

27th August, 2021

Luke Walton
Executive Director, Housing and Economic Policy
Department of Planning, Industry and Environment

[REDACTED]
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By email: Michael.Bishop@minister.nsw.gov.au

Dear Luke, Tanya and Michael

Re: Feedback on the Proposed Changes to the Seniors Housing SEPP

The purpose of this paper is to provide feedback on the State Environmental Planning Policy public consultation draft in relation to **Part 4 Seniors Housing**.

It is worth noting that the author of this paper has significant 'on the ground' experience (20+ years at Lendlease) in the retirement living, aged care and disability sector(s) and makes commentary from experience as a specialist and executive in an ASX listed organisation (largest Australian Retirement village owner with 17,000+ residents), operator, facilitator, adviser and someone who genuinely believes in the benefits seniors housing provides when fully understood and executed correctly.

For the last two years I have consulted to the industry applying financial and extensive operations and seniors housing development skills and knowledge in assisting not-for-profit charitable organisations to utilise their assets (particularly land) to fulfil their mission objectives. I strongly encourage the partnering of not-for-profit organisations with private companies which together have the capability of delivering this type of housing. I am motivated to form communities (rather than isolated amenities designed for a specific group – for example the aged, the disabled, homeless etc). My firm view is that integrated developments, housing a range of ages, stages and abilities provide a much better environment for people to live fulfilled, involved and thriving lives.

In addition to the above, I have studied significant international best practice overseas models, have been recommended for a Churchill Fellow by Doctor Kay Patterson AO (reference attached) and would offer any assistance to the department required to ensure this policy succeeds.

Key Issues in the Provision of Senior Housing:

Before outlining the feedback on the proposed changes, it is worth highlighting a number of key issues, which are my observations of the current issues experienced by the current policy.

1. The Current SEPP is not delivering enough Seniors Housing

Currently, government planning policies don't do enough to accommodate the increasing demand for seniors' housing in the community. As illustrated in one small statistical area (greater Sydney region) where data can be obtained 7,929 senior housing units should have been developed from (2016-2021) to meet the current penetration rate of 4.4%. The actual number of new units developed in this period (2016-2021) was 3,689 (less than half of what was required) and indicates that the current planning policies, or approval processes are simply not working.

2. Panels that approve Seniors Housing / Aged Care are not specialist or subject matter expert

Planning panels who approve applications possess extraordinary power / responsibility in determining applications. Several years of work can come down to a 1–2-hour meeting and it is clear the approving panel have not read or reviewed all of the documentation submitted.

One of the major issues with the approval of Seniors housing is the planning panels are not experts in this specialised sector. In the experience of this author, they have little to no 'on the ground' experience yet are in control of approving applications. They also lack vision or any knowledge of international best practice models and only review information provided to them by council(s), who invariably don't support state policy objectives.

There are significant benefits to occupants of seniors housing which go well beyond the 'planning controls' such as community and social interaction, accessible apartments that allow longevity by design and most importantly when understood and executed correctly give the occupant the best chance to not need to move to Aged Care.

Furthermore, if components of panels approving these applications, are selected / endorsed by the local council how can they be truly objective? How also do they objectively follow clause 8 as described in the Public Consultation Draft if they don't appreciate what the SEPP is trying to achieve?

"Unless otherwise specified in this Policy, if there is an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency"

This specific clause of the previous SEPP is often ignored by councils and has been stated several times "We don't have to follow the SEPP or take note of this policy".

3. The Constant Resistance / Battles with Council in Relation to State wide policies

As acknowledged by the DPIE, some councils resist the Seniors Housing SEPP despite the prevalence of the instrument over their local controls. In this author's opinion councils do not understand the differences between residential accommodation and true seniors' communities. They also do not seem to appreciate 'the community' aspect of these developments.

Notwithstanding their resistance to the SEPP policy, councils do not, in general, provide a response to how they will meet this very specific housing need, especially with sites that are needed effective immediately (noting the average age of a resident entering a seniors' community), and where those sites are available in their LGA's.

Furthermore, there is no consideration regarding making sites viable for seniors housing in areas where they are competing with Mixed-Used or Residential housing, which are areas of amenity that would be highly desired by seniors and as outlined in the current SEPP policy "***make efficient use of existing infrastructure and services***".

The new SEPP must avoid ambiguity and allow pathways to determinations within 6 months of lodgements and potentially allow conciliatory mediation within a 90-day process for applications that are refused, prior to court proceedings. Many DA's I have observed of excellent Senior's housing can take 3-4 years to approval and often in the Land and Environment Court. An analysis of Land and Environment court shows an approx. 80%+ success for seniors housing development approvals which indicates the current assessment process is not working and requires excessive court intervention which benefit only lawyers.

4. The Importance of an Independent Living Unit (ILU) and the community – it is not a 'residential flat'

Over 60's communities should be located within walking distance of services, shops and transport and in areas with ageing populations. The communities should be large enough to facilitate social interaction and allow for economical provision of services. According to *Knight Frank's Senior Living Annual Review 2020*), communities should have over 100 units. The full report can be downloaded [here](#).

A vibrant over 60's community has older people of all ages. Over 60's communities need facilities such as swimming pools, games rooms and gyms to encourage seniors to remain active and to attract younger seniors. However, community facilities and parks nearby may reduce the need for common space.

Too many seniors move into residential aged care because of a lack of senior housing in the community. To attract active seniors, ILU's should be in the area they already live in, be more attractive than their existing dwelling, not have an institutional feel and cost less. These developments must provide access to intergenerational interactions or mixed uses that allow residents to stay in touch with the community.

The unit design must be adaptable as the unit changes – it should be able to function as a fully accessible unit but not look like one. This requires larger spaces for turning circles and furniture than can be removed or aids installed around showers as needs change.

This point reiterates the importance of point 2 already mentioned, **but is mentioned to highlight that ILU's should be regarded as equally important as aged care** so long as assessed by experienced specialists to ensure the development achieves the above.

An example of the services that best practice independent living communities, at scale provide is found [here](#).

5. Aged Care Royal Commission into Aged Care

The Royal Commission on Aged Care's final report, Care, Dignity and Respect (2021) made it abundantly clear that

- **'Confirmed over and over again that people do not want to live or die in institutions.'**

Grant Thornton partook in a report with the Property Council of Australia which stated that entry into aged care, from a retirement community is on average five years later than from a family home. Adding four or five years of independence to a person's life has the dual benefit of prolonging a person's quality of life and reducing costs to the community. The full report can be downloaded [here](#).

- The exponential growth in the ageing population will make it almost impossible to supply Aged Care beds, with the associated work force required.
- ILU's are appropriate homes for seniors and allow the provision of home-care much more efficiently and effectively than into suburban homes. A paper compiled by Zinnia Liberated Living (previously supplied to the DPIE) outlines the efficiencies / benefits in the provision of home care in Seniors communities as opposed to the family home. This paper can be downloaded [here](#).
- The importance of 'putting older people first'.
- Impact of COVID in relation to isolation which has had a terrible effect on the physical, mental and emotional wellbeing of resident in Aged Care.

6. Height and FSR bonuses equal for ILU's and Residential Aged Care (RAC)

For the reasons outlined in bullet point 4, whilst it is positive to note RAC facility incentives via additional FSR / Height these should not be a less incentive for ILU's. It is recommended that ILU's receive the same incentives as RAC facilities especially if they contain innovation, clearly demonstrate how home-care services can be provided efficiently and longevity in design that allows the resident to stay in their home when they may have had to relocate to a RAC facility.

7. The Need to Support Vertical Villages in all Zones (not just residential zones)

The ageing population in Australia is growing at three times the rate of other age cohorts. This would be well known by the DPIE and does not need to be outlined here. Therefore, any changes to the seniors

housing SEPP should be seen as meeting the need for appropriate housing growth for seniors as opposed to making it more difficult.

The current public consultation draft places greater restrictions on the provision of seniors housing than the current SEPP for example:

- Prohibits ILU's in the R2 Zone
- Prohibits Seniors in Rural Land
- Restriction of Seniors in Environment and Flood zones
- Reduces the floor space bonus for vertical villages from 0.5 to 1 to 15% (this is discussed later in the document).

As outlined in bullet point 1, the pace of Seniors housing delivery is not keeping up with the required growth in the elderly population, so if greater restrictions are being placed than the current SEPP they must be substituted in other areas.

The author had a national role whilst the Head of Retirement Living Development for Lendlease and saw other State examples. In Brisbane for example the city council ran the following program:

"Brisbane City Council is implementing a number of initiatives to encourage new retirement living and aged care accommodation, especially in areas of demand, to provide choice for residents to remain within their local neighbourhood throughout their lifecycle"

The incentives provided are summarised as follows:

- Treated Independent Living and Aged Care as equal development in terms of bonuses
- The creation of a 'task force' to fast track the assessment of applications
- Provided two additional stories in height in applicable zones and in particular encourage the height increases in non-residential zones
- A 33% reduction in infrastructure levies

An example of a Brisbane application that applied the policy above (52 Hampden ST, Ascot, Doomben Racecourse), can be found [here](#)

8. Ensure that Design Compliance is not greater than ADG Requirements and unnecessary clause 4.6 variations

It is critical to have the highest quality of design for Seniors Housing to ensure the objectives of bullet point 4 are achieved. However, to enable Seniors Housing to be competitive, especially when competing with land uses such as residential, commercial or mixed used, design requirements cannot be more onerous or seniors housing will find it even more difficult to compete for land.

Considering the objective of cl 97 in the draft SEPP and its beneficial and facultative nature, it does not appear that the intention is to require a cl 4.6 request for variation of the standards listed in cl 97(2)(a). For example, where an LEP has a height limit of 25m, this clause reads that a 4.6 variation would be required to justify an increase from the non-discretionary development standard of 9m. **This would be a very poor outcome** which would add substantial cost and documentation to development applications and again allow councils to make the application process more difficult.

9. ILU's are as equally difficult to be commercially viable as RAC's

Seniors' housing both ILU's and RAC's is a specific type of housing and it costs more to deliver, requires many more community facilities, has to deal with accessibility requirements, aging in place and deals with only a portion of the market. Apartments must be at least 20% larger than standard market apartments to

facilitate accessibility requirements. The below table illustrates the additional sizes, provided commercially in confidence:

Typical	NSW minimum for residential (sqm)		Seniors (sqm)	
	Internal	External	Internal	External
1 bed	50	8	74	12
2 bed	70	10	113	19
3 bed	90	12	143	47

All sizes quoted above are based on averages. The details provided for the NSW minimum for residential is based off the “Apartment Design Guide” set by the NSW government.

Example of Additional unit sizes of accessible seniors’ apartment – example project

As a consequence of this, a key issue is how does it compete with other industries competing for land that do not have these requirements or restricted markets? If the desire of the policy is to facilitate Seniors Housing in good locations, near services they must be able to be competitive in acquiring land.

The statement that RAC’s are harder to be viable than ILU’s in this author’s opinion is incorrect for the following reasons:

- RAC’s are provided with significant and guaranteed funding from the Federal Government
- RAC’s can make profit on their operations whereas Retirement Villages cannot under the legislation
- RAC’s have significant less community facilities and parking requirements

10. How to Make Seniors Housing Commercially Viable

In relation to commercial viability, the below extract is taken from a Social Impact Report, completed in February 2021, Prepared by Chris Faulks, deputy chancellor of Canberra University:

“The challenge, recognised by the NSW Department of Planning, is accommodating sustainable growth, and balancing:

- *The demands of a growing population and changing demographic which has caused the demand for affordable housing in suitable locations to increase significantly with*
- *The community’s desire to preserve the environment and concerns about change.*

In order to encourage the construction of seniors and affordable housing, the framers of the State Environmental Planning Policy (SEPP Seniors) have extended the areas in which such housing may be constructed into areas with permissible uses where land maybe less expensive than in residential zones primarily because, a senior’s housing product with a limited market (~ 20% population) and significant design requirements (accessibility), cannot compete with residential housing product in relation to land acquisition.

The challenge, is to accommodate sustainable growth and balance:

- *The demands of a growing population and a changing demographic with the community’s desire to preserve the environment, amenity and lifestyle*
- *The demands on Council by State environmental planning policies.*

Notwithstanding that senior's and affordable housing may be permitted in a variety of locations, some areas are more suitable than others. The task for planners is to encourage such uses in the most suitable locations.

Factors to be considered include:

Senior's developments located within suburban residential areas are often small – with less than 20 dwellings. They consequently do not have:

- *The scale to allow for the cost-effective provision of on-site support services for seniors*
- *Sufficient on-site care for residents with special needs to encourage the cost-effective provision of services (for example showering, assistance with medication, social gatherings and mobility assistance)*
- *Social and Affordable Housing which results in greater building bulk and floor space than that normally permitted for housing in residential zones and can result in community backlash against the provision of such housing*
- *An optimum location for near public transport and within walking distance of retail services and health facilities. Proximity to services reduces transport costs for seniors and affordable housing residents as well as lessening traffic congestion.*
- *Land zoned for B4 "Mixed Use" or medium and **high-density residential development is not financially viable for Senior's Housing or Affordable Housing** as these uses cannot compete with residential or retail uses.*

Development under the provision of SEPP Seniors, and SEPP Affordable Housing development can be constructed in special uses zones and areas within which hospitals are permissible.

Development in such areas is capable of subsidising the construction of the Affordable and Social Housing components of the development.

Planners should seriously consider encouragement of such development in areas where bulk and height will not result in adverse impact on nearby residents but will serve to provide affordable and purpose-built seniors' accommodation for the local community".

11. International Best Practice Models are Diverse Communities

International examples clearly demonstrate that where **social** (disability) housing, **affordable** housing and **senior's housing come together into a fully integrated complex** opportunities exist that extend beyond accommodation for all members of this community. This model creates a deliberate mixing of residents, in terms of health status and socio-economic status. Some of the residents will be in good health, physically active and able to live independently. Others might be older and less mobile. Other may wish to volunteer. A disabled resident may assist a less mobile senior on a daily walk in the garden or obtain employment in the development. They may be the opportunity to be a caregiver for some of the affordable housing residents.

As demonstrated in overseas innovative housing options for older people, this mix is seen as critical in avoiding an 'institutional' feel which is common in places where people who are dependent and are all clustered together.

Developments that benefit this cross-section of the community are seldom seen and co-mingling of diverse groups is considered to significantly enhance the living conditions for occupants of the development.

An example of International best practice, that demonstrates the benefits of such a diverse community is the ***Netherlands Apartments for Life Visionary model*** which can be downloaded [here](#).

Policies should provide opportunities to create these communities. A publication ‘rationale for offering developer incentives to support the delivery of affordable and social housing’ has been prepared by Chris Faulks, Deputy Chancellor of Canberra, and can be downloaded [here](#).

12. ILU’s are not suitable in R2 zones:

The author fully supports the current draft (Division 3, Clause 76, (d)) which prohibits ILU’s in the R2 zone, especially in metropolitan areas. This may have been appropriate in the 1980’s, early 1990’s but not in the current market due to urbanisation. This preface is supported by PricewaterhouseCoopers (PwC) and Property Council Retirement Census report from 2020 which showed for retirement villages:

“56 per cent of new villages currently under development were either vertical or a combination of vertical and broadacre, up from 9 per cent in 2019, at the same time development pipeline has reduced from 5,000 to 3,200 units”

To achieve the desired outcomes of best practice seniors housing that are not a “block of flats/villas” but contain community facilities, services being offered at scale that are centralised meaning people with mobility can access such services in proximity, this zone is not appropriate. It also avoids the scenario where two homes on either side have 30 seniors’ units between them.

There are many examples where housing of 10–70-unit developments that exist in metropolitan areas, with no facilities, no care concierge and limited accessible design exist. These types of facilities should not be encouraged by an important state wide policy.

This zone simply cannot provide the special services needed with economies of scale to keep a person living independently longer and create a true community

In relation to existing villages in these zones that require upgrade / renewal which the author has significant experience with, this should not be a justification to allow this due to:

- They can seek ‘existing use’ rights
- Pursue rezoning to ensure the upgrade is done appropriately with a ‘masterplan’ approach, as opposed to ‘piece-meal’ renewal. In my experience, a renewal will only be viable with a zoning change and an increase in density to offsite significant costs / relocations
- Renewals have time to undertake this process properly due to the approx. 5-year time frame to relocate elderly residents and the need to undertake this process once only, due to the disruption it causes residents.

Specific Feedback on the Public Consultation Draft:

Previous feedback has been provided in a submission to the department on Friday 21st May, so any issues that has been addressed have not been included in this submission. However, noting the key issues above, the following items remain outstanding:

1. Item Division 8 – Development for vertical villages**Feedback: Additional FSR and Height should be equal for ILU's and RAC**

As noted in the key issues section, ILU's, should be provided with the same incentives / opportunities that are provided to RAC facilities so long as they are of appropriate design and provide all of the aging in place benefits as outlined in point 4. To ensure this occurs, I again reiterate the importance of the approving panel.

2. Item Division 8 – Development for vertical villages**Feedback: Additional FSR of 15% not adequate for Independent Living Apartments and represents a significant reduction to the existing SEPP**

The current vertical village clause 45 allows a 0.5 increase in FSR if certain criteria are achieved.

To illustrate by two example(s) which are indicative of the size of vertical villages in metropolitan areas:

1. On a 3,000sqm site, where the FSR under the LEP is 1:1, the current SEPP allows an additional **1,500sqm of GFA** (Gross Floor Area).

Under the proposed changes this would **reduce the additional GFA to 450sqm** which is significantly lower (a 1,050sqm GFA reduction) than the current instrument and therefore results in making the provision of seniors housing much more difficult than it is today.

2. On a 8,000sqm site, where the FSR under the LEP is 1.5:1, the current SEPP allows an additional **4,000 sqm of GFA** (Gross Floor Area).

Under the proposed changes this would **reduce the additional GFA to 1,800sqm** which is significantly lower (a 2,200 sqm GFA reduction) than the current instrument and therefore results in making the provision of seniors housing much more difficult than it is today.

Recommendation(s):

- **Increase the Additional FSR from 15% to 25% for ILU's and RAC's**, and **30%** for co-located facilities which equates to approx. the current instrument. To ensure the application has the appropriate community facilities, the DPIE may only allow this FSR increase where a minimum of 5% of the FSR is attributed to Community facilities. The other alternative would be to increase the FSR to 20% but note that community facilities FSR is excluded from the FSR calculation.
- Include a Definition for Vertical village to ensure it includes appropriate community facilities, access to special services, home care etc.

An example of services that should be provided in best practice seniors communities is shown in a commercial in confidence project example can be found [here](#).

3. Item Division 8 (Clause 99(2)(b))– Development for vertical villages with consent Height

Clarity around an additional 3.8 metres height for vertical villages is a positive, as currently the additional 0.5 FSR provided under the existing clause contains no specific provision on additional height, which renders it ineffective.

However, this is not considered enough height to enable seniors housing to be viable in all zones when compared to other competing uses.

Recommendation:

To amend the wording in Division 8, Clause 99 (2) (b) to read

(b) a building height exceeding the maximum permissible height by no more than **6.3m**.

The policy **may** also require a minimum of 10% affordable seniors ILU or disability housing is provided as a condition of the height bonus

In terms of considering social FSR/Height bonus as a condition, this justification has been outlined well in this case shown below. It is with great sadness that this project did not proceed, despite the excellent benefits, because it was not viable and no appropriate incentives were in place

[The Benevolence Society Apartments for Life Social Benefits Study](#)

4. Item Division 8 – Development for vertical villages

Feedback: Update Division 8, Clause 98, to ensure the areas are not restricted, that is, it should be permissible in the majority of zones / areas where the SEPP is permissible not just for the ‘purposes of residential flat buildings is permitted’.

The rationale to include non-residential zones in this clause is outlined in the letter sent to the Minister for Planning and Public Space for planning Rob Stokes / Michael Bishop and is summarised below:

Senior housing in non-residential areas

Planning schemes need to allow, and provide the same bonuses as outlined above, for the construction of senior housing in areas where residential uses are not permitted, such as business zones and hospital areas. Such areas are often close to services and more affordable.

Development in these areas is less likely to have adverse impacts on residential areas, which are commonly the source of development objections. These areas are also more capable of accommodating bonus floor space. Other government departments could also be encouraged to make affordable land available for development.

Such developments need to take into consideration the requirements for successful senior housing.

The full copy of this letter address to Rob Stokes minister for planning can be downloaded [here](#).

Recommendation:

To amend the wording in Division 8, Clause 98 to the following

“This Division applies to development for the purposes of a vertical village on land to which this Part applies if development for the purposes of a residential flat building is permitted under another environmental planning Instrument or in zones B3 to B8 as outlined in Division 1, clause 67 of this policy.

5. State Significant Development (SSD) to apply to all Seniors Developments that exceed \$40m

For reasons already outlined in the paper, it is recommended that SSD assessment is extended to apply to ILU only developments (even if this was for a limited period) when they exceed \$40m and / or include social and affordable dwellings

If we truly are to, as recommended by commission Lynelle Boggs “**Put older people first**” we must have the State approving a state policy as no matter how good the policy is, if the approval process is flawed or lacks expertise it will not be executed correctly.

Recommendation:

To add a section c to Schedule 7, clause 7.1 as follows

(c) For developments that classify as a 'Vertical Village' that are over \$40m which include a social component / affordable housing benefit of greater than 15% of dwellings

6. Specialist expertise in approving panels:

The approver of planning panels have extraordinary power / responsibilities in approving applications. Currently in relation to senior's housing, the panels lack vision, examples of international best practice, subject matter expertise in the sector and tend to place heavy reliance on the Council reports for a State Policy. The benefits of the SSD process is it allows outside, specialist knowledge with proven Senior's subject matter expertise to assess applications as opposed to panel members who may assess 1 to 2 per year.

Recommendation:

Regardless of the approval forum the panel that approves these applications should be state representatives and should include panel member(s) that include:

- An architect who has designed several (a minimum of 10) seniors housing developments
- An Industry expert who has worked specifically in the seniors housing / aged care sector, and /or the operation of housing for seniors and / or aged care and can demonstrate their experience of greater than 10 years
- A planning expert who has worked specifically in the seniors housing sector / aged care sector, and can demonstrate their experience of greater than 10 years
- An individual with a social policy background (University chancellor etc)

In my experience, there is not one panel that has one let alone 4 of the criteria mentioned above.

7. Clause 97 Non-Discretionary Standards in current draft are not practical:

As outlined, the current cl97 of the Draft SEPP provides non-discretionary development standards for ILU's. The intent of this section is to identify development standards for particular matters relating to development for the purposes of independent living units that, if complied with, prevent the consent authority from requiring more onerous standards for those matters. The clause, in this authors opinion is intended to be beneficial and facultative.

I raise concern about cl 97 of the Draft SEPP which sets out non-discretionary development standards for independent living units. Based on the current draft a cl 4.6 variation request would be required to vary any of those development standards. This would be contrary to the objective of the clause and will add substantial cost and documentation to the development application process.

To illustrate by example, cl 97(2)(a) imposes a height standard of 9m. However, in many cases a less onerous height standard (for example 25m) will be available (especially in relation to sites that suit vertical villages) under the applicable LEP. **In would be a very poor outcome** if a 4.6 variation was required in the above example which would add substantial cost and documentation to development applications, and could be used by councils to reject an application.

Recommendation:

Firstly, the wording of cl 97(2) could be amended as follows:

- The following are non-discretionary development standards in relation to development for the purposes of an ILU, except where a less onerous development standard applies under the applicable Local Environmental Plan in which case that development standard will continue to apply:

Secondly, a subclause could be added

- A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (2) despite cl 4.6 of the applicable Local Environmental Plan.

8. More onerous requirements in clause 97 than standard apartments development

Firstly, I think the standards set-out in clause 97 2(c) - 2(k) are excellent and seniors housing should aspire to these standards for great communities. However, the way the clause is currently drafted, an excellent site that may have a specific issue now has “no discretion” and will not be able to be approved which would be a shame for the community / social opportunity to be lost.

Secondly, the current drafting of clause 97(2), in some instances is a more onerous test than facing a standard apartment housing development and creates an issue that if an ILU has to perform to a higher standard than typical ‘market-based’ apartment dwellings, it will again become less competitive when looking to acquire land.

