

SUBMISSION: DRAFT HOUSING SEPP

Introduction

Randwick City Council (Council) welcomes the opportunity to comment on the Housing SEPP consultation draft and supporting information. Council notes that the *draft Housing SEPP* has been developed following the exhibition of the *Housing Diversity SEPP Explanation of Intended Effect* that Council provided input to in 2020.

Council notes that the Housing SEPP would consolidate five SEPPs that are currently in use in NSW:

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

Council also notes that the Housing SEPP consultation draft (the draft SEPP) does not include provisions from phases one and two (LAHC social and affordable housing provisions and build to rent), the proposed caravan park and manufactured home estate provisions or short-term rental accommodation provisions due to take effect on 1 November 2021 and these provisions will form part of the finalised Housing SEPP.

Randwick Council has long been an advocate for changes to these policies and is supportive of measures that will increase the provision of social and affordable housing in NSW and policy that will meet the needs of the State's growing and diverse population. Currently, there are more than 50,000 families on the social housing waiting list in NSW, with some families waiting for five to 10 years to be housed. A recent study by Equity Economics shows NSW currently has a shortfall of 70,000 social housing units, while modelling by the University of NSW has estimated the real shortage is more than 135,000 social housing units. Therefore, Council requests the NSW Government to increase public housing stock as a matter of urgency.

Council provides the following comments on key aspects of the draft SEPP and supporting information.

Boarding houses

Council supports changes to the definition of 'boarding house' that requires this type of development to provide affordable housing in perpetuity and be managed by a registered community housing provider (CHP). This is a welcome change given the large number of new generation boarding houses built under the ARHSEPP to date that allowed developers to unlock FSR incentives without a mandate for affordable housing.

Refining the boarding house definition

Given the significant changes proposed to the definition of boarding house, Council suggests that this dwelling type could be rebranded with a new name to provide more clarity to the community. The boarding houses as proposed would essentially be the third iteration of the 'boarding house' – we have previously seen the traditional older boarding house (i.e. shared accommodation for low income

earners), the new generation boarding house (i.e. studio units rented at market rate) and now what is proposed (i.e. actual affordable units developed and managed by a CHP).

Council also suggests that the definition of boarding house be amended to clarify the role of social housing providers and the LAHC in the delivery and management of boarding houses. It is unclear whether it is intended by DPIE to allow social housing to be built under the SEPP in its current form, noting that there are proposed provisions to allow LAHC to develop boarding houses to “facilitate ongoing supply of social housing”. It is understood that CHPs may wish to include a mix of social and affordable dwellings in future developments and there should be flexibility to allow this to occur. Under the current definition it is unclear whether this is permissible.

Incentives for affordable boarding houses

Council provides its in principle support to the proposed floorspace bonus of 25% for boarding houses but questions whether this is incentive enough for the CHP sector to deliver boarding houses to meet the identified need for affordable/social dwellings in NSW. It is noted that CHPs do not pay land tax meaning tax concessions are not an appropriate incentive. As the need for affordable housing across the state continues to rise, if the NSW Government is serious about providing affordable housing for very low, low and moderate income earners, further incentives must be provided. Council is unaware of any boarding houses built by CHPs in Randwick City or other surrounding council areas under the existing ARHSEPP. As such, it is unclear whether these changes will lead to more affordable housing being provided, or is simply closing the loophole that has allowed boarding houses to be built and rented at market rates since the ARHSEPPs inception.

While Council supports the application of a FSR bonus for affordable housing, suitable mechanisms should be in place to ensure boarding house development is appropriate in its context. FSR bonuses should be tied to a character test and should only be granted if it can be demonstrated that new development is in line with the desired future character of the area. To remove ambiguity around appropriate character, the character test assessment should be based on local character statements and DCP provisions. This will also ensure local site-specific controls are given appropriate weight in the assessment of boarding house developments. Minimum site requirements may also assist in delivering contextually appropriate development. For instance, a minimum frontage requirement would assist in identifying appropriate sites that can accommodate additional bulk and scale resulting from a FSR bonus.

Boarding houses in the R2 zone

Council supports the removal of boarding houses as a mandated permissible use in the R2 Low Density Residential zone. Giving councils the option to choose whether they wish to mandate boarding houses in their R2 zone better considers local conditions. Boarding houses should not be relied upon as a long term housing option given the small size of the rooms (and noting the in-fill affordable housing option also available under existing and draft SEPP). This type of housing is better suited for areas close to transport, jobs and services rather than more suburban areas that are typically zoned R2 Low Density Residential.

Notwithstanding, if boarding houses are to be provided as genuine affordable housing in perpetuity, it is Council's view that boarding house development could potentially be accommodated in select areas of the R2 zone. Council's LSPS and Housing Strategy notes that there is a significant shortfall of affordable dwellings in Randwick City and that the local rental market has limited ability to meet the needs of very low, low and moderate-income households. This aligns with current permissibility of boarding houses in the R2 zone under *Randwick Local Environmental Plan 2012*.

The Randwick LGA has a significant proportion of land zoned R2, including the southern portion of the LGA. This portion is not as readily serviced by integrated transport infrastructure such as rail and light rail services and relies heavily on bus services that are subject to change. It also generally has a low scale character in comparison to R2 land within the northern portion of the LGA. As such, Council contends that areas in the R2 zone that are accessible, i.e. within 400m of a local centre (i.e. B2 Local Centre zoned areas in Randwick City that contain transport hubs) could be suitable for boarding house development, subject to appropriate character assessment.

Consideration could also be given to allowing boarding house development in the R2 zone without the 25% floor space bonus. This could provide the flexibility for CHPs/NFPs to develop smaller scale boarding houses in these areas but also ensure that such development does not significantly affect the streetscape character. Such development would need to be consistent with relevant council controls contained within a DCP.

Council notes that the 25% bonus only applies to development on non-heritage land, however the definition of non-heritage land includes heritage conservation areas (HCAs). Council does not support the FSR bonus in HCAs and recommends that the clause be amended to prohibit FSR houses in HCAs to ensure adequate protection of heritage character and to prevent inappropriate development within conservation areas. The application of the existing 20% FSR bonus for new generation boarding houses has proved to be problematic in the Randwick LGA due to the complexity of accommodating additional bulk and scale on existing buildings and difficulty of adapting older style dwellings for communal use. The proposed 25% bonus for boarding houses will further exacerbate this issue.

Land and Housing Corporation

Council notes that the proposed SEPP will allow the Land and Housing Corporation (LAHC) to self-assess boarding house proposals in the R2 zone, or wherever the use is permitted with consent under the relevant environmental planning instrument. Council does not support this self-assessment. It is noted that the intention of this change is to increase social housing across NSW, however Council's local planning frameworks are well equipped to assess such residential developments. Locking councils out of the assessment process could lead to poor planning outcomes in sensitive areas that often have a low density character that can be incompatible with boarding house development and the associated floor space bonus.

Allowing boarding houses to be approved by LAHC under a separate planning pathway could also lead to the stigmatisation of this development type and community opposition. This will be further exacerbated if the local community is not appropriately notified or does not have the opportunity to provide input into the development process, as they would if a development application was lodged with Council.

If DPIE intends to progress this change, Council suggests the following, at a minimum, be considered:

- Collaboration with councils prior to this change being made so that input can be provided on this separate planning pathway.
- Detailed design standards specifically for boarding house development in the R2 zone.
- Character statements prepared in accordance with DCP requirements for boarding house development in the R2 zone.
- Opportunity for neighbours/local community to provide input/comment into the proposal and its design – it is not sufficient to provide adjoining neighbours with a notification of works letter prior to construction.

Regarding boarding house development in zones other than R2, while Council supports the provision of affordable/social housing through the planning framework, any boarding house development that is afforded the floor space bonus must be subject to a character test.

Minimum stay requirements

Regarding the proposed minimum stay of 3 months for boarding houses, consideration should be given to the removal of this requirement. As boarding houses will be managed by registered CHPs, flexibility should be afforded so that CHPs can use boarding houses as transitional housing for women and children escaping domestic violence or other persons in need for housing in the short term. It is considered that the existing eligibility criteria used in the NSW Community Housing Policy could be adopted for transitional housing tenants in boarding houses built under this policy.

CHP management and monitoring

Nothing in the draft SEPP prevents the development of a boarding house by a private developer, provided the boarding house is managed by a registered CHP following completion. Potential exists for

an influx of newly registered Tier 3 CHPs to meet demand for the management of boarding houses. Considering this potential, the existing regulation and monitoring of CHPs may need to be reviewed to ensure the current system can continue to function and respond to the proposed changes in boarding house delivery and management.

Proposed boarding house provisions

In addition to the above points, Council provides the following in relation to the boarding house development standards outlined in Chapter 2, Division 2:

- Clause 23 Non-discretionary development standards:
 - (a) FSR bonus – FSR bonuses should be tied to a character test that are underpinned by local character statements and DCP provisions. A minimum frontage site requirement should be included for sites pursuing the FSR bonus.
 - (c) landscaping – Randwick LEP 2012 does not permit multi-dwelling housing in the R2 zone. Tying minimum landscaping requirements to the minimum requirements multi-dwelling housing may be difficult to apply in the R2 zone where medium density is not permitted.
 - (h) communal open space – this clause should include a minimum requirement of 20sqm of communal open space, that increases to at least 20% of the site area.
- Clause 24 Standards for boarding houses:
 - (i) setbacks - Randwick LEP 2012 does not permit multi-dwelling housing in the R2 zone. Tying minimum front, side and rear setback requirements to the minimum requirements for multi-dwelling housing may be difficult to apply in the R2 zone where medium density is not permitted.
 - (j) building separation distances – this clause should clarify that an attic is a fourth storey and would therefore trigger the ADG distance separation requirement.
 - (k) room size – the standard should include a 1m deep strip in front of the kitchen as part of the kitchen area that is excluded.

Co-living

The newly introduced co-living housing type seeks to improve on the existing new generation boarding house development type by providing an avenue for private developers to continue to deliver studio-scale accommodation that rely on the sharing of infrastructure such as indoor and outdoor communal spaces, kitchen and laundries.

Council has long been an advocate for changes to state policy regarding boarding houses and purpose-built student accommodation. In particular, Council has advocated for the introduction of a definition for student housing in the Standard Instrument LEP so that this development does not utilise the existing boarding house provisions of the ARHSEPP. Since the introduction of the ARHSEPP in 2009, Council has seen a number of development applications for new generation boarding houses with many of these used for purpose built student accommodation. More recently, Council has seen around 1,200 student housing rooms approved within the Kingsford and Kensington town centres in developments that have benefited from the existing floor space bonuses under the ARHSEPP. There has been no requirement for any of these developments to provide any genuine affordable housing, a key failing of the previous policy.

Removal of student housing definition

Council notes that a definition and provisions for student housing is no longer being included in the proposed SEPP. Notwithstanding, Council notes that co-living housing and student housing are similar in nature and that purpose built student accommodation is generally prevalent in areas proximate to key universities and institutions such as UNSW. As such, Council does not object to student housing being facilitated using the co-living provisions of the proposed SEPP. Notwithstanding, Council strongly suggests that DPIE considers including an affordability requirement for this form of housing.

