamlined planning approvals process where constraints on the land are clearly identified in the first instance and standards for the subsequent design and construction of housing are specified in single residential housing codes for all jurisdictions.
 - Allowing the private sector to assist with the heavy workload of authorities in planning and ensuring better statutory time frames are delivered for housing development.
 - Identifying surplus land for residential development and facilitate its release in a timely manner.
 - Actively promoting policies which to allow for a range and mix of housing to be developed at all price points.
 - Making new housing supply and housing affordability an objective of state planning legislation.