To illustrate by example, (Clause 97 (2)(g) of the ADG which is a ‘set of principles’ requires 2 hours of direct sunlight between 9am-3pm and also acknowledges that certain sites will not achieve this whereas Clause 97(2)(g) is a non-discretionary development standard seeking to deliver 3 hours of direct sunlight. Without being accompanied by any context or specific objective, the development standard risks being inflexible.

Recommendation:

- Request that an additional provision be added to cl 97 which allows for flexibility without the need to rely upon cl 4.6 of the LEP.
- A consent authority may consent to development to which this Division applies whether or not the development complies with the standards set out in subclause (2) despite cl 4.6 of the applicable Local Environmental Plan.

9. Communication to Councils of Exemption Pathway or Accept the Policy

Councils need to be clearly communicated with what exemption pathway they have for the SEPP policy in their jurisdiction not to apply. If they do not seek exemptions they need to be pulled into line and accept the State Policy. It is unfair that applicants have to produce enormous amounts of evidence to support their applications whereas councils can just dispute the applicant’s viewpoint without showing a similar quality of evidence or clearly ignore / refute the Division 8 clause. Panels and Councils should also have to justify their determinations when a refusal is granted only to be overturned by the Land and Environment court as this reflects very badly on the NSW planning system.

Other Comment(s):

The below changes are commented on briefly:

- Changing the Age to 60: **this is a positive change** and ensures that the developments created in this instrument are for whom they are intended and those looking for dwellings that will allow them to **age in place**.
- Introducing the **new definition in the LEP for Independent Living Unit (ILU)**, is a positive change as the number of councils who see any ‘seniors housing’ as Residential, becomes frustrating and shows no understanding of the nuances that go into ‘well-designed’ and ‘ageing in place’ seniors housing dwellings

Conclusion:

Overall, there are a number of positive modifications to the proposed amendments of the Seniors Housing SEPP but a number **of changes outlined that will have the impact of making the provision of such housing**

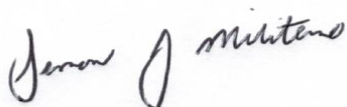
more difficult which goes against the objectives of the policy if the recommendations in this submission are not considered. We must remind ourselves we are providing housing for some of the communities most vulnerable who desire to age in place, in the areas they have lived most of the lives and want to live in their own homes. The key feedback items are:

1. To increase the FSR bonus to 25% for vertical village ILU's and RAC's and height to 6.4m
2. To create approval panels with specialist experts and subject matter experts to reduce the timeframe to determinations and minimise court appeal / processes but also to ensure seniors housing communities have special services, facilities and allow aging in place
3. To take note of the Royal Commission into Aged Care and regard ILU's and RAC facilities equally
4. To continue to encourage the provision of Affordable / Social Housing for ILU's, disability housing which don't have a concessional mechanism that currently exists in Aged Care.
5. To not restrict Vertical village bonus to areas only where 'purposes of residential flat buildings is permitted – this would be a major lost opportunity in this authors opinion
6. **That all Seniors Housing over \$40m, for ILU's especially if they contain 15% (social and affordable housing) must be assessed as a State Significant Development**
7. To hold councils accountable to State Policies and provide mechanisms for them to seek exemptions and justify their application exactly as developers are required to do.

I would welcome the opportunity to meet with the department directly, in person, to discuss this submission. I am passionate about the industry and dedicated more than half of my life to this sector and want to see the best possible housing for seniors.

I look forward to hearing from you in relation to a meeting time at your convenience

Yours sincerely



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Background of the author:

Relevant experience in the Seniors Housing Sector:

- 24 years' experience across multiple business disciplines and asset classes including 15+ years in Retirement Living and Aged Care.
- 20+ years at ASX listed Lendlease and as an Executive Team member (since 2014-2019) of the largest owner and operator of Retirement Living in Australia comprising more than 12,500 units, that are home to 16,500 residents across 71 existing retirement villages
- Development Director consultancy at Platino Properties over 55 residences and leads 'The Jardin' over 55's development at French Forest.
- Head of Development encompassing a team of 74 staff across Australia and 14 new developments in various forms of acquisition, planning, conversion and delivery. Responsible for the sale of over 2,000 new retirement living units.

- Led the University of Wollongong (UOW) - Project Delivery Agreement (PDA) which is a \$500 million masterplan project and Australia's first university-based retirement community which will feature Retirement Living, Aged Care, Child Care, Primary Health & disability housing.
UoW Project Announcement Video Professor Alison Jones, & Simon Militano
- Successfully applied and achieved 1,173 Aged Care Bed licenses' 2017-2019. In 2017, of the 637 applicants, Lendlease Development received the highest number of bed allocations receiving 756 of the 9,911 licenses on offer
- Chair of the UNSW Designing supportive housing community's series with a number of projects, under his leadership having been award UDIA and Property Council Retirement villages of the year awards
- Member of Retirement Living Property Council 2017-2019 and Chair of the Planning Sub-Committee
- Reference Hon Dr Kay Patterson AO Human Rights Commissions [here](#)

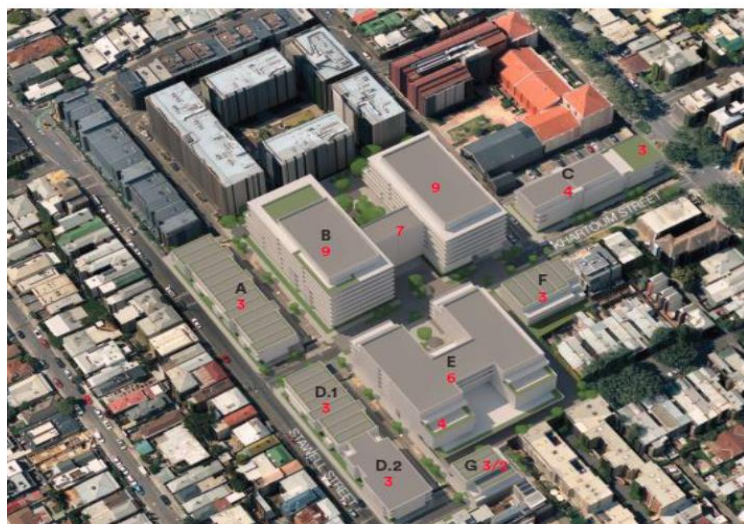
Full Summary of all items referenced in this submission

1. Letter to the Honorable Rob Stokes NSW Minister for Planning and Public Spaces downloaded [here](#)
2. Zinnia Living Benefits of Homecare in the one location download [here](#).
3. Knight Frank's Senior Living Annual Review 2020 downloaded [here](#).
4. The Netherlands Example – The Apartments for Life downloaded [here](#).
5. Social Impact Report Jardin Frenchs Forest Deputy Chancellor of Canberra University, can be downloaded [here](#).
6. The rationale for offering developer incentives to support the delivery of affordable and social housing', Deputy Chancellor of Canberra University, and can be downloaded [here](#).
7. Grant Thornton report with the Property Council of Australia overview of the retirement sector full report can be downloaded [here](#).
8. Royal Commission Into Aged Care Executive Summary report can be downloaded [here](#).

Subject Matter Experts worthy of being Interviewed

- Diane Jones PTW:
<https://www.linkedin.com/in/diane-jones-a3388b16/>
- Jen Berryman, Zinnia Liberated Living:
<https://www.linkedin.com/in/jen-berryman/?originalSubdomain=au>
- Chris Faulks: Deputy Chancellor of Canberra University
<https://www.linkedin.com/in/chrisfaulks>
- Barbara Squire: Consultant Aged Care and Seniors Housing
<https://www.linkedin.com/in/barbara-squires-11597321/>
- The Hon Dr Kay Patterson AO: Age Discrimination Commissioner at Australian Human Rights Commission
<https://www.linkedin.com/in/kay-patterson-127b59156/>
- Sam Murphy Partner Knight Frank Health and Aged Care
[https://www.knightfrank.com.au/contact/people/sam-murphy-aucvval\\$samurphy](https://www.knightfrank.com.au/contact/people/sam-murphy-aucvval$samurphy)

Appendix 1: Richmond, Victoria GTV-9: Richmond, Victoria Concept Summary:



Appendix 2: Glenaeon Renewal Development: Belrose, Sydney, NSW



Appendix 3: University of Wollongong, Wollongong, NSW, Concept Summary:



Appendix 1: Aged Care Royal Commission into Aged Care (Extracts from the Executive Report)

The Royal Commission into Aged Care, as chaired by Lynelle Briggs AO, and resultant recommendations make it extremely clear that:

- **People desire to stay in their homes.**
- The exponential growth in the ageing population will make it almost impossible to supply Aged Care beds, with the associated work force required.
- Independent living units are appropriate homes for seniors and **allow the provision of home-care much more efficiently and effectively than into suburban homes.** A paper compiled by Zinnia Liberated Living (attached to this submission) outlines the efficiencies /benefits in the provision of home care in Seniors communities as opposed to the family home.
- **Putting Older People first**
- **Impact of COVID in relation to isolation** which has had a terrible effect on the physical, mental and emotional wellbeing of resident in Aged Care.

Care, Dignity and Respect— an Overview | Commissioner Lynelle Briggs AO

Few words sum up the potential of the Australian aged care system as well as 'care, dignity and respect'. Few words articulate what needs to happen in aged care as well as 'put older people first'.

Older Australians like mum have given of their bodies, minds and spirits to grow a future for their families and communities and have laid the foundations of a society we enjoy today. Growing old should be a dignified experience where self-respect can be maintained. The next generation must have confidence that their basic physical, psychological and human needs will be met and hopefully exceeded when they are at their most vulnerable.¹

We are all growing older and, excepting misadventure, we can expect to live into our 80s. Many of us will then experience chronic illness, physical frailty, and cognitive decline, and we will need to be supported and cared for by others. We all need to be confident that the aged care system will provide for our care needs and our wellbeing, so that we can see out our lives in peace.

Table 1: Extract Royal Commission - Aged Care – Lynelle Briggs Overview 'put older people first'

The COVID-19 pandemic has been the greatest challenge Australia's aged care sector has faced. Residents, their families and aged care staff have all suffered. The suffering has not been confined to those homes which have experienced outbreaks. Thousands of residents in homes that have not suffered outbreaks have endured months of isolation which has had, and continues to have, a terrible effect on their physical, mental and emotional wellbeing.

Although the COVID-19 pandemic continues, we decided to release a special report on 1 October 2020 to take stock of the lessons that had been learned to that time. We put forward recommendations to better prepare and support the aged care sector, its staff and most importantly the residents of residential aged care. The full report is reproduced at Appendix 8 of Volume 5.

Table 2: Extract Royal Commission - Aged Care – Impact of COVID Pandemic

For too long the residential side of care has dominated the public conversation about aged care and determined the calls on the public purse. Our inquiry has confirmed over and over again that people do not want to live or die in institutions.

Table 3: Extract Royal Commission - Aged Care – People want to Stay in their Own Homes

Older people should be supported to remain in their own homes for as long as possible, because this is where they want to be. The new program design will put much greater emphasis on care at home. A comprehensive suite of care at home services will be available to help older people manage independently for as long as possible. The services will include personal, clinical, enabling and therapeutic care, living supports such as cleaning, laundry, shopping for groceries, light gardening and home maintenance, and care management. Subsidy levels will be raised progressively to enable more home-based support to be provided and remove incentives to institutionalisation.

Table 4: Extract Royal Commission - Aged Care – People want to Stay in their Own Homes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 29 August 2021 8:58 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 29/08/2021 - 20:57

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Sally

Last name

Asnicar

Organisation name

Full Proofreading Services

I would like my submission to remain confidential

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WAHROONGA

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Submission

Submission on Draft Housing SEPP

Heritage Conservation Areas Moratorium - The moratorium on seniors housing in Heritage Conservation Areas (HCAs) has been extended until 1 July 2022. The exhibition material notes that Councils will need to provide justification for any extension to the HCA moratorium beyond 1 July 2022.

Ku-ring-gai Council wrote to the Department of Planning, Industry and Environment on 21 July 2020 which set out the evidence to support a permanent exemption, and requested that a permanent exemption of seniors housing from HCAs be granted for Ku-ring-gai. Council has not received any response to the formal letter sent 21 July 2020.

Within Ku-ring-gai, HCAs are primarily within R2 Low Density zones. Once the moratorium is lifted on 1 July 2022, residential care facilities will then be permitted in these HCAs. This will result in a built form that will be in stark contrast and unsympathetic to the existing lowdensity, detached dwellings that characterise those areas and thus undermining the heritage integrity of the existing HCAs.

It is noted that Clause 87 intends to provide design guidance for neighbourhood amenity and streetscape. It is unclear how a

seniors housing development would complement HCAs.

HCAs often have a clear subdivision pattern, a consistent built form/ design characteristics particularly setbacks, are typically low scale, single storey and importantly are of an age that is consistent. A contemporary seniors housing building would be very difficult to design to fit within the characteristics of a typical HCA.

It is Council's view that seniors housing is not suitable within a HCA, and has sought a permanent exemption. A permanent moratorium for HCAs would incentivise more Councils to permit seniors housing within R2 Low Density zones, providing the potential for greater housing diversity, while protecting those important heritage areas.

Recommendation 8: The moratorium on seniors housing in Heritage Conservation Areas should be permanent and not end on 1 July 2022.

I agree to the above statement

Yes

SAVE MARRICKVILLE

www.savemarrickville.com.au
hello@savemarrickville.com.au
www.facebook.com/SaveMarrickvilleSouth/



Housing Policy team
NSW Department of Planning, Industry and Environment

Re: Housing SEPP consultation draft

Dear Housing Policy team

Introduction

Save Marrickville resident group appreciates the opportunity to provide comment and recommendations regarding the consultation draft of the proposed new Housing State Environment Planning Policy.

We have significant concerns about a number of the proposed new policies around Boarding Houses and Co-living housing, while appreciating the stated intentions of the new SEPP around provision of affordable and diverse housing.

Save Marrickville would value an opportunity to discuss these concerns further with your team. Contact details are at the end of this document.

Recommended changes to the draft Housing SEPP

Save Marrickville recommends the following changes to the Housing SEPP consultation draft:

Boarding Houses

1. Remove the 25% density bonus on Floor Space Ratio for new Boarding House developments, as this provision will seriously undermine Local Environment Plan density and height provisions; density provisions should not be sacrificed to achieve affordable housing goals, which should be built into LEPs along with density planning.
2. Reinstate the definition of affordable housing regarding Boarding House residents, that "affordable housing households pay no more than 30% of gross household income in rent," so that the SEPP is able to deliver on its intended affordable housing outcomes; a lack of definition can be easily exploited by developers focused on return on investment.
3. Target Boarding House affordable housing to low and very low income households only, and not moderate income households; this will achieve greatest benefit for those in greatest housing need, and value in social outcomes for government investment through tax concessions for this form of housing; otherwise Boarding Houses are likely to be

provided predominantly to moderate income households, undermining the SEPP's intention.

4. Limit the number of residents in each Boarding House room to "two people", and not "two adults"; which would otherwise legalise inappropriate long term occupation by a large family of no number limit, of one smallish room without its own bathroom or kitchen.

Co-living housing

5. Clearly define and regulate for Co-living housing the amount and nature of all communal and open space per resident, and access to this space for residents on every storey of multi-storey buildings.
6. Remove the time limited 10% density bonus for new Co-living housing, for the same reasons as stated above regarding Boarding Houses.
7. One parking space per room in Co-living housing be required, to meet the realistic demand for car parking for this housing type, which will attract largely medium income singles and couples in Sydney where outside COVID conditions most travel to work is by car. Otherwise these residents will access already over-crowded on-street parking in Sydney.

Parliamentary review

8. Parliamentary review of the Housing SEPP at three and six years after introduction, with particular attention to Boarding Houses and Co-living housing.

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The Save Marrickville resident group represents the interests of the residents and community of the suburb of Marrickville, regarding planning, infrastructure, character, amenity and the environment. We strongly support greater provision and maintenance of affordable housing and social housing in our area, as well as housing diversity. A copy of our policy on affordable housing is included with this submission.

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Inner West Council are committed to working collaboratively with Save Marrickville and residents in developing the new Local Environment Plan for Inner West, including the detailed planning for Marrickville Town Centre, and affordable housing plans and targets.

Previously we have also worked with the office of the Minister for Planning regarding the preservation of important industrial and employment lands, notable the large Carrington Road industrial precinct in Marrickville, and planning instruments relating to precincts between Sydenham and Bankstown.

Boarding Houses

Save Marrickville strongly supports the proposed policy that Boarding Houses be required to provide affordable housing in perpetuity, and be managed by registered Community Housing Providers (CHPs).

However, without significant change to the draft SEPP regarding Board Houses (see Save Marrickville's recommendations), this new Housing SEPP will have some of the same policy deficiencies as the current SEPP (Affordable Rental Housing) 2009, which has often failed to deliver meaningful affordable housing while undermining good planning outcomes.

Specifically, the Boarding Houses provisions in the draft Housing SEPP, and the current SEPP (Affordable Rental Housing) have the same design faults: an incorrect or inadequate definition of affordable housing; poor targeting of affordable housing to include medium income as well as low income households; and "density bonuses" for developers. Combined, these policy settings allow developers to build well above Council's planned building heights and densities – creating new builds that are not sympathetic to the design and scale of the area, and undermine the local appearance and character of an area – while at the same time delivering very little if any housing that is in fact affordable.

The following scenario is likely if not inevitable under the draft Housing SEPP as it is currently drafted.

A developer purchases an old three storey block of units with twelve one and two bedroom dwellings, currently being rented mainly to low and very low income couples and families, in an area zoned as residential and a maximum zoned building height the equivalent of four stories, and in an area of predominantly two and three storey older residential and commercial buildings, which has an attractive character and scale.

Under the draft SEPP the developer will be able to achieve a five storey development with sixty Boarding House rooms, which dominates the streetscape and destroys the area's character, to a much greater extent than a four storey structure would. In addition, through a CHP the Boarding House is able to rent the rooms at a rate which is the equivalent of 50% of the income of a person on 120% of Sydney median income. This rental can be just managed by a person on a medium income, but is not possible for a low income earner, so that only medium income earners are accommodated. Therefore the accommodation provided is not affordable, noting that the AHURI definition of affordable housing, generally accepted by government and academia, is housing which costs no more than 30% of a household's income, and accommodates households on the lowest 40% of incomes (roughly equivalent to 80% of median household incomes).

In this scenario twelve affordable dwellings have been lost in the development, so there is actually a net loss of affordable housing. This scenario is likely and not speculative under the draft SEPP, noting that under the current SEPP it has been commonplace for developments to achieve significant uplift and financial return for proponents while reducing the number of affordable dwellings available.

Another scenario that is also permissible and very possible under the draft SEPP, is that the Boarding House rooms are rented out to low income single parents and couples, with between one and six children in the family, all crammed into the one small room, and sharing too few bathroom and kitchen facilities with multiple other families. This is what slum accommodation looks like, and it is entirely allowable with the current provisions that have a limit two adults per Boarding House room, but no limit on the number of children.

A final point regarding delivery of affordable housing is that there is no need to trade off good planning outcomes, through height and density limits in LEPs, in order to achieve housing for low income households. Under the current SEPP 70 – Affordable Housing (Revised Schemes), Local Governments can build affordable housing targets into their LEPs alongside building height and density limits. These can achieve good local amenity, character and built form, which is in the interests of the whole community. There is simply no need or justification to destroy local character and degrade built environment, to achieve low income housing. Government has other more effective policy and financial options to deliver affordable and secure housing, including investment in social housing.

Co-living

Co-living housing is an interesting initiative and government should be commended for being innovative. There is potential to deliver a significant number of housing units in NSW, which are affordable mainly for people on medium and higher incomes.

A key concern regarding this initiative is that it implies that in Sydney it is possible to provide more housing that can be afforded for singles and couples, by reducing the quality and amenity of that housing. Instead of a person or couple renting a single bedroom unit with their own bathroom and kitchen, they will pay lower rent by renting a room and sharing a bathroom and kitchen and common areas with other tenants. Like a very large share house with a manager.

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From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 27 August 2021 7:27 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP
Attachments: save-marrickville-submission-housing-sepp-consultation-draft-2021.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Fri, 27/08/2021 - 19:25

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Paul

Last name

Mortimer

Organisation name

Save Marrickville resident group

I would like my submission to remain confidential

No

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2204

Submission file

[save-marrickville-submission-housing-sepp-consultation-draft-2021.docx](#)

Submission

Housing Policy team

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I agree to the above statement

Yes



Scape Australia
Level 14, 275 George Street
Sydney, New South Wales

27 August 2021

The Hon. Rob Stokes, MP

Minister for Planning and Public Spaces
Department of Planning, Industry and Environment,
Locked Bag 5022,
Parramatta NSW 2124

Dear Minister Stokes,

Re: Response to Draft Housing SEPP

Scape is a best-in-class student accommodation sector specialist with a focus on direct let 'off campus' investment grade assets. We are a fully integrated developer, owner and manager of premium purpose-built student accommodation ("PBSA") and are Australia's largest provider. Our Scape global platform has grown to provide over ~35,000 bedrooms across the United Kingdom, Australia, Ireland and the United States by 2023.

Scape Australia ("Scape") owns and manages 15 existing assets in Sydney and has another 9 projects in some stage of development or construction in and around Sydney. Most of Scape's Sydney properties (operated under Scape, Atira and Urbanest brands) have been approved as Boarding Houses under the current *State Environmental Planning Policy (Affordable Rental Housing) 2009* ("ARH SEPP"). All current and future proposed Scape developments in NSW were also to be guided by the ARH SEPP.

The reason for utilising the ARH SEPP for our development applications is due to there being no current definition of PBSA in any local or state policy, and there is no other housing definition available that aligns with how our properties are designed, occupied and managed.

Scape have now had the opportunity to review the proposed Housing State Environmental Planning Policy ("Draft SEPP") as currently advertised and submit that **the Draft SEPP should not move forward in its current form** with respect to the proposed flawed Co-living housing definition and no definition for PBSA.

As sector specialists in PBSA, we highlight that **the Draft SEPP will destroy the viability of future PBSA projects in NSW**. The Draft SEPP as it related to PBSA will create confusion rather than clarity, and we could not rely on this current drafting for future projects due to:

1. Complete disregard to the tax treatment of this new housing type (ie: commercial residential vs residential);
2. Inflexible non-discretionary development standards within the SEPP;
3. Expiry of floor space bonuses after a period of time; and
4. Insufficient consideration of transitional arrangements for projects previously approved under the ARH SEPP, particularly where development applications or permit amendments are required.

The previous Explanation of Intended Effects ("EIE") for a Housing Diversity SEPP (issued in September 2020) proposed that a "Student Housing" definition would be included. This definition has since been removed and rather bundled into a single "Co-Living" definition. This update does not recognise the distinct

INDUSTRY SUBMISSION

Submission to the Proposed Housing SEPP
Scape Australia

operational and functional differences between residential Co-Living and Purpose Built Student Accommodation product.

The operational and functional demands of student housing covering room sizes, parking rates, lease tenure and management are very different to a Co-living home.

We request that a "Student Housing" definition be reincorporated into the Draft SEPP and we further recommend that a separate Diverse Housing Design Guidelines be developed in conjunction with the PBSA Industry. The current prescriptive drafting of 'non-discretionary' items within the Housing SEPP does not capture site-specific conditions or constraints which would need to be applied flexibly by Local Authorities – this would be better dealt with in guidelines that can evolve over time as the PBSA landscape evolves.

Please find enclosed our recommendations on the inclusion of a Student Housing definition for NSW Government to consider in finalising the Housing SEPP including;

1. Key items for consideration in the Housing SEPP,
2. Key items to be clarified in the Housing SEPP,
3. Submission from Willowtree Planning

These clarifications and considerations have been informed by Scape's current operations in PBSA both locally and abroad.

RECOMMENDATION:

1. A "Student Housing" Definition be included in the Housing SEPP.
2. A "Diverse Housing Design Guidelines" policy be developed.
3. Clarity on tax arrangements for each new housing type be resolved.