Incentives for co-living housing

Council notes that a time limited density bonus of 10% for co-living developments until 2024 to support NSW's COVID recovery is proposed. It is unclear to Council why the density bonus is proposed "due to the decreased income and increased housing stress that many are experiencing as a result of the pandemic" when there is no requirement for co-living to incorporate an affordable component, and highly unlikely that new co-living developments built with this density bonus will provide housing suitable for people experiencing housing stress. It is Council's position that density bonuses should only be afforded when there is a public/community benefit in the form of affordable housing. As such, Council objects to the proposed 10% density bonus for co-living development until 2024.

Council suggests a more appropriate incentive for the delivery of co-living housing would be to reduce car parking requirements for co-living housing that is located within 400m of a local centre business zone (i.e. B2 Local Centre zoned areas in Randwick City that contain transport hubs). In line with parking rates outlined in the Kensington to Kingsford (K2K) DCP, Council suggests a 0.2 rate per room for co-living developments. This would reflect the reduced parking demand for studio-sized dwellings and the student population and reduce the overall cost of co-living housing on land that is generally more expensive due to its location.

Council notes that the minimum requirement of 10 rooms for co-living developments, as proposed in the *Housing Diversity SEPP EIE* has been removed. Council supports the proposed minimum of 6 rooms. Council considers that this better addresses the need for smaller, more affordable types of rental accommodation and provides more flexibility for co-living developers.

Council supports the proposed minimum stay time of 3 months in co-living developments. This will ensure that the policy has the desired effect of increasing rental housing stock and is not used as short term rental accommodation.

Proposed co-living provisions

In addition to the above points, Council provides the following in relation to the proposed co-living development standards outlined in Chapter 3, Part 3:

- Clause 64 Non-discretionary development standards:
 - (e) communal open space – this clause should include a minimum requirement of 20sqm of communal open space, that increases to at least 20% of the site area.
 - (f) and (g) car parking – consideration should be given to reduced car parking rates for co-living located within 400m of a local centre business zone (B2 zone) to 0.2/dwelling for co-living housing.
- Clause 65 Standards for co-living housing:
 - (a) room size – the standard should include a 1m deep strip in front of the kitchen as part of the kitchen area that is excluded.
 - (b), (c) and (f) – reference to the R2 Low Density zone for the minimum lot size, setback and room number requirement is contradictory to Clause 63. Residential flat buildings and shop-top housing are prohibited in the vast majority of R2 zone, including within Randwick City.
 - (d) building separation distances – standards for this clause should clarify that an attic is considered to be a fourth storey and would therefore trigger the ADG distance separation requirement.
 - (g) managers work space – if the managers workspace is located within the communal living room, this should be provided in addition to the minimum area requirement outlined in clause 64(e).
 - (h) business zones – the clause should be amended to require active frontages on the ground floor to ensure delivery of mixed-use premises with retail and business premise at the ground floor.

Seniors Housing

The Randwick City Council LGA has an ageing population, with the number of persons aged 65+ expected to increase significantly by 2036. In particular, persons aged 75-84 and 85+ are expected account for increases of 67% and 74% respectively. This growth is reflective of the ageing population trend occurring across Australia and worldwide.

The Randwick Housing Strategy acknowledges the needs for a supply of suitable housing that meets the needs of this growing population – housing that is accessible, well designed and close to shops and services. However, this housing must also be appropriate in its context. In recent years, Council has seen the application of the existing Seniors Housing SEPP result in undesirable outcomes, including development that is incompatible with the existing local character and loss of important private recreation areas.

Action 2.6 of the Housing Strategy sought to exclude Randwick City Council from the existing Seniors Housing SEPP, with the aim to work with the Department and aged care providers to investigate a local response to seniors housing, including mechanisms to incentivise the development of seniors housing within the local planning framework.

The inclusion of the Seniors Housing SEPP into the overarching draft Housing SEPP is supported by Council, and the opportunity to provide feedback on the Housing SEPP consultation draft with the view of addressing local issues is welcome. However, concerns are still maintained as to whether this overarching policy will result in the best outcomes for the Randwick LGA.

Removal of site compatibility certificates and introduction of prescribed zones

Council is supportive of the removal of site compatibility certificates (SCC) for seniors housing and the introduction of prescribed zones. The SCC did not provide an adequate process to assess what is essentially the rezoning of land, particularly in relation to the RE2 zone. For instance, the application of the existing Seniors SEPP has previously resulted in a loss of private open space through the granting of site compatibility statements on land used for the purpose of existing registered clubs. An example of this is the approval of a site compatibility statement by the Department for the former Maroubra RSL Memorial Bowling Club for 56 self-contained units and 108 residential aged care facility beds.

Under the draft SEPP, land zoned RE2 Private Recreation is listed as a prescribed zone. Council does not support this as it results in a change of land use from recreation to residential without the proper considerations that would ordinarily be required via a planning proposal.

Often, this type of recreational land use forms an integral part of the overall network of existing recreational spaces which serves the local as well as broader residential community. As such, a strategic assessment that considers the impacts of a reduction of recreational lands and subsequent increase in residential land must be undertaken. These impacts can only be properly considered as part of a planning proposal.

Vertical villages – FSR bonus in Business zones

It is noted that there is no definition for vertical villages. Rather, vertical village is a container term utilised to deliver a floor space bonus to incentivise seniors development in a high density manner to encourage ageing in place. A vertical village might comprise of independent living units, residential care facilities or a combination of both.

Council's Housing Strategy seeks to ensure the future planning of town centres and renewal areas are designed for all ages and abilities. Noting that seniors housing is currently permissible under the Seniors SEPP in business zones where hospitals are permitted, in-principle support is provided for the inclusion of Business zones within the prescribed zones of the draft SEPP. However, given the proposed FSR incentives within business zones of up to 25%, the broader economic implications need to be considered to ensure Council's ability to deliver employment floor space in our strategic centres. The minimum 2,000sqm site area requirement for vertical villages could result in the concentration of vertical villages in our important economic strategic centres. At present, the primary mechanism for Council to

ensure delivery of commercial floor space in strategic centres is to apply a commercial floor space bonus.

Council considers that there is already adequate incentive for the delivery of seniors housing (in particular ILUs) within the business zones through our local planning framework. As such, Council does not support the FSR bonus of up to 25% for vertical villages in business zones unless the additional floorspace is affordable housing in perpetuity. This must be required to ensure that ageing in place is available to a diverse mix of the ageing population and will balance the delivery of residential accommodation in business zones. Council acknowledges the Commonwealth Government bed licencing system provides funding to aged care providers for the accommodation of persons with limited financial capacity based on an assessment of income and wealth, however notes that this system typically applies to aged care facilities that provide specific care needs in a residential care facility setting and not for ILUs.

Furthermore, noting the potential FSR bonus of up to 25%, which is coupled with a height bonus of up to 3.8m, Council recommends vertical village development should comply with the building separation requirements outlined in the NSW Apartment Design Guideline. In the absence of numerical requirements for building separation, potential exists for buildings with inappropriate bulk and scale, particularly in business zones, where DCP provisions favour tall, slender buildings.

Prohibition on Independent Living Units in the R2 zone

Council's Housing Strategy identifies the delivery of seniors housing as an important part of enhancing housing choice and diversity in our lower density residential areas. The draft Housing SEPP currently prohibits development for the purpose of ILUs in the R2 Low Density zone and there is no mechanism to allow Council's to permit the use in R2 zones if they choose. This prohibition may hinder the delivery of appropriately sized ILUs in the Randwick LGA. When considering if ILUs within the R2 zone should be included in the Housing SEPP, the following points are raised:

- In theory, the location and access requirements for ILU means that this type of development could only occur within the R2 zone that is accessible to facilities and services either directly or by public transport. However, transport service requirements are limited, with only two services a day required to meet the accessibility threshold. Transport services are also contingent on the provision of adequate local bus services within the LGA. The State Government's recent announcement of bus service cuts to the local area illustrates that transport services relied on to meet accessibility requirements may not always be available. If ILUs are to be permitted within the R2 zone, only sites that meet the accessibility requirements directly should be considered.
- If ILUs are to be permitted within the R2 zone, exclusions should be made for heritage conservation areas (see below for further discussion on heritage matters).
- There should be no State Significant Development approval pathway for ILUs within the R2 zone, regardless of whether they are proposed in association with residential care facilities (see below for further discussion).
- The introduction of an amendment that clarifies that development standards in an LEP prevail when there is inconsistency with the SEPP in relation to ILUs in the R2 zone. This proposal was included in the *Explanation of Intended Effect for a new Housing Diversity SEPP* but has been removed in the draft Housing SEPP.

Heritage conservation areas

The draft SEPP prohibits seniors housing on land within a heritage conservation area (HCA). This is in line with the existing moratorium that prohibits seniors housing in HCAs under the existing Seniors SEPP until 1 July 2022. Council strongly supports the extension of the moratorium on seniors housing in HCAs and requests this be granted in perpetuity for the Randwick LGA.

Council's planning policies provide for housing growth, while respecting, managing and preserving our built heritage through planning controls for HCAs. This balanced approach ensures development is appropriate in its context and character and protects our valued heritage precincts.

HCAs within Randwick City are generally characterised by fine-grain development located on small scale allotments. Given the minimum 1,000sqm site requirement for seniors housing, opportunities for seniors housing within HCAs would be limited, as sites of this size are the exception in HCAs. Consolidation of allotments within HCAs to meet the minimum site requirement would not be supported, as this would result in the loss of historical subdivision patterns and the demolition of buildings where retention is essential for collective significance and maintenance of character.

Randwick has an important but small portion of its land currently classified as HCA. Based on the prescribed zones outlined in the draft SEPP, seniors housing is permissible on 65% of all land within Randwick City. Of this land, approximately 0.2% is within an HCA. Given this small proportion, it is not considered that the exclusion of HCAs from seniors housing will hinder the delivery of this type of development within the LGA. As such, Council will be seeking a full exclusion of seniors housing within the HCAs on a permanent basis.

State Significant Development Pathway

Council does not support the proposed State Significant Development (SSD) pathway for residential care facilities with a capital investment value over \$30 million or more. The threshold of \$30 million is significantly low when considering the infrastructure associated with residential care facilities. While Council notes that the demand for seniors housing will continue to grow, removing local councils as the consent authority for seniors housing is inappropriate, regardless of the CIV of the given project. Councils' local planning frameworks are well equipped to assess such residential developments. Council contends that seniors housing does not have the 'state significance' to be assessed under an SSD approval pathway, regardless of the CIV. Further, the draft only requires residential care facilities to comprise 60% of the total development, opening the door for a mix of seniors housing types utilising the SSD pathway. As noted above, the SSD approvals pathway should not apply, even in part, to ILU developments. Allowing seniors housing developments to be assessed under an SSD approval pathway could result in developments that exceed local planning controls and are incompatible with the local character of the area and inconsistent with community expectations.

If DPIE intends to pursue this approval pathway, Council suggests the CIV be raised to \$100 million to align with the recently introduced build-to-rent SSD pathway.

Proposed Seniors development standards

In addition to the above, point, Council provides the following in relation to the development standards outlined in Chapter 2, Part 4:

- Clause 78 Use of ground floor of seniors housing in commercial zones – the clause should be amended to require active frontages on the ground floor to ensure delivery of mixed-use premises with retail and business premise at the ground floor.
- Clause 96(e) Non-discretionary development standards for hostels and residential care facilities – the existing Seniors SEPP minimum requirement of 25sqm of landscaped area per bed for residential care facilities should be retained to provide adequate amenity for residents.
- Schedule 4 Environmentally Sensitive Land (flood planning) – clarification is sought as to the definition of 'flood planning' referred to Schedule 4. Does this relate to all land to which Clause 5.21 of the Standard Instrument applies?

Infill affordable housing

Council is supportive of the requirement for in-fill affordable housing to remain affordable for at least 15 years (increased from 10 years under the current ARHSEPP). However, it is Council's strong recommendation that any in-fill affordable housing development that is delivered under the draft SEPP remain affordable in perpetuity to ensure the long-term supply of affordable housing. Council does not support the removal of the 88E restriction to be registered on title for in-fill affordable housing development. The registration on title should be retained for transparency for future owners, and to ensure enforcement of the requirement.

The design changes to in-fill affordable housing development proposed under the draft SEPP are supported in part. Controls that refer to or mirror the NSW Apartment Design Guideline including deep soil zone dimensions and minimum bedroom sizes are supported. However, reference to the Low Rise Housing Diversity Code minimum floor areas will allow for greater FSR than what is envisaged under Randwick LEP 2012. A clarifying statement should be included that allows consideration of LEP standards outlined in further detail below.

Proposed In-fill affordable housing development standards

In relation to the proposed development standards outlined in Chapter 2, Division 1 Council provides the following points:

- Clause 17(1)(i) Non-discretionary standards (dual occupancy, manor house or multi dwelling housing) – this clause should include *'or if a maximum is specified for this form of development in any LEP'*.
- Clause 20 Must be used for affordable housing for at least 15 years – the requirement for an 88E restriction to be registered on title should be reinstated.

Design guidance

It is noted that new design guidance will be provided for seniors housing, boarding houses and co-living housing in late 2021 in line with the making of the draft SEPP. While Council acknowledges the need for design guidelines to be available at the commencement of the Housing SEPP, this leaves little to no opportunity for Council to contribute to or review the guidelines prior to finalisation. Ideally, design guidelines should have been exhibited concurrently with the draft SEPP to provide a greater understanding of the changes. Notwithstanding, Council requests the opportunity to review and provide comments on the design guidance prior to finalisation.

Monitoring

DPIE currently relies on Sydney Water connections data to monitor net dwelling completions in Sydney. Council notes that this completions data excludes aged care/seniors living developments and boarding house/student accommodation dwellings.

Council has seen approximately 2,000 boarding house rooms recently approved in the LGA and there may be an increase in seniors development as a result of the draft SEPP. As such, Council suggests that DPIE investigates improved monitoring to ensure that data collection is more accurately aligned with the supply of additional housing types. This will also allow Council, the community and DPIE to better understand how the forthcoming Housing SEPP is being implemented.

Randwick City Council appreciates the opportunity to comment on the EIE and notes that it addresses key concerns raised by Council particularly in regard to new generation boarding houses.

Should you have any questions or queries regarding Randwick City Council's submission, please contact Timothy Walsh on 9093 6741 or timothy.walsh@randwick.nsw.gov.au.

Sincerely,



Stella Agagiotis
Manager Strategic Planning

From: Timothy Walsh <Timothy.Walsh@randwick.nsw.gov.au>
Sent: Tuesday, 7 September 2021 2:38 PM
To: DPE PS Housing Policy Mailbox
Cc: Cenzo Timpano; Natasha Ridler
Subject: Additional consideration in the making of the Housing SEPP - street and sub-address numbering

Hi Housing Policy team,

Randwick City Council has provided its endorsed submission to your team for consideration in the making of the Housing SEPP.

Council officers have another matter that it would like to raise in regards to street and sub-address numbering. It would be appreciated if this matter could be considered as part of the public exhibition period. Please note that the following has been prepared by officers and not the elected Council.

Given that the proposed Housing SEPP will consolidate a number of housing relating SEPPs and permit the creation of new boarding houses, seniors housing, caravan parks and manufactured home estates, future development should be addressed in accordance with the latest version of the [NSW Address Policy and User Manual](#) (NSW Government Geographical Names Board, 2019).

Council officers' experience dictates that when addressing matters are not discussed with Council early in the development cycle, they often lead to poor outcomes for the developer, council and future occupants. For the developer there may be delays in occupancy and efficiencies when having to re-number developments, amend contracts and communicate changes with stakeholders. For councils and other agencies, there is the issue of ensuring the validity of addresses and updating various addressing databases. Eventual occupants are most affected when their addresses are not recognised and they cannot adjust their licence, connect to the NBN or order rideshare/deliveries to their premises.

Councils must notify various authorities including Australia Post, NSW Spatial Services, Telstra and the Australian Electoral Commission (AEC). Council would appreciate the opportunity to notify these authorities in advance of occupation to ensure that these issues and inefficiencies do not occur for future tenants.

In consideration of the above, Council kindly requests that a clause be inserted in the proposed SEPP to the effect of:

All developments must be addressed in accordance with the NSW Addressing Policy and User Manual (APUM). In this regard, a proposed street & sub-address numbering schedule must be submitted to the Local Council for consideration and approval prior to the issue of a Certificate of Occupation and before the installation of building identification and sub-address signage .

It is strongly recommended to discuss addressing matters with the local Council as early as possible in the development cycle, generally prior to installation of services such as gas, water, electricity and telecommunications.

Council also requests that reference is made the *NSW Address Policy and User Manual* in any future design guidance prepared by DPIE to support the proposed SEPP or in any future update of the *Apartment Design Guide* (ADG).

Thank you for your consideration. If you have any questions, please contact myself using my details below or Cenzo Timpano, Technical, Research and Property Officer on 9093 6837.

Kind regards,

Timothy Walsh
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2 September 21

Mr Marcus Ray
Deputy Secretary, Planning & Assessment
Attention: Luke Walton
Housing Policy Team
Department of Planning, Industry and Environment,
Locked Bag 5022,
Parramatta NSW 2124 CC: Company name
Via Email: Luke.Walton@planning.nsw.gov.au

Dear Mr Ray,

RE: Draft Housing SEPP

This submission is made on behalf of Regis Aged Care, who commenced operation in 1994 and are now one of the largest national aged care providers with over 7,000 beds across more than 60 homes in all States. Regis operate 7 aged care homes across NSW and are seeking to expand its NSW operations. Regis most recently opened a new home at Elmore Vale (Newcastle) in 2018 which was a \$40m investment in NSW. Each new home investment ranges from \$30-60m and generates around 100 new jobs once operational.

The population of NSW continues to age, not only increasing the demand for more housing suitable for older people, but also increasing the need to facilitate older people to downsize from larger dwellings that would be more suitable for families. While the Draft Housing SEPP purports to enable diverse and affordable housing, including Seniors Housing, some of its provisions significantly restrict and disincentivise additional supply.

Regis have numerous general concerns about the details of the Draft Housing SEPP. However, acknowledging that these matters have been raised in submissions by various industry bodies, Regis wishes to raise specific concern about the redrafting of Clause 68(1), which applies specifically to the locality of its recently purchased property at 181 Forest Way, Belrose.

Approved Development at 181 Forest Way Belrose

Regis have recently purchased a site at 181 Forest Way Belrose, within the B2 (Oxford Falls Valley) Locality under Warringah LEP 2000. On 22 October 2020, in the case of *Chiroseph Pty Ltd v Northern Beaches Council* (Appeal No. 2020/137970) the NSW Land and Environment Court upheld an appeal in relation to DA2018/1654, by way of an agreement between parties for a new residential aged care facility (RACF) comprising 105 beds in 100 rooms over basement parking. Regis intend to construct and operate this development as a residential care facility, as defined under the Draft Housing SEPP.

Exclusion of B2 (Oxford Falls Valley) or C8 (Belrose North)

Land within the B2 Oxford Falls Valley Locality is deferred from Warringah Local Environmental Plan 2001 (WLEP 2011) and can currently be developed for the purpose of 'housing for older people or people with disabilities' under WLEP 2000. However, it can be expected that at some point Council will harmonise this older plan with their current comprehensive LEP. If this were to occur under the existing SEPP HSPD, Seniors Housing would remain potentially permissible as SEPP HSPD applies to land that adjoins land zoned primarily for urban purposes.

Specifically relevant to 181 Forest Way, Clause 4(2A) states

(2A) For the avoidance of doubt, land that is not zoned primarily for urban purposes includes (but is not limited to) land to which [Warringah Local Environmental Plan 2000](#) applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North) under that plan.

...

As 181 Forest Way and several other existing residential care facilities in the vicinity adjoin land within the R2 zone (albeit across a road) they remain permissible under SEPP HSPD by way of adjoining land zoned primarily for urban purposes.

However, Clause 68(1)(a) of the draft Housing SEPP states:

68 Land to which Part does not apply—general

(1) This Part does not apply to the following land— (a) land to which Warringah Local Environmental Plan 2000 applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North) under the Plan,

While we acknowledge, but do not agree with, the intent to exclude self-care housing in the R2 zone, Draft Clause 76(2) states:

76 Development standards for seniors housing—Zones RE2, SP1, RU5 and R2

(1) Development consent must not be granted for development for the purposes of seniors housing unless the consent authority is satisfied as follows—

...

(d) for development on land in Zone R2 Low Density Residential—the development is carried out only for the purposes of a residential care facility

That is, the intent is to allow residential care facilities to remain permissible in the R2 zone. However, the wording of Draft Clause 68(1) provides a blanket exclusion of all forms of Seniors Housing, including Residential Care Facilities, from the B2 and C8 Localities under WLP 2001.

Thus, upon harmonisation of WLEP 2001 and WLEP 2011, the approved development at 181 Forest Way and several other existing Seniors Housing and Residential Care Facilities in the Locality will become non-conforming uses that will need to rely upon the 'existing use rights' provisions of the EP&A Act and Regulation for even minor alterations and additions. This would create an unreasonable restriction on the ability of these developments to adapt and respond to evolving needs and opportunities for renewal over time.

Conclusion

In view of the above, we submit that Draft Clause 68(1) should be amended to include the same exception for residential care facilities that is provided in Clause 76(d) for residential care facilities in R2 zones. That is, the text underlined below should be added to Clause 68(1):

68 Land to which Part does not apply—general

(1) This Part does not apply to the following land— (a) land to which Warringah Local Environmental Plan 2000 applies that is located within locality B2 (Oxford Falls Valley) or C8 (Belrose North) under the Plan, unless the development is carried out only for the purposes of a residential care facility.

We would be happy to discuss this matter with you directly if you require any further clarification. I can be contacted on 0411 957 292 or icady@mecone.com.au.

Yours sincerely



Ian Cady
Director

27 August 2021

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

Dear Jim,

Re: Proposed Housing Diversity SEPP

Thank you for the opportunity to comment on the public consultation draft of the Housing SEPP.

The Registrar of Community Housing is a statutory appointee under the Community Housing Providers (Adoption of National Law) Act 2012 and responsible for the implementation of the National Regulatory System for Community Housing in New South Wales.

The Act contains the National Regulatory Code which registered community housing providers must comply with. The code deals with tenant and housing services, housing assets, community engagement, governance, probity, management and the financial viability of registered community housing providers.