This considered, we recommend that a detailed analysis of the PBSA and Co-Living models be undertaken and further consultation with industry prior to finalising the Housing SEPP.

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

Yours sincerely,



Adam Trent
Director of Acquisitions and Development

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Key items for a consideration in the Housing SEPP:

1. A 'Student Housing' definition with supporting 'Diverse Housing Design Guideline' Policy is needed:

As currently drafted, Student accommodation would be classified as 'Co-Living' under the proposed Housing SEPP. The application of an umbrella 'Co-Living' definition to multiple asset classes does not recognise the operational and material differences between Student Housing and Co-Living uses.

A separate definition for Student Housing to facilitate future development of PBSA in New South Wales.

A 'Student Housing' definition should also ensure flexibility of the operation of student housing to allow the provision of emergency accommodation in situations such as COVID-19 and short term stay for students during semester breaks.

We have outlined the key operational differences between PBSA and co-living uses and undertaken a comparative analysis of planning outcomes with the application of existing, proposed and recommended planning controls. Please find the following detail enclosed:

- a. Key Operational differences between Co-Living and Student Housing
- b. Comparative Planning Analysis of Student Housing

1.1 Key Operational differences between Co-Living and Student Housing:

	CO-LIVING	STUDENT HOUSING
Typical development size in NSW	Generally <100 rooms.	Generally >100 rooms.
Cohort	Not limited.	Students enrolled at nearby educational institutions.
Cohort length of stay	Minimum 3 months. However, flexibility of options is important for key sections of the market, so we suggest that flexibility in length of stay is permitted.	<ul style="list-style-type: none">• Students occupy student housing during semesters and sometimes over semester breaks.• <u>Flexible length of stays should be applied to this asset class.</u>
Operational Considerations	Not defined. Maintained by a managing agent, who provides management services 24 hours a day.	Student Housing is managed and operated to facilitate optimal environments for students. Key Scape operational considerations include; <ul style="list-style-type: none">▪ Students are required to attend a compulsory induction,▪ Alcohol consumption and student behaviour is monitored on-site.▪ Strict quiet hours are enforced.▪ Guests are not permitted after 10pm unless approval has been granted.

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		<ul style="list-style-type: none"> ▪ Approved overnight guests are only permitted within a 7-day period. ▪ Pastoral Care Plans specifically formulated for student residents that include student ambassadors who engage with residents and assist with career training.
Building Management Audits	Not Defined.	<ul style="list-style-type: none"> • On-Campus and Off-Campus Student Housing Providers Accommodation are required to undertake yearly audits and meet compliance frameworks covering child safety compliance, building amenity and operational standards. • Universities require PBSA Operators to meet Key Performance Indicators around the quality and management of their properties. This process is not done in Co-Living buildings.
Planning Considerations:	<ul style="list-style-type: none"> • Co-Living is typically located near transport hubs or on transport networks, however, car parking is typically required for some occupants. 	<ul style="list-style-type: none"> • Student accommodation is typically within ~2km from educational institutions. Consideration for student's use of transport (predominantly public transport and no car ownership) needs to be considered. A review of the appropriate parking rates for cars, motorcycles and bicycles is needed. • Student room typologies include sole occupancy units and larger communal room clusters (2-8 persons) all of which are purpose designed for student occupation. • Design Guidelines that enhance the student living experience should be developed.
Tax Considerations:	<ul style="list-style-type: none"> • Co-Living may or may not be "commercial residential premises", and will depend on the services, supervision and terms of occupation. • Given that the Co-Living offering can be differentiated from build-to-rent and is categorised alongside student accommodation, we would expect that the terms of the SEPP are not intended to prevent the commercial residential treatment of any type of Co-Living. 	<ul style="list-style-type: none"> • PBSA is accepted for Federal and State taxes as "commercial residential premises" – with express cases and rulings supporting the position.

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1.2 Outcomes of Proposed Planning Controls

1.2.1 Theoretical Site:

Site Area	1,500sqm
Permissible FSR	5:1
Zoning	B2 Local Centre
Mechanism to obtain FSR uplift	The development is within a zone in which residential flat buildings are permitted and does not contain a heritage item. If the existing maximum FSR is greater than 2.5:1, a 20% bonus will be available.

1.2.2 Planning Controls:

	Existing Boarding House Provisions under the ARH SEPP 2009 (Existing Student Housing Planning Pathway)	Draft Housing SEPP Co-Living Definition 2021 (DPIE Proposed Student Housing Planning Pathway)	Proposed NEW Student Housing Definition within Housing SEPP 2021 (Scape Proposed Student Housing Planning Pathway)
Application of FSR Bonus	20%	10%, available until 1 August 2024 only No FSR bonus at all after the aforementioned date	20%
Communal Space Required (Internal)	One communal living room to be provided	30m ² with minimum dimensions of 3m plus a further 2m ² for each private in excess of 6 private rooms	1.25 sqm per bed
Communal Space Required (External)	N/A	20% of site area with minimum dimensions of 3m	1sqm per room
Private Open Space	20m ² with minimum dimensions of 3m 8m ² with a minimum dimension of 2.5m for boarding house manager	N/A	N/A
Carparking Requirement	0.5 per boarding room	0.5 per boarding room	0
Motorcycle Parking Requirement	1 per 5 boarding rooms	1 per 5 rooms	1 per 10 rooms
Bicycle Parking Requirement	1 per 5 boarding rooms	1 for each private room	1 per 10 rooms

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1.2.3. Planning Outcomes:

	Existing Boarding House Provisions under the ARH SEPP 2009 (Existing Student Housing Planning Pathway)	Draft Housing SEPP 2021 Co- Living Housing Definition (DPIE Proposed Student Housing Planning Pathway before 1 August 2024)	Draft Housing SEPP 2021 Co-Living Housing Provisions (DPIE Proposed Student Housing Planning Pathway after 1 August 2024)	Proposed NEW Student Housing Definition within Housing SEPP 2021 (Scape Proposed Student Housing Planning Pathway)
Gross Floor Area ("GFA") Permissible <i>(inclusive of FSR Bonus)</i>	9,000sqm	8,250sqm	7,500sqm (No Bonus FSR)	9,000sqm
Residential GFA <i>(assuming 1,500sqm non- residential floor space required on ground floor and level 1 in B2 Local Centre)</i>	7,500sqm	6,750sqm	6,000sqm	7,500sqm
Communal Space Provided (Internal)	401sqm	550sqm	482sqm	401sqm
Communal Space Provided (External)	0sqm	300sqm	300sqm	320sqm
~ Rooms <i>Sized at 18.79sqm (12sqm excluding kitchen and bathroom) and 85% GFA efficiency</i>	321	281	249	321
Parking <i>For Student Housing only (not capturing commercial rates)</i>	6,400sqm Basement over 5 levels Cars – 160 Motorbikes – 64 Bicycles – 64	5,610sqm Basement over 4.5 levels Cars – 140 Motorbikes – 49 Bicycles – 281	4,938sqm Basement over 3.5 levels Cars – 124 Motorbikes – 49 Bicycles - 249	410sqm Basement – 1 Level Cars – 0 Motorbikes – 32 Bicycles – 32

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1.2.4 Cost / Revenue Impact of Planning Controls:

	Existing Boarding House Provisions under the ARH SEPP 2009 (Existing Student Housing Planning Pathway)	Draft Housing SEPP 2021 Co-Living Housing Provisions (DPIE Proposed Student Housing Planning Pathway before 1 August 2024)	Draft Housing SEPP 2021 Co-Living Housing Provisions (DPIE Proposed Student Housing Planning Pathway after 1 August 2024)	Proposed NEW Student Housing Definition within Housing SEPP 2021 (Scape Proposed Student Housing Planning Pathway)
Indicative land cost (typical NSW land value rate in PBSA locations applied)	\$38.5m	\$38.5m	\$38.5m	\$38.5m
Land cost / Bed (\$)	\$120k/bed	\$137k/bed (planning controls result in +\$17k/bed impact)	\$155k/bed (planning controls result in +\$35k/bed impact)	\$120k/bed
Impact of Basement	~\$14m (+\$10m impact) (Unless Green Travel Plan or DCP control permits lower rate)	~\$12.3m (+\$8.3m impact) (Unless Green Travel Plan or DCP control permits lower rate)	~\$10.8m (+\$6.8m impact) (Unless Green Travel Plan or DCP control permits lower rate)	~\$4m
Basement Impact on per bed cost	Additional +\$31k/bed impact (Unless Green Travel Plan or DCP control permits lower rate)	Additional +\$29.5k/bed impact (Unless Green Travel Plan or DCP control permits lower rate)	Additional +\$27.3k/bed impact (Unless Green Travel Plan or DCP control permits lower rate)	Baseline ~\$12.5k/bed
Net Impact on Cost to deliver PBSA		+\$46.5k/bed OR +\$17k/bed if a Green Travel Plan or DCP permits lower rate)	+\$62.3k/bed OR +\$35k/bed if a Green Travel Plan or DCP permits lower rate)	

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1.2.5 Outcomes:

PBSA Capitalised Value - NSW (Sydney) / bed:	~\$400k (~5% margin on cost)
PBSA Cost to deliver (inclusive of land)/ bed:	~\$380k
Impact of proposed Housing SEPP Co-Living Definition /bed prior to August 2024:	Impact of +\$46.5k/bed or +\$17k/bed (should additional basements not be required to facilitate required parking under the Housing SEPP).
Total Cost to Deliver	\$426.5k/bed OR \$397k/bed

This cost impact of proposed planning legislation (Co-Living Housing provisions in the proposed Housing SEPP) would make PBSA **unfeasible to deliver** in NSW. The proposed removal of the bonus after August 2024 would have future detrimental impact.

Existing Boarding House Provisions under the ARH SEPP 2009 (Existing Student Housing Planning Pathway)	Draft Housing SEPP Co-Living Definition 2021 (DPIE Proposed Student Housing Planning Pathway before 1 August 2024)	Proposed NEW Student Housing Definition within Housing SEPP 2021 (Scape Proposed Student Housing Planning Pathway)
	<p>-----</p> <p>Represents additional loss of building envelope due to complete removal of FSR bonus after August 2024</p>	

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1.3 Proposed Student Housing definition:

Please find below suggested definition with associated standards for Student Housing.

Proposed Definition	On-campus and off-campus accommodation and communal facilities principally for students enrolled to study at an education establishment
Student Housing may be carried out on certain land with consent.	Development for the purposes of student housing may be carried out with consent on land in a zone in which development for the purposes of student housing, residential flat buildings or shop top housing or hotels, motels and serviced apartments are permitted, other than Zone R2 Low Density Residential.
Non-discretionary development standards	<ul style="list-style-type: none">• 20% additional floor space ratio if the additional floor space is used only for the purposes of student housing to ensure the ongoing supply and viability of student housing as a distinct development type in university precincts.• Communal spaces are provided at 1.5sqm per student.• Communal open spaces are at 1 sqm per student.• 1 motorcycle space per 10 private rooms.• 1 bicycle space per 5 private rooms.• Application of lower motorcycle rates should the Site be within certain distances from a railway station, light rail or bus stop e.g. 800m from a train/light rail station and 400m from a bus stop
Standards for Student Housing	<ul style="list-style-type: none">• Each private room should have a GFA of at least 12sqm for a single occupant (excluding kitchen and bathroom) and 16sqm (excluding kitchen and bathroom) for two.• No maximum room sizes should be applied to facilitate flexibility in room and layout design.• Adequate bathroom, laundry and kitchen facilities should be provided for student housing,• Each private room should have no more than 2 occupants.• Length of Stay is flexible.

In light of the above, while the Proposed Housing SEPP introduces provisions for co-living housing as a form of diversity housing, it is noted that the proposed co-living housing provisions do not recognise student housing as a distinct development type, which comprises different operational considerations and end users. The proposed stringent development standards in the Proposed Housing SEPP also fail to provide flexibility and development incentives that are needed for co-living housing development.

It is considered that the Proposed Housing SEPP fails to understand the operational needs of the industry and the emerging demand for PBSA in Sydney. The co-living housing provisions as currently proposed do

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not align with the aims of the policy, specifically pertaining to "*encourage the development of diverse and affordable housing types*". While we appreciate the DPIE's approach to provide a consistent planning regime for affordable and diverse housing types, it is noted that amendments to the proposed provisions as suggested in this submission are required to facilitate the effective delivery of the much-needed student housing to university students as well as the ongoing viability of the PBSA in NSW.

1.4 Proposed Tax Treatment and Concessions:

For tax purposes, "boarding houses" are expressly included within the category of accommodation that is "commercial residential premises". The term "commercial residential premises" is specifically defined in the GST Act and this definition, or similar definitions, are then widely used in other Federal and State tax Acts which can result in different tax treatment to "residential premises".

With "Co-Living" (and student housing) accommodation no longer falling within the "boarding house" concept for planning purposes, then it would need to be considered whether such accommodation falls within the other categories of "commercial residential premises" or is merely "residential premises". This would need to be considered on a facility-by-facility basis as the factors that would make a facility "commercial residential premises" (as considered in case precedent and ATO rulings) include:

- Multiple occupancies provided by commercial operator;
- Level of services supplied in addition to the accommodation;
- Centralised management of the facility and extent of supervision;
- Terms & conditions of occupants stay;
- Length of occupants stay.

Specific Co-Living and Student Housing providers may decide to provide the additional services and management, and having the requisite terms and conditions, to satisfy the "commercial residential premises" tests and the update of the planning rules should not prevent that. The planning rules should, however, make clear the distinction between "Co-Living" and "Build-to-Rent" accommodation types, as Build-to-Rent accommodation has specific other tax allowances (especially stamp duty and land tax) but would usually be considered "residential premises" and not "commercial residential premises".

We would welcome the opportunity to work with you to ensure that the planning controls under the SEPP do not impact on the potential commercial residential treatment of Co-Living and Student Housing (i.e. does not prevent the factors outlined above from being met).

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Key items to be clarified under the proposed draft Housing SEPP:

1. Housing SEPP Part 3 Treatment of existing Boarding Houses approved under the ARH SEPP:

- Clarification is required on how Part 3 under the Draft SEPP applies to existing boarding houses that were approved under the previous ARH SEPP. How will this clause apply to major alterations and additions to existing boarding houses?
- **Savings provisions should be included to ensure existing boarding houses (and their subsequent modifications) are not impacted.**

2. Proposed 'Co-Living' Provisions:

2.1 Permissibility

- It is unclear whether co-living housing is permitted under the Proposed Housing SEPP. It is noted that Clause 63 prescribes that co-living housing may be carried out with consent on land in a zone in which co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument, other than the R2 Low Density Residential zone.
- However, provisions relating to the R2 zone is provided throughout Part 3 of the Proposed SEPP, including (but not limited to) provisions with respect to landscaping, minimum lot size, setbacks and co-living housing development in the R2 zone.
- **Clarification is required to confirm the permissibility of co-living housing the R2 zone.**

2.2 Clause 64 "Non-discretionary development standards" (reference clause)

- Phasing out the 10% floor space bonus by August 2024 will not encourage long term growth of asset classes.
- Clarity is required on the subsequent alterations and additions of approved DAs (prior to the finalisation of this instrument) and future Section 4.55 applications on the site in relation to FSR controls.
- **Savings and transitional provisions should be added to provide clarity and certainty on the existing approved boarding house development.**
- The 20% communal open space requirement is not linked to the actual density of development, the control should rather be linked to number of occupants and not site area.
- We recommend that motorcycle and bicycle parking be linked to Development Control Plan (DCP) controls – allowing developments to consider proximity to public transport etc. In particular, the motorcycle requirement should be reduced as spaces are generally not utilised by students based on the usage in existing Scape assets.
- Additionally, application of lower car and motorcycle parking rates should be considered for sites located in proximity to public transport such as 800m from a railway station and light rail station and 400m from a bus stop. This is considered to encourage the use of public and active transport modes and reduce reliance on private vehicles.

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- We recommend the 3 month minimum stay is applied as a guideline only. This ensures flexibility of lease terms is permissible and meets the needs of the broader target market (i.e. individuals who may want the ability to have shorter stays).

2.3 Clause 65 "Standards for co-living housing"

- There is an inconsistency between the Proposed Housing SEPP and the 'Frequently Asked Questions' released by DPIE in relation to maximum room sizes. Following enquiry with the DPIE Housing Policy Team, it is understood that a maximum room size requirement of 25m² (excluding private kitchen or bathroom facilities) will be reinstated when the Housing SEPP is made.
- We recommend **no maximum room sizes** to be applied in order to facilitate flexibility in room and layout design, as well as ensuring the amenity of the rooms for occupants.
- It is noted that setbacks are proposed to be implemented as development standards, which will impose stringent siting requirements for co-living housing development. Given that the condition and constraints of each site are different, setbacks should be applied as discretionary controls under the DCP (or a design guidance) with flexibility, taking into account the site constraints and streetscape character of the surrounding area. Applying setbacks as a development standard would be inconsistent to the intent of DCP controls which is to provide guidance to development and prescribe non-statutory requirements.
- Similarly, separation distances specified in the Apartment Design Guide (ADG) are proposed to be implemented as development standards. Separation distance requirements are only one way of achieving the objectives in the ADG. Applying separation distances as development standards would disregard alternative measures that can be used to achieve the same (or better) design outcome.
- Contravention with these standards would mean a Clause 4.6 Variation Request would be required to justify the non-compliances. This would undermine the flexibility for co-living development and induce inefficiency in delivering co-living development due to the rigorous standards proposed.
- We recommend that a Diverse Housing Design Guideline be developed and capture key requirements (similar detail as outlined in the Apartment Design Guidelines) specific to Co-Living, PBSA and Build-to-Rent uses.
- It is acknowledged that DPIE is currently drafting design guidance for Build-to-rent (BTR) housing, boarding houses, co-living housing and seniors housing. It is requested that the drafting of the design guidance takes into consideration the matters raised in this submission and also incorporate design guidance for student housing.

WILLOWTREE PLANNING



27 August 2021

The Hon. Rob Stokes, MP
Minister for Planning and Public Spaces
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

RE: Submission to the Proposed Housing SEPP

Dear Minister Stokes,

This Planning Submission has been prepared by Willowtree Planning Pty Ltd in relation to the recently released Proposed Housing State Environmental Planning Policy (Housing SEPP). This Submission has focused on the overall impacts of the proposed Housing SEPP on the Purpose-Built Student Accommodation (PBSA) and co-living housing industries and the delivery of these housing types in NSW.

Under the proposed Housing SEPP, the introduction of a separate definition of, and provisions for, student housing has been cancelled and instead, off-campus student accommodation development will be subject to the co-living housing provisions. Whilst Willowtree Planning supports the consolidation of the five existing housing-related SEPPs which reflects the emerging need for more diverse and affordable housing types, the SEPP has taken a backward step in supporting the delivery of PBSA in NSW and exhibits significant flaws in the proposed co-living housing provisions, which will jeopardise the supply of the much-needed PBSA in proximity of major universities.

Upon review of the proposed Housing SEPP, it is considered that the provisions under the proposed Housing SEPP will impose a negative impact on the supply of PBSA due to reduced opportunities to develop cost-effective student accommodation. The proposed co-living housing provisions entail onerous development controls and time limited floor space bonus which are not in favour of the provision of 'new generation' boarding houses and are inconsistent with the aims of the SEPP to encourage the development of diverse and affordable housing types to meet the changing needs of people across the State.

As noted in the *Explanation of Intended Effect for a new Housing Diversity SEPP* (EIE) released in July 2020, the introduction of student housing and co-living housing was proposed to address affordability issues and facilitate the delivery of diverse rental housing options. Notwithstanding, the deletion of student housing planning pathway and the proposed co-living housing provisions are considered to reduce the attraction of these development types, relative to other land uses, and ultimately destroying the viability of future PBSA projects in NSW.

It is also highlighted that the proposed Housing SEPP does not include savings and transitional provisions to assist existing development applications that are under assessment or recently approved under the existing *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP). This places all current and proposed boarding house developments at risk and create significant uncertainty on their delivery.

In overview, the main points of this Submission are as follows:

1. A planning pathway for 'student housing' is to be included in the Housing SEPP.

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2. Amendments to the co-living housing provisions are to be made to facilitate the viable and efficient delivery of 'new generation' boarding house in the long term.
3. Savings and transitional provisions are to be included to provide clarity and certainty to developers.

1. STUDENT HOUSING

Under the proposed Housing SEPP, off-campus student accommodation will be subject to the co-living housing provisions. Notwithstanding, it is noted that the proposed co-living housing provisions do not recognise the operational and material differences between student housing and co-living uses. Specifically, a typical development size for student housing in NSW is generally over 100 rooms, whereas co-living housing will be able to have as few as 6 rooms and is expected to involve up to 30-40 rooms only.

In addition, PBSA is operated under a number of management measures to facilitate optimal environments for students. Key management measures include a compulsory induction for students, monitored alcohol consumption and student behaviour, enforcement of quiet hours and implementation of pastoral care plans for student residents. These measures are not applicable to co-living housing, which only requires a management agent to provide management services 24 hours a day.

On-campus and Off-campus Student Housing Providers also work closely with universities to ensure the quality and management of the properties to provide a high quality and safe environment for students. This process is not undertaken in co-living housing developments.

In consideration of the emerging demand for specialised student accommodation and tertiary education becoming one of Australia's largest exports, there is a need to provide a separate planning pathway for student housing to facilitate the ongoing supply of well-located PBSA's in order to support the education sector in NSW. It is also important to provide flexibility in the operation of student housing to allow for the provision of emergency accommodation in situations such as COVID-19 and short term stay for students to stay during semesters breaks.

Accordingly, a separate definition and provisions for student housing should be incorporated to facilitate the ongoing supply and viability of PBSAs in NSW.

2. AMENDMENTS TO THE CO-LIVING HOUSING PROVISIONS UNDER PART 3 OF THE PROPOSED HOUSING SEPP

Upon review of the co-living housing provisions under Part 3 of the proposed Housing SEPP, a number of key items are raised which requires consideration. The key items are discussed below:

2.1 Permissibility of co-living housing

- It is unclear whether co-living housing is permitted under the proposed Housing SEPP. Clause 63 prescribes that co-living housing may be carried out with consent on land in a zone in which co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument, other than the R2 Low Density Residential zone.
- However, provisions relating to the R2 zone are provided throughout Part 3 of the proposed Housing SEPP, including (but not limited to) provisions with respect to landscaping, minimum lot size, setbacks and co-living housing development in the R2 zone.
- Clarification is required to confirm the permissibility of co-living housing in the R2 zone.

2.2 Clause 64 Non-discretionary development standards

- The time limited 10% floor space bonus will not encourage the long term growth of PBSA in NSW. Particularly, the majority of the boarding house development approved under the ARH SEPP would not be capable of being approved under the co-living housing provisions of the proposed Housing SEPP.
- This will significantly reduce the opportunities for 'new generation' boarding houses an PBSA developed by private sector developers, which will impact on the diversity and supply of housing in NSW.
- The 20% communal open space requirement does not contemplate the actual density and size of the development. It is recommended that the control should be linked to the number of occupants and not site area.



- It is recommended that motorcycle and bicycle parking be linked to Development Control Plan (DCP) controls and allow developments to consider proximity to public transport. In particular, motorcycle requirements should be reduced given that motorcycle spaces are generally not utilised by students based on feedback from student housing providers.
- Application of lower car and motorcycle parking rates should be considered for sites located in proximity to public transport, such as 800m from a railway station and light rail station and 400m from a bus stop. This is considered to encourage the use of public and active transport modes and reduce reliance on private vehicles.

2.3 Clause 65 Standards for co-living housing

- There is an inconsistency between the proposed Housing SEPP and the 'Frequently Asked Questions' released by DPIE in relation to maximum room sizes. Following enquiry with the DPIE Housing Policy Team, it is understood that a maximum room size requirement of 25m² (excluding private kitchen or bathroom facilities) will be reinstated when the Housing SEPP is made.
- It is recommended that no maximum room sizes are to be applied in order to facilitate flexibility in room and layout design, as well as ensuring the amenity of the rooms for occupants.
- Setbacks are proposed to be implemented as development standards, which will impose onerous siting requirements for co-living housing development. Given that the condition and constraints of each site are different, setbacks should be applied as discretionary controls under the DCP (or the design guidance to be developed by DPIE for co-living housing) with flexibility, taking into account the site constraints and streetscape character of the surrounding area. Applying setbacks as a development standard would be inconsistent to the intent of DCP controls which is to provide guidance to development and prescribe non-statutory requirements.
- Similarly, separation distances specified in the Apartment Design Guide (ADG) are proposed to be implemented as development standards. Separation distance requirements are only one way of achieving the objectives in the ADG. Applying separation distances as development standards would disregard alternative measures that can be used to achieve the same (or better) design outcome.
- Contravention with these standards would mean a Clause 4.6 Variation Request would be required to justify the non-compliances. This would undermine the flexibility for co-living housing development and would cause inefficiency in delivering co-living development due to the rigorous standards proposed.
- It is acknowledged that DPIE is currently drafting design guidance for Build-to-rent (BTR) housing, boarding houses, co-living housing and seniors housing. It is requested that the drafting of the design guidance takes into consideration the matters raised in this submission and also incorporates design guidance for student housing.

3. TREATMENT OF EXISTING BOARDING HOUSES APPROVED UNDER THE ARH SEPP

The proposed Housing SEPP does not contain savings or transitional arrangements for boarding house applications that are pending development approval or recently approved under the existing ARH SEPP. Concerns are raised in relation to the treatment of the existing boarding house developments, particularly with respect to the floor space ratio (FSR) control.

Clarification is required (prior to the finalisation of the Housing SEPP) to explain how major alterations and additions or Section 4.55 modifications to the existing boarding house, as well as changes to the approved FSR will be treated.

Savings and transitional provisions should be included to provide clarity and certainty on the existing boarding house developments (and their subsequent modifications).

CONCLUSION

Willowtree Planning appreciates the consolidation of the existing housing-related SEPPs under the proposed Housing SEPP. However, the proposed Housing SEPP has failed to address the aim of the policy and understand the needs of the PBSA and co-living housing industries to facilitate effective and feasible provision of student and co-living housing in NSW.

Further, the proposed Housing SEPP does not recognise student housing as a distinct development type, which encompasses different operational considerations and end users to co-living housing. The proposed onerous development standards and lack of development incentives also fail to provide flexibility and encourage the development of PBSA as a diverse housing type, which may damage the supply of cost-effective housing in NSW and do not align with the aim of the proposed Housing SEPP, specifically pertaining to encouraging diverse and affordable housing types to meet to the changing needs of people across the State.



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In light of the above, Willowtree Planning does not support the proposed Housing SEPP in its current form and requests that the recommendations provided within the Submission are incorporated to facilitate the effective delivery of student and co-living housing in NSW.

Should you wish to discuss the matters raised in this Submission further, please do not hesitate to contact Willowtree Planning.

Your faithfully,

Andrew Cowan
Director
Willowtree Planning Pty Ltd



From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment <noreply@feedback.planningportal.nsw.gov.au>
Sent: Sunday, 29 August 2021 9:22 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Sun, 29/08/2021 - 21:21

Submitted by: Anonymous

Submitted values are:

Submission Type
I am making a personal submission

Name

First name
Sean

Last name
Graham

Organisation name
NA

I would like my submission to remain confidential
No

Info

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Wahroonga

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Submission

I note that the moratorium on seniors housing in Heritage Conservation Areas (HCAs) has been extended until 1 July 2022 and that Councils will need to provide justification for any extension to the HCA moratorium beyond 1 July 2022.

I understand that Ku-ring-gai Council wrote to the Department of Planning, Industry and Environment on 21 July 2020 to seek the permanent exemption of seniors housing from HCAs. I also understand that Ku-ring-gai Council has not received any response to their formal submission.

Within Ku-ring-gai, HCAs are primarily within R2 Low Density zones. If the moratorium is lifted on 1 July 2022, residential care facilities will then be permitted in these HCAs, resulting in constructions that will be in stark contrast and unsympathetic to the existing low-density, detached dwellings that characterise Ku-ring-gai. In reality, they'll compromise and profoundly undermine the heritage integrity of the HCAs.

Clause 87 intends to provide design guidance for neighbourhood amenity and streetscape but it is unclear how a seniors housing development would complement HCAs. As you are probably aware, HCAs often have a clear subdivision pattern, a consistent built form/ design characteristics particularly setbacks. They are typically low scale, single storey and importantly consistent with the local character. A contemporary seniors housing building would be very difficult to design to fit within the characteristics of a typical HCA.

I understand that it is Council's view that seniors housing is not suitable within a HCA and I concur with their assessment. I support their application for a permanent exemption for HCAs; this approach would preserve HCA while facilitating more appropriate seniors housing solutions within R2 Low Density zones. This not only benefits the senior residents but protects important heritage areas while allowing for greater housing diversity.

In conclusion, I submit that Recommendation 8 (The moratorium on seniors housing in Heritage Conservation Areas) should not end on 1 July 2022 but, instead, should be a permanent exemption.

I agree to the above statement

Yes

Dear Sir/Madam

**Draft Housing SEPP
Seniors Housing**

Thank you for the opportunity to provide feedback on the proposed Housing SEPP.

We understand the new policy will no longer allow seniors housing independent living units in the R2 residential zone.

We are writing to you to as recent buyers of an independent living unit in Rose Bay. Our family have lived in the Woollahra LGA for over 30 years and the decision to downsize was not an easy or quick process.

Having lived in our family home for many years, we did not wish to face such a drastic change and move into a high rise building in a crowded and dense area. It was important to us that we were able to retain the comfort of staying within our local community.

There were very limited options with only two new independent living unit developments in the local area. The only other option was a large aged care facility that we do not yet need given we still maintain an active lifestyle and still able to move freely.

We are very happy to have found a boutique development to transition into. Most importantly, it offered both the accessibility benefits of seniors housing (no stairs throughout the development, larger sized units that are wheelchair friendly etc) and the character and feel of the local community that ourselves and our children have grown up in. The development is 2-3 storeys with only 11 units so there is a sense of community that fits perfectly within the local area.

Since our move and positive experience, many of our friends have started the process of downsizing. I'm afraid the new controls will not afford them the opportunity to find an independent living unit in their local area and they will be forced into a high-rise development.

The residents within our building are all from the local area and that speaks volumes of what downsizers want. It's important that the Department of Planning understand the new controls will be counter-productive in moving seniors from their homes and into seniors housing.

We respectfully ask the Department to consider our experience and those of other downsizers alike that are looking to transition into their next home. It would be a shame if the only option for families like ours are to move from their homes into a high-rise development.

Regards,

See Wei Tan

303/58-60 Newcastle Street, Rose Bay

27 August 2021

Mr Jim Betts
Secretary, Department of Planning, Industry and Environment
Via online submission

Dear Mr Betts

Re: Draft Housing SEPP

Thank you for the opportunity to provide a further response to the exhibited draft *Housing SEPP*.

This submission draws on our expertise as managers and developers of long-term subsidised housing. We have a 35-year history in delivering and operating social and affordable housing for local communities across Sydney. We manage the largest portfolio of community housing tenancies in Sydney - with over 7,000 properties housing around 12,000 people.

Earlier submission on the draft Housing Diversity SEPP

SGCH provided a submission to the earlier SEPP in September 2020 (copy attached).

Of the nine recommendations we provided, three relating to boarding houses have been addressed in the latest draft SEPP. These relate to the management of boarding houses by registered not for profit community housing providers (CHPs); removal of on-site management; and the inclusion of the perpetuity provision. SGCH continue to support these changes.

We would also encourage the Department of Planning, Industry and Environment (DPIE – the Department) to consider our other six recommendations as these all directly relate to the delivery of more affordable housing in NSW:

SGCH Recommendations

- Change the SEPP to allow the FSR bonus for affordable housing to work with increased building heights. Without this, the FSR bonus cannot be optimised despite the development providing a minimum amount of affordable housing.
- Declare developments by not-for-profit community housing providers State Significant Development where projects are valued over \$50m and the housing will be held and operated as affordable for a minimum 15 years – mirroring the proposed planning pathway

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

for market Build to Rent Housing and mixed-use Communities Plus projects but at a lower threshold to reflect the scale and size most appropriate for larger stand-alone social and affordable housing projects being brought forwards by individual CHPs.

- For eligible not for profit community housing provider developments - that will deliver long term social housing and/or affordable housing - make the NSW Land Housing Corporation (LAHC) or the Department the approval authority using assessment criteria and processes that mirror the self-assessment provisions allowed for LAHC developments. This recognises the importance of affordable housing as critical social infrastructure by streamlining approval pathways and ensuring LAHC and community housing provider projects are assessed using a similar processes and criteria.
- Establish an Affordable Rental Housing Working Group with not-for-profit community housing providers of affordable housing (along the lines of the Boarding House Working Group) to input into revised affordable housing provisions that support good design and development outcomes and improved development feasibility.
- Rename “Boarding Houses” to “Micro-Apartments” or “Affordable Co-Living”
- Reframe the provisions to include affordable housing delivered by not-for-profit community housing providers as a sub-market of Build to Rent Housing.

Following a detailed review of the latest draft we would like to take the opportunity to provide further comments.

Affordable Housing

We support the proposal to increase the tenure for affordable housing from 10 to 15 years as this will ensure affordable housing stock will be protected for longer.

We would urge DPIE to reconsider increasing any numerical development controls that would impact the feasibility of affordable housing projects.

In particular we would request that DPIE exclude residential flat buildings from the planned increased in the minimum dimension of deep soil zones to 6m as it would impact the feasibility of development sites and ultimately the amount of affordable housing that can be delivered on site. This increase would also be contrary to the controls of Objective 3E-1 of the *Apartment Design Guideline* (ADG) which allows a minimum dimension of 3m for sites under 1500m², which many of our development sites are. We would also advocate that reducing the percentage of the required site area from 15% to 7% would be an appropriate alignment with the ADG.

It is noted that development for vertical villages have been afforded a building height concession under Clause 99(2)(b) of the SEPP to enable the use of FSR bonuses permitted

under part (a) of the same clause. The same approach should be given to affordable housing.

In our lived experience it is often difficult to achieve the full applicable ARH SEPP FSR bonus when councils have not been willing to consider changes to building height to accommodate the permissible FSR. Most typically the height amendment that is required is either for a lift overrun, communal open space on the roof or plant/equipment. Often this means a whole level of apartments must be sacrificed to comply with council's height requirements.

In a live project we have at Botany Road, Alexandria we will be unable to utilise 740 sqm of permissible bonus GFA because a height limit variation will not be supported. This equates to 10 x 2 bedroom homes not being delivered for people on low incomes.

In two other council areas, variations in height have not been supported which has had a direct consequence on the developments' feasibilities – reducing the number of homes we could have delivered by five units in one project. We would welcome providing specific details on some of our projects to illustrate this issue.

Where we have successfully negotiated with a Council to assess a proposed height breach on the merit of the application, this took time to negotiate and created uncertainty about development feasibility during the site acquisition process.

SGCH Recommendations

- To facilitate the ability for CHPs to utilise the FSR bonus, include within Clause 16 a provision that the height limit can exceed the maximum permissible building height by no more than 3.8m, like the proposed approach for vertical villages in Seniors Housing.
- Exclude residential flat buildings/apartments from the planned increase in the minimum dimension of deep soil zones to 6m; and reduce the percentage of the required site area from 15% to 7% to align with ADG requirements.

If you would like to discuss our submission in more detail please contact Kim Gray, Business and Development Manager on 0427 190 876 or kim.gray@sgch.com.au.

We are keen to contribute to the work of DPIE to ensure that the Housing SEPP is fit for purpose and delivers a more diverse and affordable housing supply to meet the needs of our community.

Yours sincerely



Andrew Brooks

Group Executive – Homes

Attachment: SGCH Submission Sept 2020

9 September 2020

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

Via online submission

Dear Mr Betts

Re: Proposed Housing Diversity SEPP

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

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

Build to Rent Housing

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

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

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

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

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

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

Recommendations:

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

Affordable Housing

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

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

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

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

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

Recommendations:

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

Boarding Houses

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

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

Recommendations:

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

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

Yours sincerely



Scott Langford
Group CEO

Council Reference: 11522894

29 August 2021

The Manager
Housing Policy
Department of Planning, Industry and Environment

Public exhibition of Draft State Environmental Planning Policy – Housing

Dear Sir/Madam

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

This submission has been prepared by Council officers and has not been adopted by Council. It is not necessarily a policy position of Council.

It is noted that Clause 10 of the Housing SEPP repeals the following existing SEPPs:

- (a) *State Environmental Planning Policy (Affordable Rental Housing) 2009,*
- (b) *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004,*
- (c) *State Environmental Planning Policy No 21—Caravan Parks,*
- (d) *State Environmental Planning Policy No 36—Manufactured Home Estates,*
- (e) *State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes).*

And that the Housing SEPP will consolidate provisions from those SEPPs. This is a very significant undertaking and it's noted that a plain English document and FAQs have been provided in the exhibition material to assist in understanding the package. This to an extent has been relied on, including for the associated proposed Regulation and Standard Instrument changes. While Council's assessment has referred to the existing SEPPs for comparison, it is not possible to compare every provision of the existing SEPPs with those of the proposed superseding Housing SEPP/associated policy: due to time and resource constraints.

In this respect any changes of a substantive nature that have not been highlighted to stakeholders, should be by DPIE, to enable further opportunity for stakeholder comment. In a general sense, Council does not support any weakening of existing design/amenity/planning standards and provisions in translating the existing five SEPPs

**The Manager Housing Policy
Department of Planning, Industry and Environment
Draft State Environmental Planning Policy - Housing**

into the Housing SEPP/associated policy, including as they relate to and impact on adjoining/neighbouring areas.

Chapter 2 Part 2 Division 1 In-fill affordable housing

It is noted that while there is a definition of in-fill self - care housing and there are various provisions in the housing SEPP that infer the meaning of in-fill housing, to remove any doubt, it is recommended that in – fill housing be defined in the Housing SEPP.

Chapter 2 Part 2 Division 5 Residential flat buildings – social housing providers, public authorities and joint ventures

Council notes these provisions partly reflect similar provisions in the Affordable Rental Housing SEPP. Council continues to not support the ARH SEPP provision that provide for no parking be required, as now reflected in the Housing SEPP's Clause 37(5), particularly given these developments only need to be used for affordable housing for 10 years. The application to Shellharbour LGA is unclear given Clause 35 refers to towns within 400m of land in the B3 zone or B4 zone and later refers to Shellharbour, which can be interpreted as the suburb of Shellharbour which is remote to B4 or B3 zoning. In this respect, Council considers it appropriate that the reference to Shellharbour be changed to Shellharbour City Centre. Council does not support this provision applying to areas where Council's LEP does not permit residential flat buildings.

Council does not support any aspect of the Housing SEPP which may override Council's LEP by permitting residential flat buildings in areas where the LEP does not permit them.

Chapter 3 Part 1 Secondary dwellings

Council notes these provisions partly reflect similar provisions in the Affordable Rental Housing SEPP (ARH SEPP). Clause 22 of the ARH SEPP requires a site area of 450m² for a secondary dwelling (which requires development consent) whether it be attached or within the principal dwelling or detached from it. This requirement should be reflected in the Housing SEPP which as drafted requires a 450m² minimum site area only for detached secondary dwellings, in its Clause 48.

Council continues to not support the provision brought over from the ARH SEPP into the Housing SEPP's Clause 48 that no additional parking is required for secondary dwellings.

Chapter 3 Part 2 Group Homes

It is noted that prescribed zones for group homes include SP1 Special Activities and SP2 Infrastructure, and the same arrangement exists in the ARH SEPP. As these zones are tailored and located to accommodate specialist type uses, DPIE may wish to consider removing these zones from the prescribed zones list or narrowing down the types of SP1 and SP2 which are prescribed, as has been done for seniors housing in Part 4 Division 1 and 3.

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Chapter 3 Part 3 Co – living housing

Clause 63 indicates that co – living housing does not apply to the R2 zone, yet there are numerous references to the R2 zone in Part 3. These references should be removed.

Clause 65 alludes to co – living housing exceeding 3 storeys. For amenity/character reasons, Council does not support co – living housing being higher than the relevant LEP provision.

Chapter 3 Part 4 Seniors Housing

Council notes the Housing SEPP approach of seniors housing, via Clause 67, applying to nominated zones rather than the Seniors SEPP approach of applying to land zoned for urban purposes or land adjoining that land etc.

However it is not considered appropriate that seniors housing provisions of the housing SEPP apply to key employment lands, such as the B5 Business Development zone unless ground floor commercial uses are mandated in association with seniors housing. This is unclear in the Housing SEPP's Clause 78 which deals with ground floor uses for seniors housing in commercial zones; as land zoned primarily for commercial purposes is not defined. Therefore leaving a question over what land attracts the requirement in Clause 78(2) for the ground floor not to be used for residential purposes.

This Clause 78(2) requirement should in any case be strengthened to specify certain ground floor active uses be included, rather than nondescriptly saying not to be used for residential purposes.

Seniors housing is not considered appropriate in B7 Business Park zones given their focus is employment/office/light industry.

Council notes the Housing SEPP proposes that where seniors housing is proposed in the RE2 Private Recreation zone, that it must be on the site of an existing registered club and also proposes in such scenarios via Clause 81, a protocol to manage the relationship between seniors housing and gambling facilities.

The site related requirements under Clause 82 provide for superior transport services for independent living units in the Greater Sydney Region, when compared to areas not within the Greater Sydney Region. In this respect transport services in the Greater Sydney Region must be available both to and from the site at least once between 8am and 12pm each day and at least once between 12pm and 6pm each day, compared to only once to and from the site during daylight hours at least once each weekday; if outside the Greater Sydney Region. This arrangement for land outside the Greater Sydney Region is similar to the equivalent clause (26) in the Seniors SEPP and is considered inadequate, especially for occupants with no or minimal access to private transport.

Unlike for other zones, there appears to be no Clause 76 standards for seniors housing in the SP2 Infrastructure – Hospital zone.

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Heights generally

It is noted that the existing Seniors SEPP typically limits building heights to 8 metres. In comparison, the Housing SEPP proposes significant increases in heights for certain development.

These increases have the potential for adverse amenity and character impacts on neighbouring areas and are therefore not supported. Examples include:

- Clause 99 relating to vertical villages, allowing a 3.8m increase beyond the maximum permissible (in Clause 100)
- Clause 96 relating to hostels or self - care facilities, allowing a 9.5m height, with an additional 2m for services

It is recommended any height increase reflected in any final Housing SEPP not exceed the existing relevant Local Environmental Plan height provision. Any allowance for an increase beyond the LEP for servicing be not only limited to a maximum of 20% of the roof area, screened and integrated within the roof form (as proposed in the Housing SEPP), but also massed to minimise amenity impacts on neighbouring areas and limited to a 1m height increase (not 2m). LEP Clause 4.6 can be used to determine whether any 1m height increase is granted.

For the same reasons, the existing Seniors SEPP Clause 40 seniors housing provision requiring building located in rear 25% of site to be limited to 1 storey in height, should be carried over into the Housing SEPP and apply to residential zones.

Other standards

For the scenarios under Chapter 3 Part 2 where group homes require development consent, there does not appear to be adequate provision for associated design/planning standards in the Housing SEPP, nor are other external policies referred to.

For the scenarios under Chapter 3 Part 1 where secondary dwellings require development consent, there does not appear to be adequate provision for associated design/planning standards in the Housing SEPP, nor are other external policies referred to.

Under Chapter 3 Part 3 co – living development appears to have no height provisions, except for its Clause 65 alluding to co – living housing exceeding 3 storeys.

Bonuses

There are various provisions in the Housing SEPP for floor space bonuses as follows for:

- Infill affordable housing, for instance if at least 50% of the gross floor area of the development will be used for affordable housing, there's a 0.5:1 bonus;
- Boarding houses, a floor space ratio bonus of 25% on land where residential flat buildings are permitted and on which there are no heritage items;

The Manager Housing Policy
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Draft State Environmental Planning Policy - Housing

- Co – living housing, a time limited density bonus of 10% until 1 August 2024 on land where residential flat buildings are permitted and on which there are no heritage items;
- Vertical villages - 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;
- Vertical villages – 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; and
- Vertical villages – 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 of independent living units or a residential care facility, or both.

While it is appreciated bonus arrangements for infill affordable housing and boarding houses are contingent on providing affordable housing, it is considered that the large bonus floor area potential has the potential for adverse amenity and character impacts and therefore should be limited to say 10% for these two housing types. LEP Clause 4.6 can be used to determine whether any floor area increase is granted.

The other proposed bonus arrangements do not relate to affordable housing. And there is no robust market/land economics or other justification provided in the exhibition material for these bonus arrangements. These represent significant potential floor area increases which have the potential for adverse amenity and character impacts. Based on this and the lack of any requirement for affordable housing, Council does not support these bonus provisions.

Complying development

The existing Affordable Rental Housing SEPP contains complying development provisions for secondary dwellings and group homes. These appear to have been transferred over into the Housing SEPP into its schedules 2 and 3 respectively. Resources and time constraints have not permitted a detailed comparison to be made between the current ARH SEPP schedules 1 and 2 and the respective draft schedules in the Housing SEPP. Council notes that the exhibited plain English document and FAQs, do not mention any changes to these complying development provisions.

If there are changes of a substantive nature these should be highlighted to stakeholders to enable further opportunity to comment.

Manor housing

Consistent with the Shellharbour Local Housing Strategy, Council continues to not support the development of manor housing (under any Housing SEPP provision) in its R2 Low Density Residential zone based on local character impacts manor housing would pose in that zone.

**The Manager Housing Policy
Department of Planning, Industry and Environment
Draft State Environmental Planning Policy - Housing**

Employment zones reform

The Housing SEPP applies to existing business zones, all of which are proposed to be superseded by the new zones proposed in the employment zones reform.

In this respect it is suggested that DPIE consider either deferring the Housing SEPP until the reform is completed or including in the Housing SEPP, the land for urban purposes/adjoining land for urban purposes criteria (as per the existing Senior SEPP) until the reform is completed.

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

Yours sincerely



Michael Tuffy
Senior Strategic Planner

Submission on the Draft Housing SEPP

August 2021

About Shelter NSW

Shelter NSW is a non-profit organisation that conducts housing research and advocacy on behalf of households on ordinary incomes — those in low- and moderately-paid work, in casual or part-time employment, or getting by on government support payments. We were founded in 1975 as a member-based organisation that today represents a diverse network of other organisations and individuals who share our vision of a sustainable housing system that provides a secure home for all. To advance our vision, we engage our members, experts, and partners and advocate on housing reforms that aim to benefit our economy, our society, and our environment.

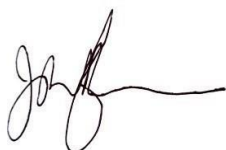
About our submission

Shelter NSW (Shelter) appreciates the opportunity to comment on the [draft Housing State Environmental Planning Policy](#) (Housing SEPP), prepared by the Department of Planning, Infrastructure and Environment (DPIE). Shelter's ongoing review of the planning system has presented evidence that the private housing market and a majority of existing planning mechanisms are failing to deliver housing solutions that address the unmet housing needs of affordability, suitability and choice. Current pressure across the housing system is resulting in a lack of affordable rental housing and a stressed social housing system. It is for this reason the Housing SEPP must deliver an important obligation and is able to achieve its primary goal of ensuring an adequate supply of affordable housing options for a wide variety of people across the state.

From Shelter's perspective, the Housing SEPP is an opportunity to meaningfully increase affordable rental housing and secure long term tenancy options in NSW for current and future residents. Overall, we broadly support the intent and direction of the Housing SEPP, however we are concerned that new housing delivered under it will not meaningfully increase the amount of affordable housing in NSW in the long term. As such, we have made a series of comments and recommendations regarding the provisions in the SEPP which aim to address these shortfalls and provide potential solutions for consideration.

If you wish to discuss our submission in more detail, please contact Stefanie Matosevic on 0431 037 724 or by email at stefanie@shelternsw.org.au or our CEO, John Engeler, on 02 9267 5733 or by email at john@shelternsw.org.au.