My comments in relation to the draft Housing SEPP are as follows.

EPA Amendment (Housing) Regulation 2021 ("Regulation")

[7] – clause 98G (2) (b) - specify by whom notice should be given to the Registrar.

The Housing SEPP requires boarding houses to be managed as affordable housing by registered community housing providers in accordance with the Minister's Affordable Housing Guidelines. However, the SEPP does not require affordable housing other than boarding houses to apply the Affordable Housing Guidelines. This appears to be an unintended anomaly.

The Guidelines should be required wherever there is a statutory requirement for rental properties to be "affordable" and managed by a registered community housing provider.

This will ensure that boarding houses and affordable housing other than boarding houses will both be capable of being monitored for compliance purposes.

Further, a registered community housing provider must also demonstrate, to the satisfaction of the Registrar, that the housing is being used for the purposes of affordable housing. This has been provided for boarding houses at clause 98G(3)(e) and the same principle should apply to other forms of affordable housing to avoid an obvious regulatory anomaly.

A Council's Development Consent must state that affordable housing is to managed by a registered community housing provider and thus bring the Housing SEPP into operation. A mechanism ought to be put in place through the e - planning tool to ensure that the Registrar is notified of affordable housing developments, whether they are boarding houses or affordable housing other than boarding houses. An applicant may not notify the Registrar; hence the need for an automatic electronic system of notification.

State Environmental Planning Policy (Housing) 2021 Division 1 – In fill Affordable Housing

Proposed new sub clause 20(1)(c)

We propose a new sub clause 20(1)(c) to the effect that :

Prior to the issue of an occupation certificate, the applicant and the Council or certifier must inform the Registrar of Community Housing of the affordable housing component of the development and the applicant provide evidence of an agreement with a registered community housing provider.

Division 2 – Boarding houses

Comments regarding clause 23(3)

Affordable Housing is presently delivered by the private sector as well as the not - for - profit sector. We have been informed of many affordable housing developments failing to get the final go ahead because of the differential car parking and other requirements for private developers of affordable housing. These developments are additional to and not in competition with not – for – profit developments.

We would not want to restrict this growing avenue of development by the private sector by creating a barrier over and above those that a not - for - profit provider may have.

Second, not every registered community housing provider is a registered charity. The only requirement should be that the provider must be a registered community housing provider. There are for - profit registered community housing providers and these should not be excluded now or in the future.

Proposed new sub clause 25(1)(c)

We propose a new sub clause 25(1)(c) to the effect that :

Prior to the issue of an occupation certificate, the applicant and the Council or certifier must inform the Registrar of Community Housing of the boarding house development, and provide evidence of an agreement with a registered community housing provider.

Proposed new sub clause 39 (1) (c)

Prior to the issue of an occupation certificate, the applicant must inform the Registrar of Community Housing of the development, and provide evidence of an agreement with a registered community housing provider.

Schedule 1

7 - The restriction as to use of rental income is unnecessary as registered community housing providers are sufficiently regulated under the National Regulatory Code.

This provision also unduly restricts private sector involvement in the provision of affordable housing. Where a private developer can generate profit in circumstances where there is a rental cap, the further restraint of the use of those profits is unnecessary if the intention is to allow the private sector to be involved in the provision of affordable housing. It is presently involved in affordable housing and it is not intended to restrict this.

Where a not for profit is involved, they may use any surplus towards any number of purposes, which may include social housing outside of affordable housing; namely, community housing, which provides housing for those who cannot generally afford “affordable Housing”. Such housing has a similar demographic to public housing but also has the benefit of Commonwealth Rent Assistance.

FAQs

Our comments in relation to the FAQs are as follows.

The Department of Communities and Justice and the NSW Land and Housing Corporation jointly administer the social housing portfolio; not just the NSW Land and housing Corporation.

In – fill accommodation should be explained; sections 15 to 21.

Please do not hesitate to come back to me at any time.

Yours sincerely,

A handwritten signature in cursive script, reading "C. Valacos".

Chris Valacos
Registrar of Community Housing | Department of Communities and Justice
T 02 8741 2501 | F 02 8741 2532
A Suite 1A, Level 1, 1-17 Elsie Street, Burwood NSW 2134
M Locked Bag 4001, Ashfield BC NSW 1800
E chris.valacos@dcj.nsw.gov.au
W www.rch.nsw.gov.au

SUBMISSION TO PROPOSED HOUSING SEPP

INTRODUCTION

Retire Australia (RA) own and operate 29 retirement villages across New South Wales, Queensland and South Australia which provide housing for over 5,000 residents and is one of the largest privately-owned providers of retirement village living in Australia. Of these villages, 13 are located in NSW, primarily in Sydney and the Central Coast, but also at Armidale, Albury, Wagga Wagga and Sawtell. Since 2006, RA have been both redeveloping their NSW existing villages and building new retirement villages (RV) in a variety of locations to address the critical undersupply of quality senior housing across the state.

As such, RA is ideally placed to understand and make comment on the new SEPP, and has done so with a view to ensuring it continues to provide the ability for seniors housing to adapt and respond to the ever-changing needs of:

- an ageing population
- how seniors access support and care services
- the environment seniors choose to receive those services in the future
- legislative and policy changes including the recommendations of the Royal Commission into Aged Care Quality and Safety (RC).

RA made a submission to the Housing Diversity SEPP when released by the Planning, Industry & Environment (DPIE) in July 2020, and now wishes to make a further submission following the release of the consultation draft which has been renamed State Environmental Planning Policy (Housing) 2021 ('Housing SEPP').

To this end the following comments and issues are raised:

Clause 76 - Development Standards Restricting Permissibility or Type of Seniors Housing

R2 Low Density Residential - We note residential age care facilities (RACF) are only permissible in this zone.

RA's research indicates 70% of residents seeking independent retirement living prefer having access to aged care on site or co-location with an adjacent RACF so they have a continuum of care within the one community. RA believes this proposal prevents RV operators developing much needed integrated senior housing environments in outer urban fringe and regional areas, forcing retirees to seek options away from their family and community support structures.

The RC recommendations adopted by the Australian Government has signaled significant change and reform for aged care in Australia. Recommendations of note include:

- Rec 25: A new aged care system, in particular by 1 July 2024 the Aged Care Approval Rounds (ACAR) will be discontinued.
- Rec 35: Care at home category
- Rec 36: Care at home to include allied health care
- Rec 39: Meeting preferences to age in place
- Rec 40: Transition to care at home
- Rec 45: improving the design of aged care accommodation.

The above recommendations have already seen within the marketplace a shift away from traditional residential aged care to innovative models providing integrated options for accommodation, support and care services within the retirement village setting. There is an increasing trend for RV operators to be an approved Home Care provider under the Australian Government Aged Care system or partner with an approved provider to ensure village residents have access to support and care within the retirement community, inclusive of support end-to-life care options. Further, models now being established include the provision of Care apartments and Care Hubs—providing an equivalent level of service to a RACF—privately funded.

As such, this proposed change needs to be reconsidered by DPIE and for ILUs to remain permissible in R2 Low Density Residential Zones.

RE2 Private Recreation – We note it is proposed for senior housing development in this zone must be carried out on land used for the purposes of an existing registered club, and at least 50 per cent of the site must adjoin a residential zone.

RA believes judging permissibility on an arbitrary measurement (50% abutting Residential Zone) may hinder Registered Clubs from redeveloping non-core land for senior housing, particularly when large portions of registered club lands may also abut other permissible zones, i.e. BU 1-8, SP1 etc. and in combination meets the criteria. Moreover, and by example, if large sections of club land abuts narrow strips of RE1 land but otherwise is completely surrounded by Residential Zone land (or other permissible zones) then the wrong outcomes are achieved, denying Registered Clubs the opportunity to redevelop underutilised club land (non – core land) for senior housing in established residential areas.

As such, this proposed change needs to be reconsidered by DPIE and be less prescriptive in the assessing criteria of permissibility.

Clause 98-100 - Vertical Villages Bonus

RA supports the different floor space ratio bonus for ‘vertical villages’ included in the consultation draft. Notwithstanding, the current drafting may prevent RV operators from accessing the bonus who are providing residential aged care services (private aged care) under the Retirement Village Act.

The reform agenda envisioned in the Final Report of the Royal Commission (and the Government's response announced as part of the Federal Budget) seeks to and answer the call of many older Australians whose preference is to age in place. Connection to community, the ability to age in place and the promotion of innovative models of care, were overarching themes of the Royal Commission.

A new aged care system based on a universal right to high quality, safe and timely support and care, a new support at home program designed to better target services for eligible senior Australians, the removal of ACAR by 1 July 2024 and shift in allocation of care services and funding **directly to the consumer** (Home Care and aged care) is enabling the marketplace to respond with approaches to providing support and care services through Government and private funding arrangements.

RA is among many RV operators responding to the call of the Royal Commission by introducing innovative models of care that are equivalent to RACF services but operated under the Retirement Villages Act.

RA believes the current drafting is too prescriptive in referencing RACF for vertical integrated senior housing developments that qualify and can access the bonus.

As such, this proposal should be broadened to include private aged care services provided under the Retirement Villages Act.

SUMMARY of ACTIONS/REQUESTS

That DPIE give further consideration to the following clauses within the new SEPP:

1. Expand permissibility in R2 Low Density Residential Zones to allow fully integrated senior housing developments in the form of independent living units as well as RACF.
2. Provide more certainty to Registered Clubs and senior housing providers on the criteria used to assess permissibility of senior housing developments on RE2 Private Recreation land and perhaps make it less prescriptive than the proposed 50% which will arbitrarily preclude many suitable sites in urban locations.
3. Broaden the definition that allows RV operators providing private aged care services under the Retirement Villages Act to qualify for the Vertical Village bonus.

RA trusts this submission is of assistance to DPIE and that the above matters will be considered to provide greater certainty to all stakeholders involved in delivering senior housing in NSW and that new innovative models of senior housing solutions and care services are captured in the legislation. To this end, RA would welcome the opportunity for further consultation in relation to this critically important SEPP.

Should you require clarification of any issues raised in this submission please don't hesitate to contact me on 0422 409 920 or via email on bill.clydesdale@retireaustralia.com.au.

Yours Sincerely,



Bill Clydesdale
National Manager – Development
RetireAustralia

New South Wales Support Office

Suite 4, 167 Central Coast Highway, Erina NSW 2250
02 4311 3501
retireaustralia.com.au

From: [Rita Hogel](#)
To: [DPE PS Housing Policy Mailbox](#)
Subject: The new SEPP re housing
Date: Wednesday, 25 August 2021 6:04:49 PM

Dear Staff,

I have friends in Qld and Vic with 4 bed 2 bathroom houses or 3 bed 1 bathroom houses in areas close to town, close to work and they have been transformed into 5 or 6 micro apartments with double bed, table and chairs, lounge seater, own toilet and shower, small kitchenettes with microwave and fridge (no stove).

All done legally and following all compliance requirements, fire and safety, with insurance cover etc.

The owner gets higher rent, the tenants pay much less than they would usually for an apartment.

For the current housing crises it helps heaps of single people to have a safe and affordable place.

Kitchen and common areas are shared, there are house rules and people often enjoy having the company of others when they want to but also have their privacy.

●●●● Micro Apartments are not legal in nsw, however they are legal in WA, VIC, SA and parts of Qld.

Tenants have their own leases.

Often agents (eg "Sunshine Coast Property Rentals") are specially trained to cater for residents in rooming houses.

I believe they help with the current shortage of rentals.

Attached a lease form from Qld.

Kind regards

Rita Hogel
0423 427 728

CLARIFICATION TO MY SUBMISSION 29 August 2021

As I mentioned, I was very rushed in putting a comment into you within the deadline as I had just found out about the deadline.

The point of clarification is that I did find the relevant point in your document and I have reproduced it below. I hope that you might add this to my submission as a point of clarification.

SENIORS LIVING

My point was that you have stipulated that the frontage of the site area of the development is at least 20m measured at the building line.

That is great.

I believe it should be applied to Boarding Houses and Affordable Housing developments

CONSISTENTLY because:

The traffic generated from both Seniors and Boarding Houses and Affordable Housing would be assumed to be similar – therefore both would benefit and need the 20 m exit frontage to the street.

There are many battleaxe blocks in the R2 Zone near me and in the Northern Beaches LGS which are 1,000 m² and over. (I itemised some in my submission on 29 August 2021)

At present, most of these blocks would have a very small frontage say equal to one car width. If developed as the abovementioned type of housing, then without the 20m frontage, it would create access and safety problems with multiple cars accessing the developed properties.

Division 3 Development standards 74 Development standards—general

(1)

This section applies to development for the purposes of seniors housing involving—

- (a) the erection of a building, or
- (b) alterations or additions to an existing building. Page 38 State Environmental Planning Policy (Housing) 2021 [NSW] Chapter 3 Diverse housing public consultation draft

(2) Development consent must not be granted for the development unless—

(a) the site area of the development is at least 1,000m²,

(b) the frontage of the site area of the development is at least 20m measured at the building line,

(c) for development on land in a residential zone where residential flat buildings are not permitted the development will not result in a building—

- (i) with a height of more than 9m, or
- (ii) exceeding 2 storeys if the building is adjacent to the boundary of the site area.

(3) The development may result in a building with a height of no more than 11.5m if servicing equipment on the roof of the building - END OF POINT OF CLARIFICATION, 30 AUGUST 2021

RE DRAFT HOUSING DIVERSITY SEPP

I wish to submit a concern I have but have run out of time to prepare my document as fully as I would like.

My concerns refer to consistency with wording. I submitted my concern to Northern Beaches Council on 5 March 2021 (Northern Beaches Draft Strategy). I have not found the relevant points to direct you to your Draft State Environmental Policy (Housing) 2021 but I hope that you will take my comments on board if indeed they are relevant to the Policy.

My concern is that consistency be applied to both Seniors Affordable Housing and Boarding Houses.

- Seniors Accommodation required a 20 metre frontage to the street.
- Boarding Houses are not required to have a 20 metre frontage/exit to the street.

Both Accommodations could house the same number of people.

The number of vehicles who exit the premises could be the same.

I believe that there should be a consistent application of the 20 metre frontage needed for both types of developments.

Secondly.

Distance to bus stops.

The anomaly here is that it is not stipulated in clear language that the distance to the bus stop should be within 400m walking distance **for BOTH the incoming and outgoing trips**. Refer to my letter to Council which is below.

Thirdly,

Consistency be applied to boarding houses with the SEPP 65:

If the boarding house has at least 3 or more storeys – the building will comply with the minimum building separation distances specified in the Apartment Design Guide.

Copy of my letter to Council which addresses the inconsistency in driveway requirements needed for Seniors Accommodation and Boarding Houses.

Robin Maryska
26 Redman Road
DEE WHY NSW 2099

29 August, 2021

Robin and Karl Maryska
26 Redman Road
Dee Why 2099

email: robin.maryska@gmail.com
phone: 0410 059 942

5 March 2021

Northern Beaches Council
Council Chambers
DEE WHY

DRAFT NORTHERN BEACHES DRAFT STRATEGY

I would like to offer my comments on two main items in this draft relating to pages 80-84 – AFFORDABLE HOUSING and SENIORS ACCOMMODATION.

These Locational controls should **be consistent** with both Seniors Accommodation and Affordable Housing (Boarding Houses).

Both groups involve housing a larger than family-size group of people in R2 zones. To be fair to residents already living in those areas, the new controls should ensure that the character and amenity should not be radically changed.

SENIORS CONTROL TO BE CONSISTENTLY APPLIED TO AFFORDABLE HOUSING

Minimum lot size of 1,000 sq m and a minimum site frontage of 20 metres.

This is drafted in the Locational Control in the Seniors Accommodation p84.

It should be consistently applied to Affordable Housing (Boarding Houses)

If Senior and Affordable Housing is encroaching into R2 residential within 1 km of local centres with a lot size of 1,000 sq m – the residents deserve to have their lifestyle, character preserved.

For example, the 1 km area could range from Howard Avenue bus stop hub as far as Beverly Job tennis courts. In that area are battleaxe blocks greater than 1,000 sq m. Obviously they might not have the required 20 metre site frontage.

As the draft stands, you could not build Seniors Accommodation, but you **could build a Boarding House (Affordable Housing)**.

What is the difference here? The situation is the same because there is increased density of living in both categories, 24 people (12 rooms) for Affordable Housing.

MANY PROPERTIES ARE GREATER THAN 1000 SQM AND HAVE SAY 3M FRONTAGES

I have looked at the area near me – Painters, Little, Burne, May, Moorilla and Redman.

Surprisingly I have noted 19 properties which have a greater area than 1000 sqm but have just a few metres (maybe one car width) frontage to the road. Battleaxe blocks mainly.

If there are so many of these blocks so near to me and which are within the 1km radius of the hub, one would expect there to be many more in the applicable area in the Northern Beaches.

If all or some of these properties developed into DAs that ended in the Land and Environment Court, it would be extremely costly to the Council and residents. Is it not prudent to plug this “loophole” now at the onset rather than to cause grief and expense to many people later on?

These are the properties I noted for your consideration that could be more than 1000 sqm but have a minimum street frontage:

4 Painters Parade Dee Why	1353 sqm
5 Little Street, Dee Why	1069
1a Selby Avenue, Dee Why	2049
26 Redman Road, Dee Why	1201
28 Redman Road, Dee Why	1347
19 Burne Avenue, Dee Why	1024
19 May Road, Dee Why	
41 May Road, Dee Why	
23 May Road, Dee Why	
17 May Road, Dee Why	1126
27 May Road, Dee Why	
31b May Road, Dee Why	
22 Moorilla Road, Dee Why	1003
16 Moorilla Road, Dee Why	1336
12 Moorilla Road, Dee Why	1423
10a Moorilla Road, Dee Why	1062
18 Moorilla Road, Dee Why	
14 High Street, Dee Why	2833
13 High Street, Dee Why	1442

I believe that the control relating to the 20 m site frontage SHOULD BE CONSISTENTLY APPLIED TO BOTH CONTROLS – SENIORS ACCOMMODATION and AFFORDABLE HOUSING.

AFFORDABLE HOUSING p81

“Several changes to the Affordable Rental Housing SEPP concerning boarding houses.”

PARKING REQUIREMENTS to be reviewed with the aim of reducing the requirements for boarding houses in the Centre Investigation Areas.

When making reductions in parking requirements for boarding houses, I do not think you can make a new control that covers the whole of this new 1km zone.

1km takes you into heavily built residential areas, some with minimum street frontages (therefore reduced kerb:house parking)

Keeping in mind that at present the controls apply to a 400m range from a bus stop. To blanket the whole new 1km zone and reduce the current SEPP (where it is necessary to have 1 car space for 2 dwellings) puts more stress on street parking in this new wider residential area.

I believe the existing SEPP controls on the number of parking places required should not be reduced, in fact it should be strengthened and allow more onsite parking.

AFFORDABLE HOUSING p80

“permissible within 400m walking distance of a regularly used bus stop.”

This is drafted in both SENIORS and AFFORDABLE HOUSING.

The anomaly here is that it is not stipulated in clear language that the distance to the bus stop should be within 400m walking distance for **BOTH** the **incoming** and **outgoing** trips.

As an example:

One trip is 600m from the bus stop and the return journey is within 400m.

At present, a development complies.

A resident might need to access one bus by crossing the busy Pittwater Road. They walk to the next available and safe traffic lights, then walk further again to the bus stop on the opposite side of the road in order to start their journey (eg starting from the western side of Pittwater Road at Collaroy to a bus to the city or Manly direction).

How can it be “accessible” if a resident needs to walk say 600m to take the outgoing journey .

The return journey might bring them within the control at 400m but if one of the trips means that they walk a longer path than 400m, then surely the control is not working. The pathway is not “accessible” under the *intention* of the SEPP.

To clarify this control, I believe that the words “within 400m walking distance of a regularly used bus stop **to include both outgoing and incoming journeys**”

End of submission

State Planning Department

RE DRAFT HOUSING DIVERSITY SEPP

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AFFORDABLE HOUSING p81

“Several changes to the Affordable Rental Housing SEPP concerning boarding houses.”

PARKING REQUIREMENTS to be reviewed with the aim of reducing the requirements for boarding houses in the Centre Investigation Areas.

When making reductions in parking requirements for boarding houses, I do not think you can make a new control that covers the whole of this new 1km zone.

1km takes you into heavily built residential areas, some with minimum street frontages (therefore reduced kerb:house parking)

Keeping in mind that at present the controls apply to a 400m range from a bus stop. To blanket the whole new 1km zone and reduce the current SEPP (where it is necessary to have 1 car space for 2 dwellings) puts more stress on street parking in this new wider residential area.

I believe the existing SEPP controls on the number of parking places required should not be reduced, in fact it should be strengthened and allow more onsite parking.

AFFORDABLE HOUSING p80

“permissible within 400m walking distance of a regularly used bus stop.”

This is drafted in both SENIORS and AFFORDABLE HOUSING.

The anomaly here is that it is not stipulated in clear language that the distance to the bus stop should be within 400m walking distance for **BOTH** the **incoming** and **outgoing** trips.

As an example:

One trip is 600m from the bus stop and the return journey is within 400m.

At present, a development complies.

A resident might need to access one bus by crossing the busy Pittwater Road. They walk to the next available and safe traffic lights, then walk further again to the bus stop on the opposite side of the road in order to start their journey (eg starting from the western side of Pittwater Road at Collaroy to a bus to the city or Manly direction).

How can it be “accessible” if a resident needs to walk say 600m to take the outgoing journey .

The return journey might bring them within the control at 400m but if one of the trips means that they walk a longer path than 400m, then surely the control is not working. The pathway is not “accessible” under the *intention* of the SEPP.