Sincerely Yours,



John Engeler
Chief Executive Officer, Shelter NSW



Stefanie Matosevic
Policy Officer, Shelter NSW



Shelter NSW's overall position on the Housing SEPP

We support the overall intent of the Housing SEPP

In general, Shelter NSW supports any opportunity to promote innovative and diverse housing solutions for residents who need alternative, more affordable housing options. There is not only a critical shortfall of affordable rental dwellings in NSW, but also a lack of diverse housing types that are needed to cater to a wide range of changing demographics, living situations and lifestyle preferences. Existing housing-related SEPPs have been introduced and amended over a long period of time, creating a convoluted and confusing policy landscape. The Housing SEPP provides a good foundation to simplify existing housing planning policies through the consolidation of these SEPPs. However, we think that the SEPP needs more work in order to meaningfully increase affordable housing options in the long term.

We support all affordable housing to be affordable in perpetuity

As a priority, the Housing SEPP must facilitate a dramatic increase in the supply of affordable housing in NSW. Shelter strongly believes that all new affordable housing delivered under the Housing SEPP must remain affordable in perpetuity. We are concerned that by placing time limits on any affordable housing, there will never be a real increase in the number of affordable dwellings in NSW.

Additionally, our organisation and members have a view that developments that are the recipients of planning or tax benefits should also be required to deliver a public benefit, in the form of affordable housing, which in turn will deliver more inclusive communities in both our urban and regional towns and centres. More specifically, the incentives should only be available to developments that provide affordable housing components in perpetuity.

We support basic amenity provisions for smaller and affordable housing typologies

While we understand there must be a trade-off between space/amenity and affordability for affordable housing projects to remain viable for private developers, we also strongly believe a basic level of private amenity should be provided in any housing accommodation, no matter what the rental return is. The slightly higher cost of providing a basic level of amenity (such as a kitchenettes, ensuites and operable windows) is minimal compared to the benefit residents will enjoy (see Appendix B).

We would like more information on data collection and monitoring

The review and evaluation of the Housing SEPP should be supported by accurate and detailed data collection to ensure the SEPP is operating effectively and as intended, and to monitor any potential oversupply or undersupply. For example, the number of affordable housing units delivered under the Affordable Rental Housing SEPP has been low: only 2,000 affordable rental dwellings have been delivered in Sydney through planning regulation between 2009 and 2018, representing an abysmal 1% of total housing supply¹ (Gurran et. al. 2018).

¹ Gurran, N., Rowley, S., Milligan, V., Randolph, B., Phibbs, P., Gilbert, C., James, A., Troy, L. and van den Nouwelant, R. (2018). *Inquiry into increasing affordable housing supply: Evidence-based principles and strategies for Australian policy and practice*. AHURI Final Report No. 300. Australian Housing and Urban



This requires ongoing and intentional collection of data and evidence that may include, but is not limited to, the number of new affordable rental dwellings that have been delivered, the affordability of new housing typologies, residential surveys and demographics. Shelter would like more information on how the Housing SEPP will be monitored and reviewed after 24 months.

Comments and recommendations

Infill Affordable Housing

15 year period for affordable housing

Shelter's position is that affordable housing should remain affordable in perpetuity and as such we do not support the proposal to apply a time limit of 15 years for infill affordable housing. It is imperative that any new affordable housing remains affordable, otherwise there will not be any meaningful and much-needed increase in the supply of genuine affordable rental dwellings, and NSW will continue to suffer from a critical undersupply of affordable rental housing. We would also like to highlight the risk of displacing affordable housing residents once the dwellings revert to market housing, which we are beginning to witness as the National Affordability Rental Scheme comes to an end².

There is also the issue of developers continuing to benefit from planning bonuses in exchange for affordable housing, while the affordable housing component lapses. Shelter urges DPIE to ensure affordable housing remains so in perpetuity, to align with the NSW Government's own commitment to retaining existing affordable housing and increasing affordable housing supply, as well as Schedule 1, Principle 6 of the SEPP for affordable housing "housing 'to be managed so as to maintain their continued use for affordable housing'".

Regional affordable housing

We support the definition for affordable housing included in the Housing SEPP, and appreciate different definitions for Greater Sydney and the Rest of NSW. However, we believe this definition is too broad and should be more nuanced to recognise differences across NSW. For example, the median income in Newcastle differs greatly from the median income in Broken Hill, which are currently both included under 'Rest of NSW'. We also wish to flag that the criteria attached to infill affordable housing is often difficult to achieve in regional areas, for example, public transport requirements or land within 400m of some business zones.

Additionally, we would like to note that increasing housing supply in regional areas should not be conflated with increasing mandated affordable housing.

Research Institute Limited, Melbourne. Retrieved from <https://www.ahuri.edu.au/research/final-reports/300,doi:10.18408/ahuri-7313001>

² Pollard, E. (2021, April 28). Fears Australia's housing crisis will worsen as affordable rental scheme winds down. ABC News. Retrieved from <https://www.abc.net.au/news/2021-04-28/homeless-rise-nras-affordable-rental-scheme-ends/100097588>



Recommendations:

- Amend Division 1, subsection 20 and Division 5, subsection 39 to 'Must be used for affordable housing in perpetuity'
- Include a further breakdown of regions for affordable housing incomes
- Introduce more flexible criteria around affordable housing for regional areas
- Provide more guidance and clear criteria around site compatibility testing in Division 1, subsection 18(3)

Boarding Housing

Boarding houses serving their intended purpose

Shelter NSW strongly supports the changes to the boarding house definition included in the Housing SEPP. We particularly support the requirements for boarding houses to remain affordable in perpetuity and to be managed by community housing providers (CHPs). This will ensure they are used for their intended purpose of providing affordable housing and short-term leases to marginal renters on very low and low incomes, and ensure housing options are available for those in immediate housing stress. We also support the flat 25% density bonus for boarding houses to ensure they remain viable to developers.

Boarding houses in R2 zones

Shelter supports mandating boarding houses in R2 zones. Low impact, low density boarding houses in keeping with local character will provide better housing and social outcomes. We identify the proposal for boarding houses to be no longer mandated in R2 zones as a restriction in delivering affordable housing products and addressing the unmet housing needs of many communities across NSW. This is particularly true in suburban and regional areas, where a large proportion of residential land is zoned R2.

Transition phase

Shelter notes that new generation boarding houses approved under the ARHSEPP will still be operational when the Housing SEPP is finalised. Shelter requests that these developments be required to either meet the new boarding house requirements, or apply for a change of use to co-living to ensure affordability of boarding houses.

Onsite amenity

Our organisation believes that boarding houses should not suffer from subpar design standards and amenity as a result of being a very affordable form of rental housing. For this reason, we advocate that private rooms be fitted with an operable window/Juliet-style balcony, small kitchenette and ensuite, to provide residents with a basic level of privacy, amenity and natural ventilation. We also support a basic level of furnishing, including a bed and mattress (single for single room, double for double room), chair and table. We recognise that this results in additional costs for developers. However, the cost savings that come from efficiencies in common spaces, combined with the 25% density bonus, is a more than sufficient trade off to cover these costs. Appendix B provides rough costings of these amenities.

Shelter supports the GFA and common area requirements included in the Housing SEPP. However, there needs to be further clarity on whether this covers excluding corridor and circulation spaces, as



well as what constitutes a ‘communal living area’. The room sizes should be minimum usable space. Additionally, we request that common living areas be connected to communal outdoor areas.

Shelter reiterates the concerns expressed by other stakeholders that the car parking requirements are not appropriate in areas with poor access to regular and reliable public transport, particularly in regional communities.

Accommodating children

There needs to be proper consideration on all types of demographics for boarding houses. For example, the inclusion of children in an appropriate setting would therefore require the occupancy be two persons, rather than two adults. This is particularly important for accommodating, for example, women leaving domestic violence living situations.

Recommendations:

- Maintain mandated boarding houses in R2 zones
- Amend Division 2, subsection 23 to include the provision of basic furnishing, operable window, kitchenette and ensuite in all rooms, and Juliet-style balcony up to 50% of rooms; amend the definition of ‘boarding house’ in the Standard Instrument, subsection (c) to “has rooms, all of which may have basic furnishing, operable window, kitchen, bathroom and laundry facilities”
- Amend Division 2, subsection 23(h) to include a provision to connect communal open space to communal living areas; additionally, provide more detailed requirements around ‘communal living area’
- Amend Division 2, subsection 24(c) to “no boarding room will be occupied by more than 2 persons”

Co-living Housing

Co-living affordability

Although we support a co-living model in principle, we have some concerns about its purpose. The proposed co-living definition does not indicate that it is to be used for affordable housing; it is not clear as to what the problem we are trying to solve is with the co-living model proposed.

Co-living housing is often touted as an opportunity to increase affordable rental options and alternative ways of living. However, it tends to target younger individuals from a narrow socioeconomic background³. ‘Diverse housing’ is meaningless unless it is suitable and accessible to a diverse range of people and needs. There needs to be a concerted effort to ensure there are incentives for developments that are affordable, intergenerational and available to people with diverse needs.

The lack of a minimum affordable rate for co-living housing risks this typology being used as a replacement for studio apartments. There must be a strict affordability requirement on co-living developments to ensure that they do not replace studio apartments. For example, a room in a

³ Purehouse Lab. (2017). *Perspectives on Co-living: reimagining the experiences, processes and designs of shared living*. Pressbooks, USA. Retrieved from <https://coliving.pressbooks.com/front-matter/cover/>



[co-living development in Paddington](#) has a weekly rent that is around the same as a [small studio apartment](#), but delivers much less private amenity, which reduces development costs. Shelter suggests including a mechanism to monitor the affordability of co-living developments to ensure they are operating as intended, e.g. involving the community housing sector to ensure affordability standards are met.

Research suggests that co-living models have proved to be particularly lucrative for developers. One example of this is *Starcity* in San Francisco, which replaced 302 residential units into 803 co-living rooms, increasing the number of leasable units by 90% - a significant development gain⁴. This intensification of land use and profitability must provide in return a meaningful public benefit in the form of affordable housing.

Planning benefits

Shelter reiterates that *any* development that receives planning benefits should also deliver a demonstrable public benefit in the form of more affordable housing. As such, we support the reduction in density bonus for co-living housing, especially if there is no affordability mandate attached to it. However, we also suggest retaining the temporary bonus (or applying infill bonuses) after August 2024 for developments that include an affordable component (minimum 20% of rooms with rents set 25% below market rent, provided in perpetuity), to provide a more mixed outcome that increases affordability.

Onsite amenity

Improving private amenity will ensure co-living is a viable long-term and secure rental option for those that want it. Similar to our suggestion for boarding houses, we suggest that an ensuite for each room, and kitchenettes for up to 50% of the rooms, be added to the definition. This recommendation is supported by the 2030 One Share House Survey, an ongoing global co-living survey. As of February 2018, the data suggests that a majority of co-living tenants are not willing to share bathrooms⁵.

Shelter supports the GFA and common area requirements. Similar to our comments on boarding houses, we suggest that common living areas be connected to communal outdoor areas.

Co-living in R2 zones

Shelter NSW does not support the exclusion of co-living housing in R2 zones. Low impact co-living developments have the potential to offer affordable and alternative living to people across NSW in urban, suburban and regional areas. By limiting its location there is a risk that co-living

⁴ Chan, J. (2019, September 2-4). *The Design Question: Commons through Commoning, and Commons by Capital* [conference paper]. The City as a Common Research Symposium, Pavia, Italy.

https://www.researchgate.net/profile/Jeffrey-Chan-3/publication/335172103_The_Design_Question_Commons_through_Commoning_and_Commons_by_Capital/links/5d702712a6fdcc9961af8c73/The-Design-Question-Commons-through-Commoning-and-Commons-by-Capital.pdf

⁵ Osborne, R. (2018). *Best practices for urban co living communities*. [Masters thesis]. Pg 73. University of Nebraska, Nebraska). Retrieved from

https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1016&context=arch_id_theses



developments will continue to be a housing option only for higher earning young people who want to live in urban areas, thus cancelling out its aim to provide more diverse housing to more people.

Recommendations:

- Include mandate for a minimum 20% affordable housing component in exchange for density bonuses, or remove planning benefits
- Mandate co-living housing in R2 zones
- Amend Part 3, subsection 65 to include the provision of kitchenette, en suite, Juliette balcony/operable window, and basic furnishings; amend the definition of 'boarding house', subsection (c) to "has rooms, all of which may have bathroom and laundry facilities, and up to 50% which have kitchen facilities"
- Amend Part 3, subsection 64(e) to include a provision to connect communal open space to communal living areas

Seniors Housing

Prescribed zones

Shelter NSW supports allowing Housing for Seniors or People with a Disability permissible with consent in all R2 zones. This will help address the previous uncertainty over the definition ('land zoned primarily for urban purposes' and 'land adjoining land zoned primarily for urban purposes'). It also provides older people with choice and control in their housing decisions. This also helps to support the recommendations from the Royal Commission in to Aged Care Quality and Safety regarding aging in place, particularly in regional areas with large amounts of R2 land.

Shelter does not support the provision of Housing for Seniors or People with a Disability in some business zones, including B5, B6, B7 and B8. We believe these zones are not suited to this type of housing as they lack the proper amenity, services and infrastructure that is required for this specialist housing type.

Planning benefits

The development of vertical villages and amendments to the building height definition to allow for rooftop planting, machinery and solar infrastructure are also embraced. However, we take the position that planning bonuses have value and should therefore be linked with community benefits and delivering a percentage of affordable housing within each development. In line with this, we would like to see a 10% target of affordable housing linked with each development.

Additionally, we believe these clauses require review to enable clear design and assessment parameters.

Accessibility and design

We support the recommendations put forward by the Association of Consultants in Access Australia.

Additionally, we note the omission of site analysis requirements for seniors housing. A site analysis is good design practice and its omission may contribute to a reduction in design quality.



Introduction of State Significant Development (SSD)

The introduction of a State Significant Development (SSD) pathway for this form of housing is also endorsed. However, again we take the position that planning bonuses and fast-track approval pathways have value and should therefore be linked with community benefits and delivering a percentage of affordable housing within each development. In line with this, we would like to see a 10% target of affordable housing linked with each development eligible to access a SSD pathway.

Registered Clubs

Shelter understands that Clubs in the main will access the SSD pathway and the associated planning benefits and associated financial benefits. On top of this, Clubs are already the recipients of substantial taxation and other financial benefits and as such should be required to outline how they will deliver affordable options within their developments. In line with this, we support a requirement for a 10% affordable housing target linked with each development by a registered club.

In addition, we request more clarification and information on what is to be included in the 'appropriate protocol' to minimise harm associated with gambling.

Recommendations:

- Remove permissibility for seniors housing in B5, B6, B7 and B8 zones
- Review wording of Division 8 to enable clear design and assessment parameters
- Mandate minimum 10% affordable housing on seniors housing developments by a Registered Club
- Introduce requirement for site analysis and good design
- Specify requirements for protocols addressing gambling

Thank you

Shelter NSW appreciates the opportunity to comment on the draft Housing SEPP. We hope that the comments and insights we have provided bring some value to considerations in the housing policy space. We are also happy to engage on the issues raised in our submission. If you wish to discuss our submission in more detail, please contact our CEO, John Engeler, on 02 9267 5733 or by email at john@shelternsw.org.au, or Stefanie Matosevic on 0431 037 724 or by email at stefanie@shelternsw.org.au.



Appendix A

Additional Comments on the Housing SEPP

We understand that other housing typologies have been previously addressed or will be addressed in the Housing SEPP, however, we would like to put forward some comments for consideration.

Short-term rental accommodation ('STRA')

Short-term letting platforms such as Airbnb are marketed toward tourists who can afford (or are willing) to pay a higher price for short term accommodation than residents who are seeking temporary housing. This is evident in the former NSW Department of Planning and Environment's 2017 Option Paper on regulating short term holiday letting, which went on to form the basis of the STRA provisions in the Affordable Rental Housing SEPP and now the consolidated Housing SEPP.

Increasingly in Australia, the type of STRA available on Airbnb is whole-house conversions of investment properties⁶ – presumably from the long-term rental market or owner-occupied premises following a sale to a property investor.

It is on these grounds that Shelter NSW asserts STRA provisions as they currently stand are misplaced in the consolidated Housing SEPP, as STRA does not contribute toward housing diversity, resilience, or affordability. This is particularly the case whereby STRA on platforms such as Airbnb and Stayz constitutes a whole-house conversion to short-term letting (i.e. not simply restricted to a spare room of an owner-occupied house).

If STRA provisions are to stay within the proposed Housing SEPP, annual day-caps for STRA which fall into the category of non owner-occupied hosted premises need to be revisited. Presently, STRA provisions and day-caps do not further clause (3)(d) of the proposed Housing SEPP (Aims of Policy).

Research internationally⁷ has shown that annual day-caps for STRA use are inefficient in returning long-term rentals to the private rental market. Additionally, existing STRA provisions have a set annual day-cap that can be applied (i.e. STRA operators cannot be compelled to limit their listing to below 180 days in any given year). The justification for this arbitrary minimum has not been communicated to the public.

The total number of non owner-occupied hosted STRAs should be capped per LGA in accordance with local studies into the maximum allowable number of STRAs that can occur without adverse impact on the long-term rental market and having regard to cost-benefit analysis of tourism in each location. This approach is being investigated in Tasmania⁸, as state government and local councils try to address

⁶ Sigler, T & Panczak, R. (February 13, 2020). Ever wondered how many Airbnbs Australia has and where they all are? We have the answers. Retrieved from <https://theconversation.com/ever-wondered-how-many-airbnbs-australia-has-and-where-they-all-are-we-have-the-answers-129003>

⁷ Frenken, K & Schor, J. (2019). Putting the sharing economy into perspective. In *A research agenda for sustainable consumption governance*. Edward Elgar Publishing;

Temperton, J. (February 13, 2020). Airbnb has devoured London – and here's the data that proves it. Retrieved from <https://www.wired.co.uk/article/airbnb-london-short-term-rentals>

⁸ Tasmania Government. (n.d.). *Tasmanian Planning Reform: Short stay accommodation*. Retrieved from <https://planningreform.tas.gov.au/short-stay-accommodation-act-2019>



the housing crisis in Hobart and other high amenity locations as a result of Airbnb and other holiday accommodation platforms.

Furthermore, total STRA volume caps for LGAs should be guided by density caps (e.g. no more than x number of non-hosted STRAs per y square metres/suburb), to ensure hollowing out of high amenity neighbourhoods for STRA use does not occur. Local research and evidence for density caps will be required. The sociospatial disadvantages of STRA use are well documented globally⁹, in that local residents are generally pushed further afield from their areas of employment and community facilities, with significant burdens on planning for transport, open space, schools, and other physical and social infrastructure. Density caps that are tipped more favourably to STRA uses in certain neighbourhoods will allow better infrastructure planning, more creative precinct planning, and more holistic leisure experiences in line with tourism goals of cities and regions.

The concept of STRA volumes and density caps harmonises well with the NSW Government's apparent desire to foster more diverse neighbourhoods, and so it is hoped these recommendations will be seriously considered.

Shelter NSW is currently working on a submission to the NSW Regional Housing Taskforce where our position on STRA will be further extrapolated in light of booming domestic tourism during the COVID-19 pandemic and DIDO/FIFO accommodation in mining towns. We are also working on a discussion paper to fully flesh out our concerns and recommendations in relation to STRA prior to full implementation of new planning rules coming into effect in November 2021.

Build-to-rent ('BTR') housing

During the Explanation of Intended Effect round for a proposed Housing Diversity SEPP in September 2020, Shelter NSW offered preliminary comments on build-to-rent provisions. We reiterate the following:

- Provisions and guidelines of the proposed Design and Place SEPP should apply to BTR housing to ensure amenity and place-making initiatives are successfully embedded in long-term renting environments.
- Social housing providers should be afforded specific land tax and planning fee concessions, to ensure BTR uptake is not only occurring in the 'luxury' rental market.

In addition, we recommend:

- When it comes to proposed subdivision after 15 years of a residential flat building or the like being used for long-term renting within the BTR scheme, a robust consultation piece be embedded in the development standards to allow for affected tenants to make submissions on proposed subdivision.
- Properly defining "residential tenancy agreement" in the ARHSEPP or the new Housing SEPP as it relates to BTR by cross-referencing the *Residential Tenancies Act 2010*. Presently, BTR

⁹ Shabrina, Z, Arcaute, E & Batty, M. (2021). Airbnb and its potential impact on the London housing market. *Urban Studies*. Retrieved from <https://doi.org/10.1177/0042098020970865>;

Cocola-Gant, A & Gago, A. (2019). Airbnb, buy-to-let investment and tourism-driven displacement: A case study in Lisbon. *Environment and Planning A: Economy and Space*. Retrieved from <https://doi.org/10.1177/0308518X19869012>



provisions in the ARHSEPP do not specify the types of tenancies to which the scheme applies – there is no explicit reference to the Residential Tenancies Act 2010 and thus it is feasible that BTR housing may be co-opted by informal residential tenancy agreements. For instance, a confirmation of booking and adhering to the Code of Conduct for STRAs between the vendor and the user could be seen to be a form of residential tenancy agreement.

Summary of recommendations

- 1) Articulate to key industry players and the public what the future relationship between the Housing SEPP and parts of the Codes SEPP 2008 will be with specific regard to ‘low rise housing diversity’ development standards and the overall vision for the breadth and depth of the Housing SEPP.
- 2) Address policy gaps in the consultation draft for manufactured homes, caravan parks, and build-to-rent schemes.
- 3) Do not include STRA provisions in the proposed Housing SEPP as STRA is not a form of housing.
- 4) If current STRA provisions are to rollover into the Housing SEPP, more needs to be done to ensure STRA provisions align with the objectives of the Housing SEPP:
 - a) review annual day-caps logic for non owner-occupied hosted STRA
 - b) communicate why the 180 day-cap is being sustained as the regulatory threshold for STRA
 - c) require local studies to investigate maximum volume and density caps on non owner-occupied hosted STRAs per LGA (which should be applied to balance long-term, secure housing needs against local economic factors).
- 5) Improve BTR development standards in relation to:
 - a) community consultation of proposed subdivision after 15 years
 - b) properly defining “residential tenancy agreement” with cross-reference to the *Residential Tenancies Act 2010*.



Appendix B

Cost Analysis for Co-living and Boarding House private amenity

Window Cost Analysis

Factors affecting cost:

- Design
- Size
- Materials
- Labour

Labour

Average labour cost: \$38 per hour

Materials

The average cost of newly fitted double glazed windows is around \$1,350 per square metre. Aluminium framed double-glazed windows in standard sizes from window suppliers and some hardware stores. The estimated cost is (supply only):

- \$150 for a 600 x 600mm (fixed window)
- \$180 for a hinged 600 x 600mm
- \$380 for a hinged 600 x 1200mm

On average a window replacement costs anywhere from \$150 to \$750 per window. The most common windows installed are double hung or casement windows which are very affordable. A large wooden bay window would be more expensive and may cost up to \$2,550 or more to install.

Juliet balcony

A Juliet balcony is a very narrow balcony or railing which sits just outside a window or pair of French doors on the upper storey of a building. Also referred to as balconets or balconettes, they're designed to give the appearance of a full balcony in locations where it may not be possible or suitable to install a larger feature.

As their name suggests, Juliet balconies are a common architectural feature in Mediterranean countries such as Italy and Spain. They come in a wide range of designs, from decorative Victorian style railings and infill panels to simpler, minimalist designs.

Cost saving

Juliet balconies are becoming an increasingly common feature of many UK properties, both old and new. One of the primary reasons for this is that they can typically be installed without the need for planning permission. In many cases this can remove the need for an architect to be involved, reducing costs. In addition, the balconies can usually be bolted to an existing wall, making them quick, cheap and easy to install.

Labour cost





Labour and materials account for approximately 50% of the budget for a total average of \$320-\$645 per square metre.