To clarify this control, I believe that the words “within 400m walking distance of a regularly used bus stop **to include both outgoing and incoming journeys**”

End of submission

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Wednesday, 18 August 2021 1:29 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, 18/08/2021 - 13:28

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Rhonda

Last name

Jamleoui

Organisation name

Rockeman Town Planning

I would like my submission to remain confidential

No

Info

Email

rhonda@rockeman.com

Suburb

BEXLEY

Postcode

2207

Submission

My submission relates to proposed restrictions to boarding houses in the R2 zone. The new minimum lot sizes, landscaping requirements and intention to be rented by community housing providers only is contradictory to most local council strategies and the Department of Planning's direction for increased housing and increased affordable housing. Applying additional site restrictions in the R2 zone will prevent smaller lots near business zones and main roads near transport hubs to achieve a boarding house. Providing affordable housing should be seen as a benefit to the community not a hindrance and therefore there should be additional incentives to construct isolated sites, sites nearby transition of zones, nearby local community services and transport lines not hinder their

construction through increased lot consolidation which is often not possible in dense areas and apply additional landscaping requirements that is out of balance with the smaller site areas. Affordable housing should come in all types of forms to provide diversity of housing and achieve the objectives of the R2 zone however adding limitations to R2 zoned sites will hinder the ability to create forms of housing that apply to all demographics of the community in local areas. Additional restrictions will force occupants who want to live in smaller affordable housing to move to business or higher denser zones which often is contradictory to their family lifestyle.

I agree to the above statement

Yes

[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: Monday, 30 August 2021 1:45 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Mon, 30/08/2021 - 13:45

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

[REDACTED]

Last name

[REDACTED]

Organisation name

personal

I would like my submission to remain confidential

Yes

Info

Email

[REDACTED]

Suburb

Wahroonga

Postcode

2076

Submission

The Moratorium on Seniors Housing in Heritage Conservation Areas should be permanent and not end on 01 July 2022.

Senior Housing Development cannot compliment Heritage Conservation Areas.

I agree to the above statement

Yes

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

29 August 2021

Our Reference: URB/20/211

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

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

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

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

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

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

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

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

Regards,



Liz Coad
Director City Planning and Environment

City of Ryde Submission

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

Submission Date: 29 August 2021



Introduction

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

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

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

The submission has been structured in the following manner:

1. Overview

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

2. Boarding Houses

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

3. Co-living

- a. Permissibility
- b. Development standards

4. In-fill Affordable housing

5. Seniors Housing

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

1. Overview

1a. Content of draft Housing SEPP

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

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

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

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

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

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

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

While this opportunity to provide further comment on the remaining elements of the previously exhibited materials, it is disappointing that some of the proposed changes that were outlined in the Housing Diversity EIE have already been implemented. Council’s submission in **Attachment 2** strongly opposed the introduction of Build to Rent (i.e. residential accommodation) in the B3 Commercial Core as it is inconsistent with the objectives of the B3 zone. Council reiterates the

inappropriateness of introducing residential accommodation into the commercial core.

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

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

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

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

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

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

1c. Affordable housing vs diverse housing

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

Affordable Housing (Chapter 2)

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

Diverse housing (Chapter 3)

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

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

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

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

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

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

It is Council's view, supported by available research, that having a mix of housing tenures (i.e. social, affordable and private) in one development can assist in social cohesion and the delivery of mixed and balanced communities. LAHC should lead by example and commit to the delivery of a minimum percentage of affordable housing in their RFBs. In addition, providing a mixture of social and affordable housing in LAHC developments will help deliver on the strategic priorities of the Future Directions for Social Housing in NSW policy that aims for "*more opportunities, support and incentives to avoid and/or leave social housing*" and "*better social housing experience*". Providing more opportunities for affordable housing has the added benefit of providing more opportunities for those in social housing to transition into other tenures.

Unlike the new provisions included in the Regulations for boarding houses, there are no provisions for RFBs as to what constitutes affordable housing and how affordability will be maintained. Whilst the draft SEPP requires the affordable housing component to be managed by a registered community housing provider, it is recommended that the same provisions that apply to boarding houses, whereby the community housing provider needs to apply the Affordable Housing Guidelines and demonstrate to the satisfaction of the Registrar of Community Housing that the dwellings are being used for the purposes of affordable housing. The new Housing SEPP also has removed the requirement for a restriction to be registered on the land title under 88E of the *Conveyancing Act 1919* to ensure that the nominated affordable housing dwellings will be retained for 10 years as affordable housing. That means there is no legal mechanism securing the use of the dwellings for affordable housing. It is strongly recommended that this be reinstated in the draft SEPP to ensure the sufficient protection is provided for these dwellings. The update to the Regulations requires this of Boarding Houses, and it should be applied for any affordable housing.

1d. Definition for student housing

The draft Housing SEPP no longer proposes to introduce a separate definition or development standards for student housing. This is supported given Council's view (see **Attachment 2**) that a new definition for 'student housing' had no merit if the accompanying built form and planning controls mirrored those of boarding houses from the ARHSEPP (which deliver poor built form outcomes that negatively impact on local traffic, parking, amenity and local character). Following assessment, the proposed controls in the EIE for student housing were considered more problematic than those of boarding houses and were not supported on planning merits (see **Table 1** in **Attachment 2**).

Whilst the definition of student housing has been removed, the new Housing SEPP proposes for off campus student housing developers to use co-living housing planning provisions. The consultation material asserts that this approach recognises the similarities between co-living and student housing typologies and responds to concerns expressed by both educational establishments and private sector developers. As discussed below under 'Co-Living Housing', given the similarity to the development standards for Boarding Houses it is unclear how this change adds value, given the issues identified below.

2. Boarding Houses

2a. Permissibility

Following the exhibition of the Housing Diversity SEPP EIE in mid-2020, the Department contacted Council in April 2021 regarding the permissibility of boarding houses. It stated that while many councils indicated support to remove boarding houses from the R2 zone, some councils indicated that they would like to continue allowing for new boarding house development in the R2 zone in their respective LGA. On 27 April 2021, Council emailed the Department reaffirming its position made in the EIE to remove boarding houses from the R2 zone and is pleased to see that boarding houses are now proposed to be prohibited. This is a welcome improvement to the proposal and will assist local communities in ensuring land use align with desired future character and available infrastructure at a local level.

2b. Development Standards – Non-discretionary (Clause 23)

Table 2 includes a comparison of the current proposed development standards within the draft Housing SEPP against the development standards within the ARHSEPP. Additional scrutiny was applied in this review given these are the development standards that cannot be used to refuse development approval of a boarding house if met.

Clause 23(2) Housing SEPP	Current ARHSEPP	Council Comment
(a) for development on non-heritage land in a zone in which residential flat buildings are permitted—a floor space ratio not exceeding—	(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus—	Support simplifying the land exemptions regarding heritage affectations and boarding house development in zones that permit RFBs. The definition of 'non-heritage land' included in the draft SEPP includes all the heritage affectations included in the current ARHSEPP.
(i) the maximum permissible floor space ratio for residential accommodation on the land, and	(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	Whilst the bonus percentage has increased, Council supports the requirement that the additional FSR must be used for the purposes of a boarding house. Whilst Clause 28 requires boarding houses developed by the LAHC to comply with Clause 23(2) and 24(1) relating to development standards, Clause 25 does not require LAHC to retain the boarding house as affordable housing in perpetuity. As discussed below in 'Affordability of boarding houses', this is not supported. The same requirements should apply to all boarding houses, especially where a bonus FSR is permitted. The additional GFA will result in a larger built form, and even with design standards, will likely result in development that is incompatible with local character and amenity. The
(ii) an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house,	(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	

Clause 23(2) Housing SEPP	Current ARHSEPP	Council Comment
		community 'trade off' of this larger built form is that it is to be used for affordable housing purposes. However, if the SEPP does not protect its use for a boarding house in perpetuity, then it will eventually result in the larger building being used for other forms of residential accommodation, and not delivering on the intention of the SEPP.
(b) if paragraph (a) does not apply—a floor space ratio not exceeding the maximum permissible floor space ratio for residential accommodation on the land,	A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than— (a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	No change; Council supports FSR needing to be in accordance with the LEP. This will help with managing development compatibility with local character and amenity.
Not included in the draft Housing SEPP.	(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or	The current ARHSEPP allows boarding houses in R1-R4 residential zones, and B1, B2 and B4 centre zones. These zones permit residential accommodation, therefore the removal of this clause is inconsequential. The FAQ states that as a definition for student housing (i.e. 'new generation' boarding houses) is no longer a proposed use, the development standards for co-living housing (Chapter 3 Part 3) is to be used for student housing / 'new generation' boarding houses. The suitability of this is discussed below under 'Co-Living Housing'. Otherwise, it is Council's understanding that on campus student accommodation (for example, at Macquarie University) will be facilitated through State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.
(c) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,	(b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	No objection is raised.
(d) for development on land in Zone R4 High Density	(b) landscaped area if the landscape treatment	The rationale for this change has some logic (i.e. deliver comparable landscaping

Clause 23(2) Housing SEPP	Current ARHSEPP	Council Comment
Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument,	of the front setback area is compatible with the streetscape in which the building is located,	for typical building outcomes in that zone to help boarding houses contribute positively to the streetscape). In this instance the Apartment Design Guideline would apply under SEPP 65, which is considered a suitable approach.
(e) at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area,	(c) solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	No change; this is considered appropriate.
(f) for a boarding house containing 6 boarding rooms— (i) a total of at least 30m ² of communal living area, and (ii) minimum dimensions of 3m for each communal living area	A discretionary development standard is included that says “if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,” communal living room means a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room.	Introducing a minimum square metre size for a communal living room, which increases per additional room, as a non-discretionary development standard is an improvement from the current ARHSEPP. This will help ensure all boarding houses are delivering a consistent level of space and amenity and help improve the living experience. However, the minimum room size in the draft SEPP has been moved to a discretionary development standard. Whilst a minimum square metre communal living space is required, this cannot be at the expense of room sizes. Both communal spaces and room sizes should be non-discretionary development standards to deliver appropriate amenity.
(g) for a boarding house containing more than 6 boarding rooms— (i) a total of at least 30m ² of communal living area plus at least a further 2m ² for each boarding room in excess of 6 boarding rooms, and (ii) minimum dimensions of 3m for each communal living area,		
(h) communal open spaces— (i) with a total area of at least 20% of the site area, and (ii) each with minimum dimensions of 3m,	(d) private open space if at least the following private open space areas are provided (other than the front setback area)— (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,	Council does not have an objection to the proposed communal open space clause. The requirement to provide 20% of the site area, with minimum 3mx3m dimensions, may result in multiple communal spaces which often is more suitable to the layout of a boarding house compared to providing one large space. However, Council recommends the clause be amended to ensure the front setback cannot contribute to the communal open space where the amenity impacts to neighbours are unacceptable. The use of the front setback as open space often can direct lodgers to socialise towards the street impacting on noise and amenity for surrounding residents. This can result in complaints and contributes to community concern around the suitability of boarding houses where the wider streetscape is not designed to accommodate such uses in the front