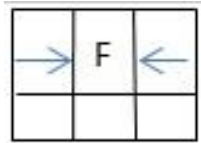

Material cost

\$215 to \$485 per square metre including beams, bolts, railings, and planking

Table:1 Different types of windows and their costs

Window Type Costs	Reference Image	Price Per Window
Single Hung Windows With single hung windows, the bottom window panel or lower sash moves up and down, and the upper sash remains stationary. This means that when you open the window, the upper sash is covered on the inside. Find more details about single-hung windows here.		\$100 to \$300 (When it comes to setup cost, single hung windows are about 15 percent cheaper when compared to the double hung windows. There is not much difference when it comes to their maintenance cost.)
Double Hung Windows A double hung wood windows would be a more expensive option. Double hung windows are one of the most common replacement windows that homeowners install.	 Option 1  Option 2- Full length double hung windows	\$300 to \$850
Awning Windows Awning windows are ideal for climates with a lot of rain, thanks to the way the window creates a water-resistant awning when opened		\$200 to \$900 Depending on size and number of openings 610mmX514mm- \$200 (single opening)



<p>Bay Windows Bay windows protrude from an exterior wall and create a small shelf in the home. Bay windows rely on flat windows set into an angled frame that are built out of the home. A bay window costs more to install as it is a larger window that requires a skilled installer.</p>		<p>\$450 to \$1500</p>
<p>Casement Windows Casement windows swing out to the side or up to open. This allows the window to be constructed of solid glass and offers a less obstructed view overall.</p>		<p>\$270 to \$750</p>
<p>Louvre windows They are a unique window style that splits into many different slats of metal or glass. The windows open like a set of blinds.</p>		<p>\$390 to \$1427 For example: 392mm x 371mm is \$390 392mm x 2100mm is \$1042</p>
<p>Sliding Windows Sliding windows have two sections that are usually made from single windows, and one of the sections slides horizontally overtop of the other to open or close.</p>		<p>\$165 to \$680 (depending on size) Full length windows with fixed and sliding components of 2650mm x 2057mm is \$680 per window)</p>
<p>Sliding Glass Door Windows</p>	 <p>Size : 140mm x 2095mm is \$670 (door price)</p>	<p>\$670 to \$2437</p>



Aluminium Bi-fold Windows		\$1300- \$3000 (depending on the size)
Juliet balcony	 Example of Juliet balcony in Melbourne	
Apartment balconies		\$650 to \$1400 (price per square metre)

Kitchen Cost Analysis

Kitchen cost breakdown:

- Flooring
- Benchtops - laminate benchtop is the cheapest option
- Tiling or splashbacks
- Painting
- Electrical installations
- Plumbing installations

Some costs for a new kitchen made of melamine without plumbing or electricity might be:

- \$6500 for an L shaped kitchen with overhead cabinets on one side
- \$6800 for a galley style kitchen (A galley kitchen consists of two parallel runs of units forming a central corridor in which to work)
- \$7700 for an L shaped kitchen with an island
- \$8900 for a U-shaped kitchen

These prices are for the kitchen only. On average, inexpensive melamine kitchens cost around \$10,000 to \$20,000, including the trades needed and appliances.

Budget kitchens generally have melamine doors, laminate benchtops, standard tiles and lower cost appliances.

Flat pack kitchens

Flat pack kitchens cost between \$2600 to \$12,000 depending on the size of a kitchen. That is far less than the cost of a kitchen renovation or new kitchen.

For example:

Flat pack kitchen from Bunnings - \$798



Size - 2400mm x 600mm



This includes:

- Durable melamine doors
- 16mm board used for cabinet frames and doors
- Comes with all hardware required to assemble cabinets
- Adjustable legs for easy installation
- Adjustable shelves

Bathroom Cost Analysis

Classic bathroom of approx. 1.5m x 2.4m x 2.4m (H) cost \$19000 (3.6 sqm)

This includes:

- 300 x 600mm ceramic wall tiles (white gloss/matt)
- 300 x 300mm porcelain floor tiles
- 600mm pencil edge mirror
- 600mm Floor standing polyurethane vanity
- 600mm ceramic basin with mixer
- Standard showerhead with wall arm
- Custom made framed shower screen
- Bathroom accessories (towel ring, toilet roll holder, towel rail)
- Concealed back to wall toilet
- Standard stainless-steel floor waste
- Labour cost

The per-square-metre cost for labour that is \$1100 for a new home. Labour includes the cost of installing waterproofing, plumbing, tiling, electrical items, gyprocking, painting and the installation of fittings.

Cost breakdown

Bathroom plumbing costs

Plumbers charge a call-out fee of \$60 to \$100, with hourly rates anywhere from \$100 - \$150 depending on the plumber.

Bathroom tiling costs

The size of your bathroom is going to be a major factor in the cost of your renovation, and since so much of a bathroom is tiled, your need to know how much you may have to spend. Expect to be quoted per square metre rate by bathroom tilers, and could range from \$35 per square metre to \$120 per square metre. \$60 per square metre is the average for laying bathroom tiles.



For wall tiles expect to pay from \$20 to \$28 per square meter for standard white ceramic wall tiles (600mm x 300mm)

For floor tiles expect to pay \$35 to \$50 per square meter for ceramic or porcelain tiles, \$50 to \$100 per square meter for high quality porcelain and \$80 to \$130 per square meter for high quality natural stone tiles.

Toilets

A budget toilet can cost as little as \$150 with the cost going upwards to around \$750 for a more luxurious model.

Vanities

The cost of a vanity varies based on several factors. A standard wall-hung vanity costs upwards of \$500.

Basins

The prices of bathroom basins start from \$150 for standard, inexpensive versions and can go up to \$500 or more on the higher end.

Tapware

Budget tapware starts from \$50 for your basins and showers while designer versions can go up to \$1,000.

Showerheads

Standard shower heads start from about \$50

Towel Racks

At the lowest end of the scale, towel racks start from \$30 for standard single-rail models.

Lighting

A single downlight fixture can start from \$9 and go upwards depending on your bathroom needs.



Via Planning Portal

6 September 2021

Dear Sir/Madam,

Staff Submission - Housing State Environmental Planning Policy (SEPP) consultation draft

Council welcomes the opportunity to provide comment on this important matter. Unfortunately, due to the short consultation timeframes, the views in this submission are not that of the endorsed Council but of Council staff.

General Comments

It was difficult to comment with any level of certainty on the proposed Housing Diversity SEPP during preliminary consultation in 2020, so it is appreciated that the draft Housing SEPP (the draft SEPP) is being exhibited prior to becoming operational. Now that detailed provisions are available, it is important that feedback provided by Councils is considered in the finalisation of the SEPP to ensure it operates efficiently and as intended.

The documentation outlines that the proposed Housing SEPP will now consolidate five (5) existing SEPPs:

- SEPP Affordable Rental Housing
- SEPP Housing for Seniors and People with a Disability
- SEPP Affordable Housing (Revised Schemes)
- SEPP No. 21 – Caravan Parks
- SEPP No. 36 – Manufactured Home Estates

Whilst one of the aims of the amendment is to make housing-related SEPPs easier to navigate and the consolidation of SEPPs is generally supported, given that 5 SEPPs are to be consolidated under this proposal, the range of provisions will be extensive. The planning system is regularly criticised for its complexity and a SEPP of this size is likely to add to this, making navigation difficult at a development assessment level for both council planners and proponents alike.

In this regard, the concerns of the NSW Productivity Commission, who has previously advised the NSW Government that legislative complexity increases housing prices, are valid. For this reason, it is hoped that the final consolidated SEPP achieves what was intended, which is to streamline the planning system in order to facilitate the delivery of more diverse and affordable housing types to meet the needs of our growing population and the various demographics.

Positively, the SEPP is broken into two distinct parts which distinguishes and defines affordable housing and diverse housing, as follows:

- Affordable housing:

- In-fill affordable housing
- Boarding houses
- Boarding houses – LAHC
- Supportive accommodation
- Residential flat buildings – social housing providers, public authorities, joint ventures
- Diverse housing:
 - Secondary dwellings
 - Group homes
 - Co-living housing
 - Senior's housing

There may be an error in clause 23, Non-discretionary development standards relating to Boarding Houses. Sub clause (2)(j) states: “if paragraph (h) does not apply;” however, should it refer to subclause (i): “for development carried out by or on behalf of a social housing provider.”? This relates to boarding houses outside of the metropolitan context, therefore requiring additional parking.

Since initial consultation, a number of proposed provisions set out in the Explanation of Intended Effect (EIE) have changed, while additional provisions relating to the housing types covered by the EIE have been introduced or amended.

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

It is understood that Council will have the opportunity for further consultation on the provisions and regulatory framework for group homes, caravan parks and manufactured home estates, which will initially be transferred in their current form into the Housing SEPP. It is critically important that further meaningful consultation is undertaken in relation to any associated design guidelines which are yet to be developed.

The below table outlines those issues that Council flagged as part of the initial consultation process, if those issues have been addressed as part of the draft Housing SEPP, as well as additional comments from this consultation.

Shoalhaven Council's previous submission points:	Has this been addressed?	Shoalhaven Council staff current response
Issue 1: Name of the proposed SEPP.		
The title, Housing Diversity SEPP, could cause some confusion with the recently introduced Low Rise Housing Diversity Code section of the Exempt and Complying Development SEPP.	Yes.	Council appreciates the change in name from the Housing Diversity SEPP to the Housing SEPP.
Removal of "affordability" from the title of the SEPP.	Yes.	<p>Whilst "affordability" has been removed from the title of the SEPP, affordability is still a key objective of the policy, and this is evident within:</p> <ul style="list-style-type: none"> • Aims of the Policy • Provisions in Chapter 2 Affordable Housing • Distinction between affordable and diverse housing types • Requirement for a registered community housing provider (CHP) to manage boarding houses. <p>These provisions are supported.</p>
Issue 2: Housing needs of regional communities		
The proposed changes to create a consolidated Housing Diversity SEPP appear to be very metro focused, with few additional or new mechanisms proposed to help deliver affordable forms of housing in regional areas, in a manner that is sensitive to the different housing needs and experiences of communities in regional areas.	Somewhat.	<p>Regional areas, such as the Shoalhaven, have a limited current supply of well-located, affordable rental housing.</p> <p>There are still limited mechanisms proposed within the draft SEPP to help deliver affordable forms of housing in regional areas, despite the SEPP being broken into affordable housing and diverse housing.</p> <p>Although the draft SEPP proposes to introduce co-living development and (later) build-to-rent options, to offer greater rental security and improved rental housing design. These housing typologies are identified as "diverse housing" and are unlikely to have any real impact on rental outcomes or increased housing affordability in Shoalhaven.</p> <p>It is important that the potential benefits of these new housing types are recognised and encouraged where possible in regional markets with tailored provisions in the SEPP to also help meet regional area needs and also appropriately manage relevant matters (e.g. car parking).</p> <p>Shoalhaven appreciates that the provisions for co-living housing has been amended since initial consultation, which will enable as few as 6 private rooms. However, it is not just the form and scale of development that needs to differ between regional and metro areas.</p>

		<p>Whilst this type of housing is not intended to be a form of “affordable housing” as per the definition within the SEPP, it is likely to contribute to both the supply and affordability of rental housing in regional areas.</p> <p>In this regard, there needs to be a mechanism within the SEPP to ensure these forms of development remain “affordable” within regional areas. This is to prevent co-living and build-to-rent housing being rented at or above market-rate prices. If not, they will do little to provide secure rental housing for those on lower incomes in the regions.</p> <p>Similarly, whilst zones are standardised across the State, R2 and R3 zones within regional areas may look very different to a comparable zones within a metropolitan area, whereas metropolitan areas are likely to be located in highly connected areas, appropriately located in proximity to everyday services, facilities, and transportation, regional areas may be highly contrasted.</p> <p>From a regional context it is therefore important that this form of housing is located in close proximity to a ‘centre’. Zoning provisions alone may not be appropriate and non-discretionary development standards may be needed to implement accessible distance provisions (i.e. 800m). Where this cannot be achieved, then a 1 parking space per room requirement should be applied to these forms of developments.</p>
Issue 3: Characterisations for diverse housing types in regional areas		
<ul style="list-style-type: none"> The character of appropriate housing development in regional areas is different in scale and necessitates different design responses to housing development in city areas. Development enabled by state-wide codes in metro (city) areas may not necessarily be appropriate in regional areas and may result in overdevelopment and place strain on local infrastructure capacity. Poorly designed developments for regional contexts can also exacerbate neighbourhood opposition to different housing 	Somewhat.	<p>The provision for new land use definitions within the SEPP and SI LEPs is supported. As is the distinction between affordable and diverse housing. These inclusions will go some way in assisting with the characterisation of relevant developments in regional areas.</p> <p>It is crucial that provisions in SEPPs respond to regional experiences and character and enable smaller-scale, context-sensitive diverse housing developments in regional areas. This includes proximity to centres, parking and design and character to name a few.</p> <p>The decision to permit certain land use types under council LEPs – i.e. boarding houses or seniors housing, where they would otherwise be excluded in certain zones by the SEPP is appreciated. As is the ability for important LEP provisions, such as height, setbacks and minimum lot size controls to still be considered in order to prevent the maximum FSR allowances under the SEPP from being applied in every circumstance. The provisions for open space and solar access are supported, ensuring housing design is liveable and healthy.</p> <p>This approach enables local councils to promote the best precinct outcomes; there is also the opportunity for many of the SEPP provisions to be fully incorporated into LEPs in the future. This would be a positive outcome and would contribute to better principles-based outcomes, as well as a reduction in SEPPs.</p> <p>The Ministers opinion in the recent webinar regarding wanting to focus less on use and more on form, as well as there being greater ability to put housing in commercial areas has the</p>

<p>types and increase the negative view of social and affordable housing developments.</p> <ul style="list-style-type: none"> Whilst Council is supportive of additional affordable and diverse housing types, these need to be of high-quality design and construction. The proposed SEPP and associated design guidelines should not have a 'one-size-fits-all' approach and should include provisions and design considerations tailored for regional areas and housing markets. 		<p>potential to have adverse economic and land use impacts, particularly with regard to the B3 zone. This is generally not supported.</p>
<p>Issue 4: Proposed changes – Boarding house provisions</p>		
<p>Council strongly supports continued and further recognition of the role that boarding houses play in providing affordable housing.</p> <p>The SEPP will hopefully rectify situations where boarding houses are developed as affordable housing, but then largely catering to people able to pay relatively high rental prices for small rooms in desirable locations, at the cost of those more in need of affordable housing such as low-income earners or more transient households (e.g. seasonal or temporary workers, newly arrived migrants, people escaping family violence).</p> <p>It is important that boarding houses should remain an affordable housing form and not revert back to market rates without a separate</p>	<p>Yes.</p>	<p>The draft Housing SEPP proposes an updated definition of affordable housing and a requirement that boarding houses be managed by registered community housing providers (CHPs).</p> <p>Registered CHPs will be required to apply the NSW Affordable Housing Ministerial Guidelines, which sets rental rates to ensure eligible households are not under housing stress.</p> <p>The above requirements not only provide affordable housing, but ensures it remains in perpetuity and are all supported. This approach is consistent with actions in the Shoalhaven Affordable Housing Strategy.</p> <p>Boarding houses will no longer be mandated in the R2 Low Density Residential Zone, unless permitted under the relevant Council's LEP. Whilst this does not affect Shoalhaven, as boarding houses are permitted with consent in the R2 zone of Shoalhaven LEP 2014, some elements that could mitigate potential negative outcomes associated with boarding houses in this zone include:</p> <ul style="list-style-type: none"> removal of the floor space bonus in this zone, clear design guidance

evaluation/assessment process which evaluates the impact of a potential loss of affordable housing in the locality.		
Issue 5: Proposed new land use – Co-living development		
<p>The demand for co-living development is likely to be greater in city areas, notwithstanding recent applications and development within Shoalhaven of new-generation boarding house developed which could be considered to be similar in operation to the new co-living definition.</p> <p>In regional contexts where access to required services and public transport is not within suitable walking distance, then a 1 parking space per room requirement should apply.</p>	Somewhat.	<p>From a regional perspective, the scale of development, accessibility and parking is important, particularly in relation to the locality, context and character of a specific area.</p> <p>While staff support the requirement that co-living development undertaken outside of greater Sydney requires at least 1 car parking space per room, as access to services and public transport is not always within walking distance, development standards for co-living developments that defer to local LEP planning provisions are also recommended as this gives local areas greater control over development outcomes and it also enables development to be tailored to different regional contexts.</p> <p>The introduction of guidelines to ensure high quality design and construction outcomes, similar in intent and application to the Apartment Design Guide under SEPP 65, is supported; however, these design guidelines are not yet available, and it is important councils have input on the content prior to implementation.</p> <p>Previously, the EIE acknowledged the important role that 'new generation' boarding houses played in delivering a certain class of more affordable accommodation. As a result of the floor space bonus available under the Affordable Housing SEPP, a large number of boarding houses were previously delivered in NSW.</p> <p>Under the draft SEPP, co-living housing is considered as diverse housing not necessarily affordable housing. Whilst this distinction is important, co-living housing still has a role to play in the delivery of cost-effective housing. It is queried as to whether the proposed co-living provisions provide enough incentive to encourage the continued delivery of this type of accommodation.</p>
Issue 6: Proposed new land use – Build-to-rent housing (BTR)		
<ul style="list-style-type: none"> Design guidance for new land use types, such as BTR, is crucial and it is essential that this includes a review of proposed high-density micro and small apartment development in the context of COVID-19 experiences. 	No.	<p>It is appreciated that the draft Housing SEPP does not include the recently introduced provisions for build-to-rent housing and that due to the staged nature of some provisions, there will be additional consultation on this housing type in the future.</p> <p>The EIE indicated that BTR would be permissible in the B3 Commercial Core. There are some reservations about this, given that BTR provisions have not yet been rolled out and this could have both adverse economic and land use impacts.</p> <p>The following concerns are also raised:</p>

<ul style="list-style-type: none"> • The desirability of these housing types post-COVID-19 also needs to be re-evaluated; especially as rental prices drop in inner-city areas but have either remained or increased in lifestyle-focused regional areas. • BTR development currently does not appear to necessarily be geared towards improving housing affordability, as emerging metropolitan BTR developments appear to attract a similar or higher rental price compared to the median in Sydney. For those not necessarily able to afford home ownership, greater security in rental tenure is highly desirable. However, it is not clear how these types of developments will improve housing affordability as they will not provide for those most in need of private rental security, being very-low and low-income households. • Land tax and other financial incentives for other forms of desirable housing diversity developments should be explored, for example capped profit developments (e.g. Nightingale Housing model) and low-income targeted shared equity homebuyer schemes. 		<ul style="list-style-type: none"> • Tenure length <ul style="list-style-type: none"> ◦ 3 years is potentially too long. ◦ Needs to be long enough that land use does not default to some form of serviced apartment. • This is not a form of affordable housing; however, there should be a percentage dedicated to affordability. • BTR should remain in perpetuity and should not revert to a build to buy model after 15 years. Strata subdivision should also not be permissible for this reason. • Overseas this form of development has attracted investment from large companies' intent on making profits for shareholders. As a result, this form of development has become more about shareholder profit than providing secure tenure.
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Issue 7: Proposed new land use – Student Housing		
The suggested introduction of the new land use, student housing, is generally supported. It is noted that the definition as proposed relates to 'educational establishments'. Whilst the EIE refers to the intent of the land use being to provide for university students, this should be clarified in the definition (e.g. referring to tertiary education, for fee-paying students or the like). The requested clarification will ensure loopholes are not created that could allow student housing to be considered adjacent to primary or secondary schools or colleges for example.	No.	<p>Under the draft SEPP, a definition for Student housing is no longer being considered. Instead, student housing will come under the definition for Co-living housing.</p> <p>Whilst student housing is similar to co-living housing in design, it is not the same and additional controls should be considered to enable affordable student housing. As such the inclusion of a student housing definition should be reconsidered.</p> <p>Student housing should also be supported by location requirements, specifying that housing be constructed close to defined tertiary educational institutions, transport infrastructure and essential facilities.</p>
Issue 8: Proposed changes - SEPP Housing for Seniors and People with a Disability (Seniors SEPP)		
<p>The proposed update of Schedule 1 – Environmentally Sensitive Land to exclude Seniors Housing in environmentally sensitive and high-risk locations is supported and consistent with the policy intent.</p> <p>Updating the land use definitions to match those in the Standard Instrument LEP is supported; however, it is suggested that the definition of 'people with a disability' be reviewed to ensure it is respectful and inclusive.</p> <p>The amendment of the provisions for 'location and access to facilities' in the Seniors SEPP so that point-to-point transport, including taxis, hire cars</p>	Yes.	<p>The introduction of prescribed zones is generally supported, which will help to ensure that seniors housing is accessible to transport infrastructure and essential facilities. The flexibility for individual councils to choose to permit seniors housing in additional zones via the LEP is also appreciated.</p> <p>In this regard, the proposed SEPP intends to prohibit independent living facilities (ILUs) from the R2 zone, only permitting Residential Care Facilities (RCF) in this zone. As ILUs are essentially single dwellings, this seems somewhat at odds with the objectives of the R2 zone and this prohibition could have unintended consequences within Shoalhaven, particularly for a recent amendment to Shoalhaven LEP 2014. The amendment saw the subject land rezoned from RU1 to R2 to specifically enable seniors housing under the SEPP (Housing for Seniors or People with a Disability) 2004. Whilst the rezoning has occurred, the development application (DA) for self-contained dwellings/ ILUs has not yet been lodged. As the general savings provisions in Schedule 6 of the draft SEPP only apply to DAs, this leaves the proponent in a difficult and potentially costly situation. Can DPIE provide clarity on this?</p> <p>Additionally, the removal of the definition 'land zoned for urban purposes' and the site compatibility certificate will potentially streamline the development process for this development type. This is important given our aging population and the increasing need for seniors housing.</p>

and ride share services, cannot be used for the purpose of meeting the accessibility requirement is supported.		FSR bonuses to incentivise the development of vertical villages is supported; however, these should be metro focused, as they would place a significant strain on medical and hospital facilities in rural and/or regional areas. The proposed changes associated with the minimum age threshold for seniors from 55 to 60 years, in line with the superannuation age, appears logical and is therefore supported.
Issue 9: Proposed changes - Social housing provisions applying to Land and Housing Corporation (LAHC)		
Design guidance for social housing developments by LAHC should be reviewed and shared with all stakeholders, including local government. Social housing that is poorly designed or is not sensitive to context can often exacerbate community opposition to this important form development and also future tenants. However well-designed development can also contribute to community pride and provide increased acceptance of social housing, promoting greater social cohesion. In regional areas social housing development that meets the needs of local communities in a manner that is also sensitive to neighbourhood character is important. Any mixed tenure proposals (e.g. mix of private/market-rate and social and affordable housing) must also be designed to ensure that they deliver equitable outcomes and well-designed homes for social and affordable housing tenants. In addition, an increased focus on building sustainability and energy	No.	<p>The Housing SEPP consultation draft does not include the newly made provisions relating to LAHC social and affordable housing provisions. A review of these will be undertaken after the Housing SEPP is made and as part of a broader review.</p> <p>Council has previously noted its support for additional government investment in, and direct funding of, additional social and affordable housing construction in Shoalhaven, to provide much needed long-term housing for low-income community members.</p> <p>Following on from the EIE, LAHC play a crucial role in the delivery of social and community housing and more of this form of housing is required. As such the proposed pathway allowing LAHC self-assessment of boarding houses in permissible zones is supported in principle.</p> <p>There are however concerns about the size of developments that could be self-assessed, including development up to 60 units. Developments of this scale have the potential to place pressure on areas that lack appropriate infrastructure and services etc. In this regard, it is critical that the provisions distinguish rural/ regional areas from metropolitan areas, as well as the importance of developing specific design guides in this regard. Additionally, development thresholds could be applied that require the input of the relevant local council for development over a certain size. Future consultation with Council in this regard is critical.</p>

<p>efficiency for social housing developments is required. More sustainable social housing buildings utilising well-established design and construction methods and technologies will help reduce ongoing heating and cooling costs for occupants and could also stimulate job creation in existing and emerging industries.</p> <p>Whilst the proposed changes applying to the LHC for social housing developments are supported in principle, additional planning policies and financial mechanisms are needed to stimulate provision of more social and affordable housing on the ground.</p> <p>Council urges the NSW Government to continue to explore and implement multiple policy avenues to create more affordable housing for residents of NSW. In particular, Council supports additional government investment in, and direct funding of, additional social and affordable housing construction, to provide much needed long-term housing for low-income community members as well as providing economic stimulus and support for the construction industry.</p>		
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Thank you for the opportunity to comment on the draft Housing SEPP. Council looks forward to further opportunities to provide input as the reforms advance.

29th August 2021

DPIE
Via Portal

Submission in response to DRAFT SEPP (Housing) 2021.

My submission is in relation to changes to 2009 ARHSEPP Division 3 Boarding Houses:

I feel this new SEPP as written will stop the development of micro apartments currently being created using the current SEPP.

This residential accommodation type is greatly needed within NSW and Australia it is fit for purpose and is a well inhabited style of accommodation with 15,000 people within NSW currently living with a boarding house.

If you amend the SEPP as currently drafted you will by default abolish a much needed residential accommodation type.

The reason they will not be built:

1. CHP will not direct their limited financial development funding to boarding houses as opposed to other types of residential accommodation.
2. Co-Living is not competitive enough with a 10% bonus FSR till 2024 (time frame doesn't matter as 10% is ridiculous) to compete with build to sell. Build to sell is easier to finance 10-15% equity required, Co-living is 40-50% equity, banks understand build to sell and the minimal bonus (10%) does not give co-living a competitive edge to acquire sites over build to sell.

I would ask the department of planning to allow a 0.5:1 FSR bonus for co-living as per the current division 3 of the 2009 ARHSEPP. The bonus FSR should be rented at the low to moderate rate as defined within the NSW affordable housing ministerial guidelines (2020/2021) (guideline): Even if the new SEPP covers student accommodation I believe the guideline could be adopted.

Single person on a low income \$290 per week

Single person on a moderate income \$435 per week

Single person ongoing eligibility level \$544 per week

Double Room (person) on a low Income \$435 per week

Double Room (persons) on a moderate income \$653 per week

Double Room (persons) ongoing eligibility level \$707 per week

The remaining FSR should be rented at market.

These figures are based on the income levels described within the guidelines of 1/3 the income divided by 52 to give a weekly amount attributed to rent.

If you allow boarding houses to be managed/ developed by CHP it is more than likely it will not happen. The lending criteria for CHP is extremely restrictive and if given the opportunity to develop either residential flat buildings, terrace houses, attached dwellings, shop top housing or boarding houses. I would ascertain that 99% of CHP

funding would be deployed to develop other forms of residential accommodation rather than boarding houses. This can be evidenced from the report done by (Troy et al).

Research showed that 9000 boarding house rooms have been developed between 2009 - 2017 within the SSROC.

Of the 9000 rooms, 81 rooms were delivered by CHP (non for profits including government from 2009 – 2017, 10 rooms per year.

Source:

“State Environmental Planning Policy (Affordable Rental Housing) 2009 and affordable housing in Central and Southern Sydney

A research report commissioned by Southern Sydney Regional Organisation of Councils (SSROC)

Dr Laurence Troy, Dr Ryan van den Nouwelant & Prof Bill Randolph

June 2018”

Within the

Occupant Survey of Recent Boarding House Developments in Central and Southern Sydney

A research report commissioned by Southern Sydney Regional Organisation of Councils (SSROC)

Dr Laurence Troy, Dr Ryan van den Nouwelant & Prof Bill Randolph

June 2019

This report found that 64% of the residents’(should be called lodgers) income was less than \$800 per week (\$41,600) and most where students working part time and under rental stress.

The instrument that measures affordable income is:

NSW Affordable Housing Ministerial Guidelines 2021/22

The NSW Affordable Housing Ministerial Guidelines set out the policy framework for delivering affordable housing that has been developed with financial assistance from the NSW Government and is owned or managed by registered community housing providers.

The current guidelines income rate is outlined below from the report:

Table 2: Household income eligibility limits for affordable housing: 2021/22 Household members	Gross annual household income		
	Very low	Low	Moderate
Sydney			
Single adult	\$28,600	\$45,700	\$68,600
Each additional adult (18 years or over)	Add \$14,300 to the income limit	Add \$22,900 to the income limit	Add \$34,300 to the income limit

As can be depicted the residents where within the Very Low income level but as the majority where on student visas not permanent residents or Australian citizens they are not eligible for social housing within Australia. The rents within the report are inclusive of outgoings the rental figure should be discounted by the utilities and WiFi bills. If the rents had been discounted, then the 74% of the surveyed group would have been paying the equivalent of a low to moderate household income equivalent.

The below report “PLANNING FOR BOARDING HOUSE DEVELOPMENT”

is a mockery of what the 2009 ARHSEPP intended to achieve and the great results it has made possible to create affordable housing within NSW for a percentage of the population that proves the viability of the current ARHSEPP.

If the properties surveyed by (Clinton), (Troy et al 2018), (Gurran et al 2018) had compared affordability of rent to new built studio accommodation as opposed to older 1 bedrooms accommodation or studios both of which are old in need of maintenance, second hand stock, not in pristine condition, as is a purpose built new age boarding house of approximately 6 years or less, since constructed and occupancy certificates issued, (like for like valuation methodology).

PLANNING FOR BOARDING HOUSE DEVELOPMENT

Report to the Minister

from the Council Boarding House Working Group

August 2019

I feel that DPIE has been influenced by the "PLANNING FOR BOARDING HOUSE DEVELOPMENT" which is written by council employees who are influenced by NIMBY constituents. This. Report does not consider the threshold of weekly payments that can be made by lodgers as defined under the **NSW Affordable Housing Ministerial Guidelines 2021/22**. The reports referenced within this report do not assess rental accommodation for affordability as like to like, they are assessing accommodation of purpose build, modern, new micro apartments (boarding House) against old run down studio and 1 bedroom apartments which is not correct methodology. They do not distinguish the boarding houses as single or double rooms which makes a huge difference to rental income and affordability.

If the DPIE and the minister approve this draft as written it will stifle the development of co-living, micro apartments (that are technically already affordable) for the next 5-7 years. Once the effects of this bad planning document are felt it will need to be changed.

Regards

Jason Eggleton

References

Clinton, E. (2018) *Micro-apartments: Housing affordability solution or the erosion of amenity standards?*, UNSW MPhil Thesis.

Troy, L. van den Nouwelant, R. & Randolph, B., (2018), *State Environmental Planning Policy (Affordable Rental Housing) 2009 and affordable housing in Central and Southern Sydney*, City Futures Research Centre, Sydney, <https://cityfutures.be.unsw.edu.au/research/projects/affordable-housing-sepp-and-southern-sydney/>

PLANNING FOR BOARDING HOUSE DEVELOPMENT, Report to the Minister, from the Council Boarding House Working Group, August 2019

NSW Affordable Housing Ministerial Guidelines 2021/22



SixC

Co-Living Developments and Operations

NSW: Dee Why, Erskineville, Castle Hill

QLD: Brisbane

2/45 The Corso, Manly, NSW

04-3737-8537

4th September, 2021

DPIE

Via Portal

Submission in response to DRAFT SEPP (Housing) 2021.

Six C is a co-living property development and operator with over 400 micro apartments in various stages from development application submissions to construction phase in NSW and QLD.

Co-living / new generation boarding houses are an exciting new affordable housing option greatly needed within NSW. The micro-studios are fit for purpose and serve a multitude of residents with well over 17,000 people in NSW currently living in a boarding house as defined under the prevailing SEPP. The residents of co-living micro-studios are a diverse mix; teachers, students, hospitality workers, aged care workers, nurses, young people moving for the first time away from their parents, migrants, among many others. They desire a clean and secure, professionally managed studio unit, fully furnished with all services included in an environmentally sustainable community that is less costly than other dwelling options.

This submission is in response to changes to the 2009 ARHSEPP Division 3 Boarding Houses. If DPIE amends the SEPP as currently drafted it will abolish this much needed residential accommodation type.

The reason they will not be built:

1. CHP's will not direct their limited financial development funding to boarding houses / co-living as opposed to other types of residential accommodation. See – *The National Housing Finance and Investment Corporation Paper – Delivering More Affordable Housing: An Innovative Solution. May 2021.* The paper supports a very complex and cumbersome layered strategy for funding affordable housing projects by CHPs suggesting that private investors will flock to provide a portion of the layered funding without demonstrating an appetite from the private funding community. Having consulted CHPs recently on deploying funds to support new projects, the administrative capability does not exist within the CHP's nor does the appetite of the executive boards match the NSW guidance that CHPs will step into the role of delivering and operating boarding houses to solve the affordable housing shortage.

2. Co-Living, delivered and operated by private companies does, in almost all instances, provide micro-studios to low and moderate income residents as defined by the *NSW affordable housing ministerial guidelines (2020/2021) (guideline)*. The sector will not be competitive enough with a 10% bonus FSR till 2024 to compete with build to sell. Build to sell is easier and less expensive to finance at 15% equity required from the major banks. The co-living sector is currently receiving secondary lending (family offices and private lenders) at 50% of project cost, and at very high rates. There is no incentive for the major banks to understand the co-living niche asset classification so they do not now and will not in the future offer competitive loans and that will continue to make co-living more expensive to finance. The minimal bonus of (10%) does not provide developers an incentive to provide affordable co-living projects over build to sell therefore developers will stop building co-living which has been shown to provide a commercially viable owned and operated affordable housing solution.

A more commercial and supportive position for the department of planning would be to allow a 0.5:1 FSR bonus for co-living as per the current division 3 of the 2009 ARHSEPP. The bonus FSR should be mandated to rent at the low to moderate rate as defined within the *NSW affordable housing ministerial guidelines (2020/2021) (guideline)*. The remaining FSR should be rented at market.

The regulation of the recommended provision could be monitored by continuing and enforcing the annual boarding house register to be updated with appropriate data to ensure operators follow the regulations.

If NSW mandates boarding houses to be managed/ developed by CHPs it is more than likely it will not happen. The lending criteria for CHPs is extremely restrictive and if given the opportunity to develop either residential flat buildings, terrace houses, attached dwellings, shop top housing or boarding houses, CHP funding will continue to be deployed to develop other forms of residential accommodation rather than boarding houses. This can be evidenced from the report done by (Troy et al).

Research showed that 9000 boarding house rooms have been developed between 2009 - 2017 within the SSROC. Of the 9000 rooms, 81 rooms were delivered by CHP (non for profits including government from 2009 – 2017, 10 rooms per year.

Source: “*State Environmental Planning Policy (Affordable Rental Housing) 2009 and affordable housing in Central and Southern Sydney. A research report commissioned by Southern Sydney Regional Organisation of Councils (SSROC) Dr. Laurence Troy, Dr. Ryan van den Nouwelant & Prof Bill Randolph June 2018*”

Thank you for the opportunity to provide Six C’s insight on the current drafting of the New SEPP and for DPIE’s sincere considerations of our proposed change to allow the private sector to continue to responsibly deliver and operate the much needed affordable housing solution of co-living / new generation boarding house developments in NSW. I am available to discuss this submission at anytime.

Sincerely,



Chris Brasler

Director: Six C Pty Ltd.

www.sixc.com.au



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

Attn: Housing Policy

27 August 2021

Re: Public Exhibition of Draft State Environmental Planning Policy (Housing) 2021

Dear Sir/Madam,

I refer to the exhibited Draft State Environmental Planning Policy (Housing) 2021 (the draft SEPP).

SJB represents the owners of 263 and 277-279 Broadway, Glebe (the 'site'). SJB made a previous submission to the exhibition of the Explanation of Intended Effect (EIE) for the proposed SEPP, which is included at Attachment 1. Our previous submission raised concerns with the potential impacts on our client's ability to realise the floor space ratio (FSR) for student housing that was intended for the site, under the Sydney Local Environmental Plan 2012 (SLEP 2012).

The consequential amendments to SLEP 2012 contained in Schedule 8, Clause 8.47 of the draft SEPP, have not addressed the concerns raised in our previous submission as it does not enable the realisation of the existing FSR entitlement for student housing. Accordingly, we have recommended alternative drafting to the proposed amendments to the SLEP 2012. We understand the City's submission to the draft SEPP similarly requests that the FSR achievable for student housing on the site under the current LEP provisions, is also achievable under the amended provisions.

Further to the above, this submission identifies shortcomings with the drafting, interpretation and application of the development standards contained in Clause 65 of the draft SEPP, in particular the requirement for buildings over three (3) storeys to comply with the separation distances contained in the Apartment Design Guide (ADG). This requirement, along with other standards contained within Clause 65, would be better placed in guidelines, which we understand are being prepared for across each of the housing types contained in the SEPP.

Further discussion of these items is provided below.

1 Consequential Amendments to SLEP 2012 - Schedule 8, Draft Housing SEPP

1.1 Existing controls – SLEP and AHRSEPP

The site is zoned B2 Local Centre under the Sydney Local Environmental Plan 2012 (SLEP) which permits boarding houses and residential flat buildings. The SLEP specifies a base floor space ratio (FSR) control of 2:1 for the site under Clause 4.4. In addition, Clause 6.48(3)(b) of the SLEP 2012 provides a bonus FSR of 1:1 for the development of a boarding house for student accommodation and a bonus FSR of up to 1.6:1 for commercial and other non-residential uses. The available bonus for student housing is less than the bonus for commercial and non-residential uses in recognition of the 20% bonus that is

available for boarding houses under Clause 29(1)(c)(ii) of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP).

Accordingly, under the existing Clause 6.48 and the ARHSEPP, a FSR of 3.6:1 is achievable for student housing on the site, which is comprised of the following:

- Base FSR 2:1 (Cl. 4.4 SLEP) + bonus FSR 1:1 for student housing (Cl 6.48 SLEP) + Bonus 20% for boarding houses used for student housing (AHSEPP).

The development would also have access to a potential design excellence bonus under the design excellence provisions of the SLEP 2012.

1.2 Draft SEPP Amendments – boarding houses definition, co-living housing definition and bonus FSR

Under the draft SEPP, boarding houses are required to be affordable, and managed by a community housing provider. Accordingly, student housing on the site is no longer eligible for any bonus applying to boarding houses, unless it meets the criteria of affordable housing.

Student housing delivered by developers (i.e. off-campus student housing) as contemplated for the site under the SLEP 2012, is to be facilitated through the proposed new land use definition of ‘co-living housing’, and the associated provisions.

Under the proposed non-discretionary standards outlined in Clause 64 of the draft SEPP, co-living housing is eligible for a 10% bonus FSR. The bonus is time limited and is proposed to be repealed on 1 August 2024. This not only reduces the current bonus of 20% that applies to a boarding house developed for student housing but restricts the time frame in which the reduced bonus can be realised.

Schedule 8 of the draft SEPP lists the consequential amendments to local planning instruments arising from the draft SEPP. Provision 8.47(2) of Schedule 8 proposes to insert co-living housing into subclause 6.48(3)(b) of the SLEP 2012 as highlighted in red below.

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

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

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

(b) 1:1 if the development is for the purpose of boarding houses or co-living housing used for student accommodation.

1.3 Implications of amendments for the site

Given that co-living housing is only eligible for a 10% bonus, instead of the current 20% bonus under the AHRSEPP, the proposed amendment to Clause 6.48 of SLEP 2012 reduces the achievable FSR on the site for student housing from 3.6:1 to 3.3:1, which comprises:

- Base FSR 2:1 (Cl. 4.4 SLEP) + bonus FSR 1:1 for student housing (Cl 6.48 SLEP) + Bonus 10% for co-living housing (student housing) (Housing SEPP).

This translates to a 10% reduction in the available FSR for student housing on the site under the SLEP 2012. To compound matters, the reduced 10% FSR bonus is time limited until 1 August 2024. While this is contrary to the intent of Clause 6.48 of the SLEP 2012, it also significantly constrains the delivery of

student housing on site, which is already facing significant pressures and uncertainty as a result of the Covid 19 pandemic.

1.4 Recommended Consequential Amendments to Clause 6.48 of the SLEP 2012

Due to the specific nature of the SLEP provisions it is important that the intent of Clause 6.48 is maintained in the Draft Housing SEPP through appropriate consequential amendments.

We recommended that the 20% bonus currently available for student housing on the site, be captured in Clause 6.48 of the SLEP, and at the same time any other bonus for co-living housing available under Clause 64(2) of the draft Housing SEPP, be switched off for the site. This will necessitate the following amendments to Clause 6.48 of the SLEP:

- An increase in the available FSR for student housing under 6.48(3) from 1:1 to 1.6:1; and
- The insertion of a new subclause which prevents a development for co-living housing/student accommodation on the site under Clause 6.48 from utilising any FSR bonus applying to co-living housing under the SEPP.

The recommended amendments to the relevant subclauses of 6.48 is provided below. The recommended drafting of the Clause in full, for inclusion in 8.47(2) of Schedule 8 of the Draft SEPP, is provided at Attachment 2.

.....

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

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

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

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

.....

(13) Development for the purposes of co-living housing used for student accommodation under 3(a)(viii), is not eligible for any floor space bonus available under Clause 64 of State Environmental Planning Policy (Housing) 2021.

The current planning framework applying to the site under the SLEP 2012 was the outcome of a lengthy and rigorous process with the City and for this reason it is critical that the proposed amendments maintain the intent of that framework.

2. Proposed Standards for co-living housing (Clause 64)

2.1 Shortcomings of proposed Clause 64 development standards

The application and interpretation of some of the proposed development standards in Clause 65 is unclear and will pose issues in the preparation and assessment of development applications. Subclause 64(1)(d) which requires compliance with the minimum separation distances under the Apartment Design Guide, in our view is particularly problematic.

The standards included in Clause 64, are additional to the proposed non-discretionary standard included Clause 65, and apply to items including, but limited to the following items:

- Room sizes;
- Lot size;
- Setbacks and separation distances;
- Character;
- Restriction on the maximum number of rooms for a co-living housing development in a low density residential zones (R2 Zone)
- Restrictions on the ground level co-living housing in land zoned for commercial purposes

While the interpretation and application of the non-discretionary standard in Clause 64 is clear, the same cannot be said for the development standard contained in Clause 65.

Under Clause 65 a consent authority cannot consent to development unless it is satisfied with respect to each of the listed standards. Subcase 65(1)(d) which requires compliance with the ADG separation distances is reproduced below:

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

How this clause is to be interpreted and applied is unclear. Importantly, it does not acknowledge the way in which the ADG is currently applied in practice. While the design criteria contained in Section 3F1 of the ADG specifies separation distances, this must be read in conjunction with the objectives and design guidance relating to the building separation and visual privacy. Under this approach, there is a level of discretion in the application of separation distances, where it can be demonstrated that the objectives and design guidance are achieved.

The shortcomings in applying the ADG separation distances as a development standard is evident with our client's site, which is located adjacent to a shopping centre car park. The car park primarily has blank walls, which are located on the boundary. The Design Guidance specifies the following in relation to residential proposal adjacent to commercial development and for blank walls:

For residential buildings next to commercial buildings, separation distances should be measured as follows:

- *for retail, office spaces and commercial balconies use the habitable room distances*
- *for service and plant areas use the non-habitable room distances*

.....

No separation is required between blank walls

In the case of the site, it is not clear whether the car park would be categorised as service and plant areas, in which separation distances to non-habitable rooms would apply, or, whether it would be classified as a blank wall.

The drafting of subclause 64(1)(d) is open to considerable interpretation by both applicants and the consent authority. We understand that any departure from the standards outlined in Clause 65 would require the submission of a Clause 4.6 Variation. In this example, it is unclear what the precise nature of the standard is, and in turn the extent of the variation sought cannot be properly quantified.

While we support the intent of ensuring adequate separation distances between co-living housing and adjoining development, the proposed development standard as currently drafted, with a blanket reference to the ADG separation distances is problematic, both in terms of confirming the numeric standard to be applied and consequently the extent of the variation.

2.2 Recommended Amendments for Clause 64 Standards

It is considered, any reference to the ADG separation distances would be much better placed in a design guideline for co-living housing, which we understand the Department will be preparing. Overall, with the exception of the standard limiting the number of rooms within low density residential zones, we consider that the matters included in Clause 65 are consistent with controls generally found in a development control plan, and not a planning instrument, and in this regard would be better placed in a guideline. This would allow a site by site merit assessment, without unduly constraining development options by introducing additional and new development standards.

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

Yours sincerely

Alison McCabe
Director

Cc: Ben Peachey – City of Sydney

Attachment 1: Submission to the exhibition of the EIE for Housing
Diversity SEPP



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

Attn: Housing Policy

11 September 2020

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

Dear Sir/Madam,

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

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

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

Planning Framework 263 and 277-279 Broadway, Glebe

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

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

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

Proposed Housing Diversity SEPP and Implications

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

- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP).
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP).
- State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) (SEPP70).

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

The introduction of a definition for student housing

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

The introduction of planning provisions for student housing

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

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

Recommendations

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

On this basis we request the following:

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

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

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

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

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

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

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

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

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

Yours sincerely



Alison McCabe
Director

Cc: Nicola Reeve – City of Sydney

Attachment 1: Clause 6.48 Sydney Local Environmental Plan 2012

Sydney Local Environmental Plan 2012

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

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

6.48 225–279 Broadway, Glebe—floor space

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

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

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

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

Proposed Floor Space Ratio Controls

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

**Attachment 2: Recommended Drafting - Schedule 8, Amendment of
local environmental plans, 8.47 Sydney Local
Environmental Plan 2012, Clause 6.48 225-279
Broadway, Glebe – floor space**

(1) The objective of this clause is to provide for additional floor space on certain land to encourage—

- (a) commercial, education, health, cultural and tourism sectors and associated industries in the Camperdown-Ultimo area, and*
- (b) development capable of achieving certain ecologically sustainable development ratings.*

(2) This clause applies to the land identified on the Locality and Site Identification Map as “Broadway Gateway” (the subject land).

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

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

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

viii) co-living housing used for student accommodation

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

(4) The amount of floor space granted that exceeds the floor space ratio only applies to the part of the building used for a purpose specified in subclause (3).

(5) The reference to the floor space ratio shown for the land on the Floor Space Ratio Map in clause 6.21(7)(b)(i) is taken, in its application to a building on the subject land, to be a reference to the floor space ratio that includes an amount exceeding the floor space ratio granted in accordance with subclause (3).

(6) For the purpose of this clause, floor space below ground level of Broadway along the frontage of the site may be excluded from the calculation of gross floor area.

(7) Development consent must not be granted under subclause (3) for development that results in a mixed use development that includes residential accommodation other than a boarding house.

(8) Before granting consent to development under subclause (3), the consent authority is to consider whether the development promotes uses that attract pedestrian traffic along ground floor street frontages on Grose Street, Glebe.

(9) Development promotes uses that attract pedestrian traffic under subclause (8) if, after the erection of a building, or the change of use of a building—

- (a) all premises on the ground floor of the building that face the street will be used for the purposes of business premises or retail premises, and*
- (b) the premises will have active street frontages.*

(10) Subclause (8) does not apply for any part of a building to be used for any of the following—

- (a) entrances and lobbies (including as part of mixed use development),*
- (b) access for fire services,*
- (c) vehicular access.*

(11) The consent authority must not grant consent to development under subclause (3) for the purposes of commercial premises or hotel or motel accommodation, unless it is satisfied that appropriate measures will be taken to ensure the development is capable of achieving—

- (a) for commercial premises—a 5.5 star NABERS Energy rating, or*
- (b) for hotel or motel accommodation—a 4.5 star NABERS Energy rating.*

(12) In this clause—

NABERS Energy rating (also known as the National Australian Built Environment Rating System Energy rating) means a star rating for the environmental performance of a building, given in accordance with the national rating system that determines building performance for the purpose of the Building Energy Efficiency Disclosure Act 2010 of the Commonwealth.

(13) Development for the purposes of co-living housing used for student accommodation under 3(a)(viii), is not eligible for any floor space bonus available under Clause 64 of State Environmental Planning Policy (Housing) 2021.