Clause 23(2) Housing SEPP	Current ARHSEPP	Council Comment
		<p>setback. In addition, if the front setback is used as open space in such settings, it does not provide enough landscaping to meet the character requirements.</p> <p>Council notes that the requirements for open space for a boarding house manager has also been removed, in addition to the requirement to have a boarding house manager. This is not supported and discussed further below.</p>
<p>(i) for development carried out by or on behalf of a social housing provider—</p> <p>(i) in an accessible area—at least 0.2 parking space for each boarding room, or</p> <p>(ii) otherwise—at least 0.4 parking space for each boarding room</p>	<p>(e) parking if—</p> <p>(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and</p> <p>(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and</p>	<p>The parking provisions have not changed in the Housing SEPP. As raised in the EIE submission, the existing parking controls are not suitable. Insufficient parking is provided onsite which forces lodgers to park on local streets and causing additional congestion (see Attachment 2 for more detail). The parking provisions need to be revised to ensure suitable onsite parking is provided. This would assist in maintaining local character and in managing community opposition to these forms of development.</p>
<p>(j) if paragraph (h) does not apply— (i) for development within the Greater Sydney region—at least 0.5 parking space for each boarding room, or</p> <p>(ii) otherwise—at least 1 parking space for each boarding room,</p>	<p>(e) parking</p> <p>(ii) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>See comment above.</p> <p>It is believed that Clause 23(2)(j) refers to the incorrect subclause when outlining parking rates for development within Greater Sydney. It currently refers to Clause 23(2)(h) which relates to communal open space. Clause 23(2)(i) is the correct reference as it refers to boarding houses provided by a social housing provider, and when this is not the case, then Clause 23(2)(j) applies.</p> <p>Council notes that the requirement for staff parking has been removed, in addition to the requirement to have a boarding house manager. This is not supported and is discussed further below.</p>
<p>(k) at least 1 motorcycle parking space for every 5 boarding rooms,</p>	<p>These are currently discretionary development standards.</p>	<p>The inclusion of motorcycle and bicycle parking requirements within the non-discretionary development standards is supported. This is consistent in encouraging alternative and active transport as per state and local planning and transport policy.</p>
<p>(l) at least 1 bicycle parking space for each boarding room</p>		

Clause 23(2) Housing SEPP	Current ARHSEPP	Council Comment
The proposed SEPP has moved this to being discretionary standard.	f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least— (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.	Council recommends the clause be reinstated as a non-discretionary development standard. This will help ensure all boarding houses are delivering a consistent level of space and amenity and help improve the living experience. As discussed above, both communal spaces and room sizes should be non-discretionary development standards to deliver appropriate amenity. Having room size as a discretionary standard is particularly problematic if the consent authority is not Council (i.e. in the instance where the LAHC or public authority is self-assessing boarding houses). This can result in room sizes being reduced to deliver as many rooms as possible in order to deliver maximum return in investment. This is not supported.
Not included in the draft Housing SEPP.	(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.	As the minimum room size has been moved to a discretionary standard, Council is of the opinion that this existing clause has been removed in the draft Housing SEPP to remove any reference to rooms having private facilities, in efforts to support the shift towards delivering boarding houses where lodgers rely on communal facilities only.

Table 2: Comparison of proposed and current non-discretionary development standards for boarding houses

It is noted that the draft Housing SEPP removes the Maximum Height of Building (HOB) control from the non-discretionary development standards for boarding houses. Council is of the understanding that the HOB permitted under the relevant EPI (in the case of Ryde, the RLEP 2014) would continue to apply.

2c. Development Standards – Discretionary (Clause 24)

Table 3 includes a comparison of the current proposed development standards within the draft Housing SEPP against the development standards within the ARHSEPP. Development consent may be granted if the consent authority is satisfied that the development meets the development standards.

Clause 24(1) Housing SEPP	Current	Comment
(a) the design of the development will be compatible with the character of the local area, and	30A Character of local area A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	The draft SEPP amends clause numbers and is considered a non-policy change; no objection is raised.
(b) no boarding room will have a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of more than 25m ² , and	(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,	The draft SEPP amends clause numbers and is considered a non-policy change; no objection is raised.
(c) no boarding room will be occupied by more than 2 adult residents, and	(c) no boarding room will be occupied by more than 2 adult lodgers,	The draft SEPP amends clause numbers and is considered a non-policy change; no objection is raised.
(d) adequate bathroom, kitchen and laundry facilities will be available within the boarding house for the use of each resident, and	(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	Other than the inclusion of the word 'laundry' there is no substantial change, and no objection is raised.
(e) for a boarding house on land in Zone R2 Low Density Residential or an equivalent land use zone—the boarding house will not have more than 12 boarding rooms, and	30AA Boarding houses in Zone R2 Low Density Residential A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.	No objection is raised.
(f) for a boarding house on land zoned primarily for commercial purposes—no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits the	(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another	The draft SEPP amends clause numbers and is considered a non-policy change; no objection is raised.

Clause 24(1) Housing SEPP	Current	Comment
use, and	environmental planning instrument permits such a use,	
(g) for a boarding house containing at least 6 boarding rooms—the boarding house will have at least 1 communal living room, and	(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	Council has no objection to increasing the number of rooms that trigger the inclusion of a communal living room from five to six. Most boarding houses have a minimum of six rooms, therefore this change is considered reasonable.
<p>(h) the minimum lot size for the development is not less than—</p> <p>(i) for development on land in Zone R2 Low Density Residential—the minimum lot size requirements for manor houses under a relevant planning instrument, or 600m²,</p> <p>(ii) for development on land in Zone R3 Medium Density Residential—the minimum lot size requirements for multi dwelling housing under a relevant planning instrument,</p> <p>(iii) for development on other land—the minimum lot size requirements for residential flat buildings under a relevant planning instrument,</p>	Current development standards do not include a minimum lot size for boarding houses.	No objection is raised to the minimum lot sizes.
<p>(i) the front, side and rear setbacks for the development are not less than—</p> <p>(i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument,</p> <p>(ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument,</p>	Current development standards do not include setbacks for boarding houses.	No objection is raised.
(j) if the boarding house exceeds 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide,	Current development standards do not include Apartment Design Guide (ADG) compliance for boarding houses.	Council supports the ADG requirement for building separation for boarding houses above three storeys. However, it is requested that the clause be updated to reflect the principles of SEPP 65. This will help mitigate design concerns and may

Clause 24(1) Housing SEPP	Current	Comment
		help community perception around boarding houses.
<p>(k) the development has a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least the following for each boarding room—</p> <p>(i) for a boarding room intended to be used by a single resident—12m²</p> <p>(ii) otherwise—16m².</p>	<p>Current SEPP includes the below as a non-discretionary development standard.</p> <p>(f) accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least—</p> <p>(i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16 square metres in any other case.</p>	<p>Council recommends the clause be reinstated as a non-discretionary development standard. This will help ensure all boarding houses are delivering a consistent level of space and amenity and help improve the living experience. As discussed above, both communal spaces and room sizes should be non-discretionary development standards to deliver appropriate amenity.</p> <p>Having room size as a discretionary standard is particularly problematic if the consent authority is not Council (i.e. in the instance where the LAHC or public authority is self-assessing boarding houses). This can result in room sizes being reduced to deliver as many rooms as possible in order to deliver maximum return in investment. This is not supported.</p>
The draft Housing SEPP proposes to remove the requirement for a boarding house manager.	(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on-site dwelling will be provided for a boarding house manager,	Council agrees with this provided community standards for boarding houses with capacity to accommodate less than 20 lodgers, such as ensuring noise and any anti-social behaviour is managed and communal areas are maintained, will be met by Plans of Management that are implemented by Community Housing Providers or the LAHC.

Table 3: Comparison of proposed and current discretionary development standards for boarding houses

2d. Affordability of boarding houses

As per its submission in **Attachment 2**, Council supports the amendment to the definition of a boarding house to include mean a building “*used to provide affordable housing*”. However, the submission commented that the EIE did not contain information around what constitutes ‘affordable’ or how rents would be protected from market pressure. The EIE outlined that the Department was considering only requiring the building to be used for affordable housing for 10 years, after which time it could then be subject to full market prices. This was not supported. The affordability challenge facing metropolitan Sydney requires more permanent solutions and the provision of incentives for temporary affordable increases densities and associated infrastructure challenges, while only deferring and not addressing the affordability challenge.

Clause 25 of the draft Housing SEPP requires boarding houses to retain affordable housing rates in perpetuity. The supporting draft Environmental Planning and Assessment Regulation amendment includes the requirements to enforce affordable housing rates and implement the SEPP. These require boarding houses to be managed by a registered Community Housing Provider (CHP) that must apply rents in line with the NSW Affordable Housing Ministerial Guidelines. Registered CHPs are overseen by the Registrar of Community Housing, who monitor rents to ensure boarding houses remain affordable. Council supports these requirements and recommends that a regular audit of all boarding houses be implemented to ensure sufficient checks are being carried out to ensure rents remain affordable. However, these requirements do not apply to development on land owned by the LAHC or to a development application made by a public authority.

The requirement for boarding houses to be protected and retained for affordable housing in perpetuity should be a requirement of all boarding houses; irrespective of the landowner or developer. This will help ensure the intention of Clause 25 is met and boarding houses are affordable. The affordable housing challenge facing metropolitan Sydney in particular, requires permanent solutions and the temporary requirement is considered to be unhelpful in this regard, leaving communities with additional densities and associated infrastructure challenges, while deferring rather than actually addressing the affordable housing challenge. Whilst this has been transferred from the current ARHSEPP, if the state housing policies are being overhauled and reviewed, this should be reassessed.

2e. Self-assessment of boarding houses by LAHC

Clause 28 of the draft SEPP allows the LAHC to self-assess boarding houses where the use is permitted with consent under the relevant EPI. The FAQ states this is to “*facilitate ongoing supply of social housing to meet the needs of vulnerable residents by eliminating the time delays and costs associated with external approval of these proposals*”. Firstly, boarding houses are a type of residential accommodation to be used for affordable housing purposes, not social housing. Secondly, the draft Housing SEPP does not require the registered community housing provider managing a boarding house developed by or on behalf of the LAHC to charge rents aligned with the NSW Affordable Housing Ministerial Guidelines. It also does not require the boarding house to be used for affordable housing in perpetuity. As discussed above, the requirement for boarding houses to be protected and retained for affordable housing in perpetuity should be a requirement of all boarding houses; irrespective of the landowner or developer. This will help ensure the intention of Clause 25 is met and boarding houses are affordable.

As raised in Council’s submission to the EIE, allowing the LAHC to self-assess boarding houses is not supported due to the implications this will have on streetscapes and amenity of local neighbourhoods. Councils have an in depth understanding of the local planning issues and community concerns of their LGA and therefore are the appropriate consent authority to assess the site-specific merits of boarding houses (particularly built form).

3. Co-living housing

3a. Permissibility

The draft Housing SEPP and Standard Instrument Order includes a new land use definition and planning provisions for 'co-living housing'. Co-living is:

a building or place that:

- a) *has at least 6 private rooms, some or all of which may have private kitchen and bathroom facilities, and*
- b) *provides occupants with a principal place of residence for at least 3 months, and*
- c) *has shared facilities, such as a communal living room, bathroom, kitchen or laundry, maintained by a managing agent, who provides management services 24 hours a day.*

The EIE explained that the boarding house provisions of the ARHSEPP are currently being used to develop co-living developments commonly known as 'new generation' boarding houses. The EIE advised that a new land use is required to facilitate 'new generation' boarding houses.

Part 3 Clause 63 states that development:

Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument, other than Zone R2 Low Density Residential.

The draft Standard Instrument Order proposes to include co-living housing into the Land Use Table in Direction 5 to allow councils to insert it into other zones as they see fit. Considering this, Council's interpretation is that co-living is not permissible in the R2 zone unless a Council includes it in their LEP. Being 'new generation' boarding houses, Council supports keeping co-living housing out of the R2 zone for the reasons discussed within the submission to the EIE at **Attachment 2**. This relates to the building typology being similar to a residential flat building and site compatibility, local character, amenity, traffic and built form issues.

3b. Development standards

The co-living development standards (non-discretionary and discretionary) are very similar to those that apply to boarding houses. As discussed above under 'Boarding Houses', Council has concerns with a number of the development standards and request they be revised. The current issues caused by boarding houses under the current controls of the ARHSEPP will continue to be perpetuated under the draft Housing SEPP (in addition to Tables 2 and 3, **Attachment 2** discusses these in more detail).

The few differences between the development standards of boarding houses and co-living housing are included below in Table 4:

Co-living Housing	Boarding Houses	Comment
A 10% FSR bonus on non-heritage land in a zone which permits RFBs is allowed if the additional floor space is to be used only for the purposes of co-living housing. However, in August 2024 the restriction relating to heritage affected land is being removed, and the bonus can be achieved on all land that permits RFBs, irrespective of whether it is heritage affected or not.	A 25% FSR bonus on non-heritage land in a zone which permits RFBs is allowed if the additional floor space is to be used only for the purposes of a boarding house.	There is no rationale or explanation as to why the restriction relating to heritage affected land is being removed on August 2024. Any bonuses, like boarding houses, should only be permitted on non-heritage land to protect heritage values.

Co-living housing will contain an appropriate workspace for the manager, either within the communal living room area or in a separate space.	No provisions are included for a manager in a boarding house.	As discussed in 'Boarding Houses', Council agrees with this provided community standards for boarding houses with capacity to accommodate less than 20 lodgers, such as ensuring noise and any anti-social behaviour is managed and communal areas are maintained, will be met by Plans of Management that are implemented by Community Housing Providers or the LAHC.
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Table 4 – Differences between co-living and boarding houses under the proposed SEPP

The consultation material states that *“defining co-living housing as a separate housing type provides developers with a pathway for development of a similar product but introduces some new standards to ensure resident amenity and to differentiate this housing type from boarding houses, residential flat buildings, and serviced apartments.”* However, there is no affordability requirement for this housing type. This will likely result in developers maximising FSRs (including the 10% FSR bonus), maximising the number of rooms with the minimum size (or less as this is a discretionary development standard), resulting in a development with poor amenity, being delivered at market rates. This fails to achieve the purpose of the SEPP and perpetuates the affordability crisis, while simultaneously undermining objectives seeking to deliver high quality housing. It is recommended that the proposed FSR bonus be removed and the development standards be reviewed as discussed in sections 2b and 2c of this submission.

4. In-Fill Affordable housing

The draft Housing SEPP proposes that any additional incentive floor space allow by the bonus must be used for affordable housing purposes. This is supported by Council.

However, the draft SEPP has removed the requirement for a restriction to be registered on the land title under 88E of the Conveyancing Act 1919 to ensure that the affordable housing dwellings will be retained for 15 years as affordable housing. That means there is no legal mechanism securing the use of the dwellings for affordable housing. It is strongly recommended that this be reinstated in the draft SEPP to ensure the sufficient protection is provided for these dwellings. The update to the Regulations requires this of Boarding Houses, and it should be applied for any affordable housing.

Further, it is noted that if the development is on land owned by the LAHC or is within a development application made by a public authority, that the requirement for the housing to be used for affordable housing for 15 years is not applicable. As discussed in this submission, a consistent approach to the protection of affordable housing is required (irrespective of the landowner or applicant) to ensure the intentions of the SEPP are delivered.

5. Seniors Housing

5a. Permissibility

Current

The current Seniors Housing SEPP permits seniors housing on certain categories of land subject to proponents first obtaining a Site Compatibility Certificate (SCC). Site compatibility certificates (SCCs) were predominantly used for 'land that adjoins land zoned primarily for urban purposes', land zoned special use, a registered club site, and vertical village applications. The intention of the SCC is to ensure seniors development is broadly compatible with surrounding land uses (even on land where it would otherwise be prohibited by the zoning).

Council in its submission to the EIE explained how the SCC process has limited planning merit. The SCC generates a myriad of planning issues as the SCC process sidesteps the Planning Proposal process

required to ensure such permissibility questions are answered in accordance with the strategic objectives and priorities established in the planning framework. A Planning Proposal involves a detailed assessment of site constraints, surrounding land use compatibility, alignment with the local and state strategic planning framework (including the Ministerial Directions), and community consultation to ensure any changes to the land use permissibility of a site is suitable.

The current process under the Seniors Housing SEPP does not adequately address these considerations as part of the SCC process and, therefore, results in development applications being assessed on a site where the land use is not permitted. This results in unsuitable development outcomes, often not in public interest.

Proposed

The draft Housing SEPP removes the need for the SCC process by introducing 'prescribed zones' where seniors housing is permissible with development consent. The prescribed zones are Residential zones (R1-R4) and Business zones (B1-B8), RE2 Private Recreation, RU5 Village, SP1 and SP2 (Hospital).

The consultation material states that the prescribed zones were chosen following a review of the zones where the Seniors SEPP currently applies (see above) and where permissible in LEPs. The draft Housing SEPP includes some restrictions on prescribed zones, for example, at least 50% of land adjoining sites zoned RE2 and SP1 must be residential prescribed zones for seniors housing to be permissible.

The consultation material states that the prescribed zones are being adopted to address the uncertainty over the definition of "land zoned primarily for urban purposes" and "land adjoining land zoned primarily for urban purposes". This is to remove the need for a technical assessment of sites by the applicant, council, and department officers. The prescribed zones are to deliver certainty and transparency for applicants, allowing applicants to proceed directly to the development application process, rather than seeking an initial assessment of a site compatibility for seniors housing.

This is strongly opposed by Council and has less planning merit than the current SCC process. Whilst Council opposes the SCC process, the prescribed zones approach has no assessment or framework to account for, and respond to, the site-specific place-based contexts of each site.

The land uses 'permissible with consent' in each zone of an LEP have been carefully considered in line with the objectives and aims of the zone and local planning priorities of an LGA. The 'prescribed zone' approach in essence undermines having land use zones, and makes them obsolete, given the draft Housing SEPP includes residential zones (R1-R4) and business zones (B1-B8), RE2 Private Recreation, RU5 Village, SP1 and SP2 (Hospital) as prescribed zones.

Council does not support the inclusion of prescribed zones. The change is likely to encourage poor design outcomes, incompatible development outcomes, increase the number of development applications for sites that do not have strategic merit, increase assessment timeframes, and can place additional pressure on the relevant consent authority to negotiate on development standards in order to determine the DA on a site where the use may not be permissible under the LEP.

Council specifically wants to raise concerns with permitting seniors housing on land zoned for RE2 Private Recreation. In the context of a registered club, allowing seniors housing on RE2 land can enable and accelerate the loss of recreational space. The provision of sufficient open and recreational space is crucial in delivering on the Greater Sydney Region Plan's commitment to delivering liveable, productive and sustainable cities. Private recreation space has an important role in the mix of recreation lands required to support the community. Once land is redeveloped for alternative uses (particularly residential uses which then further compounds the existing deficit in open and recreation space experienced across Sydney) the opportunity to protect and maintain this land for the future is lost.

In addition, permitting seniors housing in all business zones has the potential to undermine the economic and commercial function of that business zoned land. It risks sterilising floorspace within that zone for business and commercial uses to support the needs of the surrounding community. This is particularly concerning in the B3 Commercial Core, as prior to the recent 'steamrolled' inclusion of Build-to-Rent housing by the Department in the B3 zone, it did not permit any residential uses (as discussed throughout this submission).

It is recommended that a process that aligns with the Planning Proposal process is implemented to ensure the suitability of the land use be adequately assessed before a DA is lodged. This will also assist in streamlining the DA assessment process as adequate consideration of permissibility and compatibility has been carried out upfront before the DA is lodged.

5b. Development for vertical villages

As per Part 6 Clause 45 of the Seniors Housing SEPP, development for the purposes of a vertical village may be permissible if it is on land that RFBs are permitted under another EPI. The provisions for vertical villages have been broadly transferred into Chapter 3 Division 8 of the draft Housing SEPP with changes, including to the FSR bonus.

Under the draft Housing SEPP, development consent may be granted for development to which this Division applies if the development will result in a building with:

(a) the maximum permissible floor space ratio plus—

- (i) for development involving independent living units—an additional 15% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of independent living units, or*
- (ii) for development involving a residential care facility—an additional 20% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the residential care facility, or*
- (iii) for development involving independent living units and residential care facilities—an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes.*

The communication material states that the FSR bonus is to incentivise the development of vertical villages to help increase seniors' developments in centres with higher density land uses to increase options for people to 'age in place'.

The proposed FSR bonuses are a significant increase from the 0.5:1 FSR bonus currently permitted in the Seniors Housing SEPP. The receipt of this bonus was predicated on the requirement for at least 10% of the dwellings to be affordable (amongst other requirements). In addition to increasing the FSR bonus, the proposed Housing SEPP removes the affordability requirement for vertical villages, therefore the FSR bonuses are accessible without requiring a percentage to be affordable.

The communication material states this is because the Commonwealth Government bed licencing system provides funding to aged care providers for the accommodation of persons with limited financial capacity based on an assessment of income and wealth. Additionally, the Commonwealth Government provides residential aged care supplements to help with accommodation costs, and costs of meeting specific care needs.

At the time of writing this submission Council is unable to comment on the suitability of this statement and its implications on delivering affordable seniors housing. However, concern is raised on the extent of the FSR bonuses proposed in the draft Housing SEPP. Whilst nothing in the draft Housing SEPP affects the application of SEPP 65 Design Quality of Residential Apartment Development, vertical villages would benefit from specific design guidelines to ensure amenity and living experience for senior residents.

5c. Environmentally sensitive land

The draft Housing SEPP updates the provisions for environmentally sensitive lands to reflect the improvements made since the drafting and commencement of the Seniors SEPP in 2004. The consultation material states that the changes align the seniors housing provisions with the most recent environmental sensitive land constraint tools and mapping, including coastal protection, wetlands, flooding, and bushfire prone land.

Council has no objection to initiatives to simplify the NSW planning system and provide consistency in the interpretation and application of the SEPP by developers and consent authorities. Council acknowledges

'housekeeping' or administrative changes are often required to ensure the intended outcome or application of a planning policy is being achieved. Therefore, non-policy changes to improve the validity of the SEPP in relation to environmentally sensitive lands are encouraged.

The City of Ryde has a number of environmentally sensitive lands that are currently not contained within Schedule 1 and currently are under threat from development. To address this, a Planning Proposal has been prepared by Council to ensure these lands are protected in the future from development. As a result, this will limit the amount of land available for seniors housing; however, it is a necessary update to the schedule to protect these lands.

5d. State Significant Development (SSD) pathway for seniors housing

In response to NSW's aging population, the draft SEPP proposes to introduce a SSD pathway for residential care facilities. The SSD process is proposed to apply to developments with a proposed capital investment of \$30 million for Greater Sydney Region. This change in assessment process will further remove planning responsibilities from local councils, and is likely to result in developments that are out of character with the surrounding local area.