27 August 2021

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Department of Planning, Industry and Environment
12 Darcy Street
Parramatta NSW 2150

Attention: Jim Betts

Dear Secretary

Housing SEPP Submission

SLR consulting, on behalf of Linkcity Pty Ltd have prepared this submission in response to the Housing SEPP consultation draft, currently on exhibition and inviting submissions through 29 August 2021.

Linkcity is a property development division of Bouygues Construction, itself part of the French Conglomerate Bouygues S.A. Linkcity has developed, built and operated over 7,000 Student Housing beds in the UK in the last 10 years. Most of these beds are managed under our wholly owned management business Uliving. Linkcity in Australia is developing commercial offices in Mascot and have secured their first Student Housing development site in Newcastle for approximately 500 beds.

The submission is in two parts, focusing on the “*Student Housing*” as per the Explanation of Intended Effect for a new Housing Diversity SEPP discussion paper of July 2020, and the subsequent deletion of the term from the draft instrument. Part one offers a broad review and comment on the proposed controls applicable to *student housing/Co- living Housing*, and part two provides a case study regarding a particular site in Newcastle that will be significantly impacted by the proposed controls.

1 Draft Housing SEPP – Student Housing deletion

Why is there no definition for student housing?

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

Without having public access to the stakeholder feedback, it is difficult to understand the deletion of a defined *Student Housing* from the proposed instrument. The statement above places expectations that on campus *Student Housing* will be provided under the Education SEPP, and off campus *Student Housing* will be provided under the provisions of *Co-living Housing* controls. The requirement that *Boarding Houses* are to be managed as *Affordable Housing* for the lifetime of the development removes the existing approvals pathways for private *Student Housing*, often approved under the existing *Boarding Houses* provisions.

Residents in Student Housing have different demographics, socio economic backgrounds, car needs, disposable income, living desires than residents of Co-Living. Furthermore, our research shows that these factors are also markedly different between students in the first two years of university to the latter years and postgraduate students. Student Housing is predominantly occupied by first and second year students, leaving home for the first time with excitement and enthusiasm. In latter years friendship groups are tighter and some students prefer a flat share arrangement.

Students generally would rather not have the expense of a car, especially if they can catch convenient public transport or walk to campus and their part time employment. Students also have an above average use of ride share and taxi services. Students generally prefer to divert their income elsewhere. This low demand for Student Accommodation parking is evidenced in table 2 below.

University students are going through a great period of exploration and change in their lives, their mental welfare is of utmost importance to both Universities and the organisations that manage their accommodation. Some students, older students, postgraduate students, will have a preference for studio living, their own room to cook, study and relax. However, research shows that there are many positive outcomes to modern 'cluster' living. Cluster living is a group of individual bedrooms, usually with individual bathrooms, where the kitchen and living space is shared between 2 to 6 bedrooms (but rarely in 3's due to the potential of a 2v1 dynamic).

Whilst Studio living will generally always be required as part of a development (for those students who absolutely want privacy), cluster living will always house the majority of residents in our projects. It has become an integral part of the student experience – socialising with fellow housemates who are often coming from different backgrounds. It is also important to note that cluster flats provide a more affordable living option to students compared to studios, and affordability is often quoted as a key priority amongst student's concerns. Expensive living costs often leads to student having to take a part-time overnight job whilst studying – thereby falling at risk of failing academically because they can sustain financially. We believe that providing affordable safe, and suitable solutions for students is a key priority for our higher education industry.

Co-Living residents, however, will generally be young professionals making a lifestyle choice. They will likely want more privacy, higher propensity for a partner, they will generally be full time employed, with more of a structured lifestyle. They will have more financial capacity to own a car. Their Co-living location choice will be a balance between lifestyle location and ability to commute to work easily.

Student Accommodation will generally house students from one university, or two if they are in very close proximity (UTS & Sydney Uni for example). Public Transport, walkability and connectivity to the prospective university is a must for the success of Student Accommodation developments. In a Student Accommodation Tower in Redfern you will most likely only have Students from USyd or UTS, Kensington from UNSW, Macquarie Park from Macquarie University, Parramatta from UWS.

This fundamental difference in targeted resident type and location suitability will drive substantial differences in car ownership requirements.

Co-Living and Student Accommodation also have fundamental differences in the scale at which development is undertaken and the controls should recognise this. Co-Living operates in a scale of residents per property well under 100, Student Accommodation operates at a scale of above 300 residents.

The replacement *Co-living Housing* provisions fail to adequately cover the intended provisions of *Student Housing*, and will require larger room sizes, will importantly remove the flexibility for semi-private living space in cluster room typologies and dramatically increase car parking spaces compared to the *Student Housing* that was exhibited under the EIE.

Who this change benefits is unknown, as the reduced dwelling yield that would result from the *Co-living Housing* controls of the draft Housing SEPP compared to the *Student Housing* controls of the *Explanation of Intended Effect for a new Housing Diversity SEPP* (EIE) are likely to dissuade many developers from exploring this important housing type.

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

Table 1

Comparison of EIE to Draft SEPP	EIE – Student Housing	Draft SEPP – Co-Living Housing
Car Parking	0 , noting assumed proximity to <i>Educational Establishments</i>	1/room outside of Greater Sydney
Pushbike Parking	1/3 rooms	1/room
Motorbike Parking	1/5 rooms	1/5 rooms
Minimum Room Size	10sqm, or less if justified, no requirements for exclusion of Kitchen/Bathroom facilities	12sqm not including Kitchen/Bathroom facilities
Communal Area (Indoor)	15sqm/12 students	30sqm/6 rooms, plus 2sqm per additional room
Communal Area (Outdoor)	Potentially nil within 400m campus / 2.5 m2 of outdoor space per student.	Minimum 20% site area

In 2019 International Education contributed \$37.6bn to the Australian Economy. An ever-increasing number of those students live in Purpose Built Student Accommodation (PBSA).

SLR and Linkcity request the Department to recognise the significance of this asset class, its marked differences to Co-Living and return to a separate definition of Student Accommodation and Co Living.

1.1 Key issues

1.1.1 Parking

As described above, parking requirements and car ownership is fundamentally different between *Co-Living Housing* residents and *Student Housing* residents, which is amplified by the suitable locations that the assets can be built. The legislation should reflect this.

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

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

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

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

Below is a table provided by Unilodge, one of Australia’s largest Student Accommodation managers. It describes the parking take-up across 9,500 beds that they manage in locations considered comparable to our client’s site in Newcastle.

It demonstrates that, due to varying reasons, their assets have 1,000 car spaces across 9,500 beds say 1 car per 10 rooms. And of those car spaces offered they have 4 out of 5 not occupied by students. A total average occupancy of 2 cars per 100 rooms.

Table 2

Property	Proximate University	Distance from CBD	No. of beds	Car Parks	Take up from students	Commentary
<u>Sydney</u>						
Broadway	U Syd; UNSW	1 km	555	151	21	Majority of car parks provided in this large strata scheme are for the use of surrounding commercial and retail businesses
UNSW	UNSW	3 km	231	25	4	Carparks available for tenants in the mixed-use project. Very low take up by students

Property	Proximate University	Distance from CBD	No. of beds	Car Parks	Take up from students	Commentary
<u>Melbourne</u>						
Swanston Street	RMIT	0 km	296	0	0	
Flinders	RMIT	0 km	232	0	0	
UniLodge @Swinburne	Swinburne Uni (Hawthorne Campus)	5 km	371	163	6	Property is in suburban Hawthorn and the carpark was developed to service Uni staff primarily. Irrespective carparking is available for students if they require it but take up is low
On Campus	RMIT	0 km	95	0	0	
UniLodge @Melbourne	Uni of Melbourne	0 km	312	0	0	
UniLodge D1	Uni of Melbourne; RMIT	0 km	87	0	0	
UniLodge D2	RMIT	0 km	128	0	0	
740 Swanston St	Uni of Melbourne	0 km	70	0	0	
On Lonsdale	RMIT	0 km	320	0	0	
College House	RMIT	0 km	129	0	0	
On A Beckett	RMIT	0 km	226	78	4	Commercial carpark available to students but also office workers and privates
Vivida	Swinburne Uni (Hawthorne Campus)	5 km	181	20	18	Carparks were required to be provided by the developer in this strata property so investors in the property are keen to see the spaces red. Take up is a high percentage but prices are cheap and there only a small number

Property	Proximate University	Distance from CBD	No. of beds	Car Parks	Take up from students	Commentary
Riversdale	Swinburne Uni (Hawthorne Campus)	5 km	47	17	17	Carparks were required to be provided by the developer in this strata property so investors in the property are keen to see the spaces red. Take up is a high percentage but prices are cheap and there only a small number
Villiers	Uni of Melbourne	0.5 km	195	10	0	
On Raleigh	Swinburne Uni (Prahran Campus)	0.5 km	81	10	3	Carparks were required to be provided by the developer in this strata property so investors in the property are keen to see the spaces red. Take up is a low percentage despite prices being cheap and there only a small number
Canberra						
ANU #1	ANU	0 km	491	30	15	
ANU #2	ANU	0 km	502	0	0	
ANU #3	ANU	0 km	419	83	0	
ANU #4	ANU	0 km	558	59		Large scale commercial carpark developed by the ANU as part of the 4 th stage of the 2000+ bed student accommodation project. Take up by students is low.
Academie House	ANU	0 km	90	0	0	
Gould Street	ANU	0 km	23	22	0	Developed as a residential building with one carpark per apartment
UC – Weeden (South)	Uni of Canberra	3 km	260	33	34	Conversion of an existing commercial building with existing carparks

Property	Proximate University	Distance from CBD	No. of beds	Car Parks	Take up from students	Commentary
UC – Weeden (North)	Uni of Canberra	3 km	220	34	34	Conversion of an existing commercial building with existing carparks
UC – Cooper Lodge	Uni of Canberra	3 km	416	0	0	
<u>Brisbane</u>						
Margaret Street	QUT	0 km	274	15	0	
UQ	Uni of QLD	3 km	144	72	21	Approved by BCC as a residential use. One carpark per 2 bed apartment
Gailey Rd	Uni of QLD	2 km	44	24	15	Approved by BCC as a residential use. One carpark per 2 bed apartment Approved by BCC as a residential use. One carpark per 2 bed apartment
Manors & Visage	Uni of QLD	3 km	232	74	10	Approved by BCC as a residential use. One carpark per 2 bed apartment
Shafston Avenue	Shafston College; QUT	0.5 km	238	16	0	Run as a short stay operation. Very little take up by students
<u>Adelaide</u>						
Metro Adelaide	Uni of Adelaide; Uni SA	0 km	430	30	10	
Student Living Australia	Uni of Adelaide	0 km	288	0	0	
On Waymouth	Uni SA; Uni of Adelaide	0 km	204	0	0	
East End	Uni of Adelaide; Uni SA	0 km	144	0	0	

Property	Proximate University	Distance from CBD	No. of beds	Car Parks	Take up from students	Commentary
<u>New Zealand</u>						
Anzac Ave & on Beach – Auckland	Uni of Auckland	0 km	386	15	0	
Stafford House, Wellington	Victoria Uni, Wellington	0 km	301	0	0	
<u>Darwin</u>						
GPT	Charles Darwin University	10 km	308	0	0	
Total			9,528	1031	212	

Linkcity has developed, and through our sister company Uliving manages, over 7,000 Student Accommodation beds in the UK. None of these properties have any substantial parking provisions. Some have minimal parking provisions (less than 10 for a 1,000-bedroom project) for management, cleaners, disabled students, but none have a requirement of 1 / 1 car park to room as proposed under the Draft SEPP

Universities in the UK discourage car ownership from their students as their universities are generally well located in close proximity to public transports (as ours are). There is no legislation in the UK mandating parking for Student Accommodation.

SLR and Linkcity request that the Housing SEPP reverts to the intent of the EIE and requires a Minimum Zero Carparking – which corresponds to the actual preferences of students, reflects a commitment to a carbon reduced future, and promotes the use of public transport and cycling.

1.1.2 Motorbike Parking

The proposed provision of 1 bicycle parking space per room, assuming every resident will own a bicycle, will result in a substantial oversupply of parking and cost to a project that will be largely unused. Linkcity's extensive portfolio across the UK has built bicycle parking at approximately 1 bicycle per four rooms.

As previously described Student Accommodation is generally built in projects of 300+ rooms, this will result in hundreds of bicycle parking spaces being unused.

SLR and Linkcity request the return to the proposed EIE bicycle parking rate of 1 per 3 bedrooms.

1.1.3 Bicycle Parking

The proposed provision of 1 bicycle parking space per room, assuming every resident will own a bicycle, will result in a substantial oversupply of parking and cost to a project that will be largely unused. Linkcity's extensive portfolio across the UK has built bicycle parking at approximately 1 bicycle per four rooms.

As previously described Student Accommodation is generally built in projects of 300+ rooms, this will result in hundreds of bicycle parking spaces being unused.

SLR and Linkcity request the return to the proposed EIE bicycle parking rate of 1 per 3 bedrooms.

1.1.4 Minimum Room Size

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

This was seen as a step in the right direction; allowing developers competent in the delivery of high quality *Student Housing* internationally to design and implement rooms capable of providing necessary comforts commensurate with the facilities offered in the wider complex. The line *"The minimum room size is based on similar standards in other jurisdictions and reflects current industry practice"* indicates that the authors had spent time reviewing international best practice and acknowledged the practice of smaller, comfortable rooms being the industry standard.

In the UK Linkcity's cluster bedrooms are typically 11.5 – 12.5sqm including bathroom. There is no minimum size for student rooms in the UK.

Figure 3 provides an example of a typical best practice cluster room configuration; noting that room sizes are 12sqm including ensuite, and the communal living space is a more comfortable 20 sqm, providing a useable break out space that has proven comfortable and practical throughout other developments undertaken.

Unfortunately, between the EIE and the current Draft Housing SEPP the minimum room size of *Student Housing* has been lost, instead a minimum room size of 12sqm (not including any kitchen or bathroom facilities within the room) now applies. In practice, this will drive yield of developments intended for *Student Housing* down, with a development previously capable of providing 18 / 10sqm rooms now limited to providing 15 / 12sqm rooms. This assumes no bathroom or kitchen facilities are provided within the room, which are not counted toward the minimum room size. Including a basic kitchenette, or toilet would increase the room size closer to 15sqm, further reducing the yield compared to the exhibited sizes within the EIE.

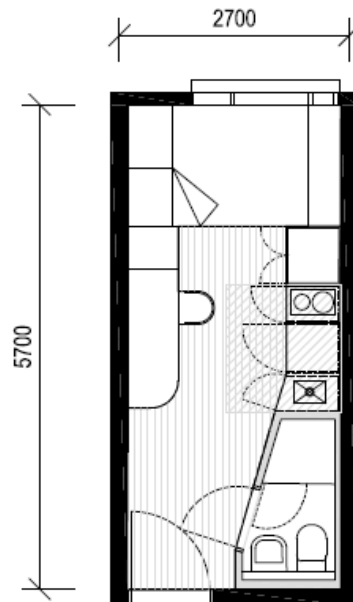
As previously described, cluster living is preferred for the majority students in our developments. Economically studio development or increasing the studio percentage in a development delivers greater financial returns. But increasing studio living too far is a poor outcome for student wellbeing.

A typical Draft SEPP compliant studio will offer 16sqm for a student, with the following inclusions:

- King single or double bed
- Seat for watching TV
- Desk

- Cupboard
- Kitchenette
- Ensuite

Figure 1 Example SEPP Compliant Room



STUDIO

GFA TOTAL: 16 SQM

BEDROOM: 12 SQM

KITCHEN: 2 SQM

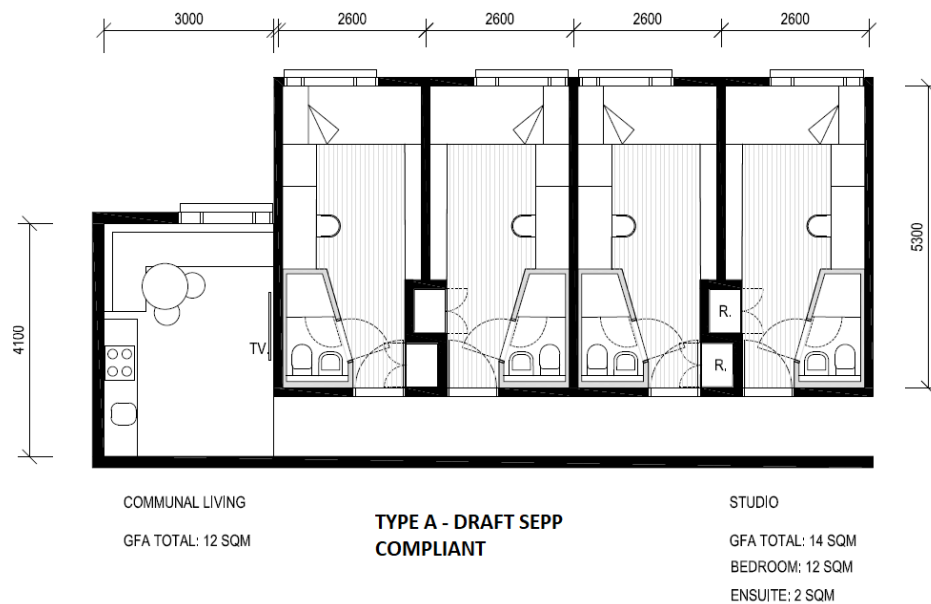
ENSUITE: 2 SQM

A Cluster living room will have 2,4,5 or 6 rooms with a shared kitchen and TV room. This is the preferred living arrangement for student wellbeing especially in the younger years. Students have their own bed and bathroom, but are encouraged to cook, watch TV, and socialise in their small group. Cluster living also teaches some personal responsibilities as the onus is on all cluster students to keep their small common area clean and tidy.

The proposed fixed 12m +kitchen +bathroom legislation with no flexibility is seemingly designed with studio living in mind and provides no flexibility for Cluster Living.

Type A apartment below reflects a Draft SEPP compliant layout. Each bedroom has space for a chair and TV as well as the common kitchen TV. The common kitchen lounge is quite small and would be tight for 4 people to share. This could be approved under the proposed legislation.

Figure 2 Example SEPP Compliant Cluster Arrangement

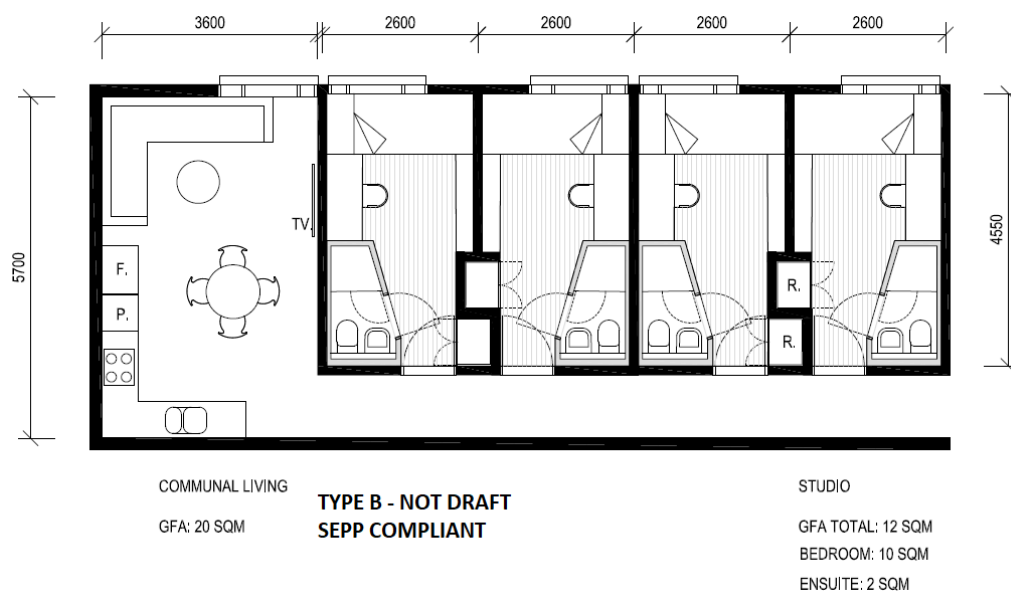


The Type B Cluster living room below is not Draft SEPP compliant, but would be deemed compliant under the EIE.

The bedrooms are highly functional and are of the same size as we would develop in the UK. 2sqm of living space is taken from the bedroom, removing the ability to fit a small chair to watch TV. (Practically students in the Type A bedroom would lie in bed and watch TV in the evening, deeming the chair unnecessary) And a total of 8sqm is added to the common living area to provide a far more generous living area which is far more inviting and will be more used than the small 12sqm room.

Type B is a better living arrangement for the student than Type A, it costs the developer no more GFA and no more money to provide a demonstrably better living outcome for future inhabitants.

Figure 3 Example EIE Compliant Cluster Arrangement



SLR and Linkcity request the Department to recognise the importance of well-designed cluster living in Student Accommodation and to return to the provisions previously announced in the EIE, with allowance for flexibility.

1.1.5 Communal Open Space (Indoor)

Communal Area (Indoor) for *Student Housing* within the EIE was indicated to require 15sqm per 12 students, which if single rooms were to be provided would equate to 15sqm / 12 rooms. The Draft Housing SEPP specifies that *Communal Area (Indoor)* is provided at a rate of 30sqm/6 rooms, plus 2sqm per additional room, which if single rooms were to be provided would equate to 42sqm per 12 rooms.

This increase is considered excessive, particularly when considered with best practice design which includes a majority of residents living in cluster arrangements.

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

SLR and Linkcity request a return to the provisions previously described in the EIE for Communal Open Space (Indoor).

1.1.6 Elevation of Non-Statutory Controls

The elevation of ADG and DCP controls to be quasi statutory instruments is concerning, and leads to an experience that gives too great an influence to controls designed to be supporting documents that guide development. It is our understanding that this was never the intention of the Draft Housing SEPP, and is likely to set a precedence across future SEPP amendments that will result in a convoluted control hierarchy within the NSW planning system.

The Draft Housing SEPP specifies, at Clause 65 - *Standards for co-living housing* (1) *A consent authority must not consent to development to which this Part applies unless it is satisfied that:*

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

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

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

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

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

SLR and Linkcity request that any reference to the ADG within the SEPP be worded to establish the controls as a guide.

2 Case Study – Newcastle Site

Linkcity is preparing a DA on a site in Newcastle CBD for the purpose of Student Accommodation. The site is 100m from the Newcastle Interchange where students can catch a heavy rail train two stops to the Newcastle University Callaghan campus. They can also catch a lightrail one stop, or alternatively walk approximately 1km to the new Newcastle University CBD Campus. The site is highly connected for student’s education purposes. The site is also in the CBD and the proximity to light and heavy rail allows students easy access to part time employment throughout the wider area.

Professionally managed Student Accommodation generally requires a size of 300+ rooms to reach operational efficiencies of staff costs per resident. In Newcastle we are proposing more than 500 beds.

Under the Draft Housing SEPP our client would be required to provide more than 500 parking spaces. In a modern society where green Travel Plans are the norm, alternate transport modes are encouraged, and health through walking and cycling is actively promoted it is bewildering that a development with such connectivity is encouraged to build more than 500 parking spaces in a CBD location.

SLR was engaged by our client early 2021 to provide a planning analysis in a particular site within the Newcastle City Council LGA.

The site benefits from the following planning controls:

- Zone - B4 – Mixed Use
- Height of Building - 60m
- Floor Space Ratio - 6:1

The proposal involves:

- Adaptive re-use of an existing heritage item predominantly for purpose-built *Student Housing*;
- Construction of a nineteen-storey mixed use development including:
- Ground floor retail space (469m² GFA), lobby, and back of house areas;
- Student housing consisting of studios, cluster bedrooms and cluster living spaces, totalling 590 beds (indicative floor plans at Figure 1);
- Communal open spaces including roof top area; and

- 100 bicycle parking spaces, 67 motorbike parking spaces and 8 car parking spaces located at ground level, with associated loading and waste facilities.

Based planning advice was provided that suggested the above, with minor variances to the controls, could be established on site. Key to this recommendation was the lack of parking required which resulted in a better arrangement of cluster rooms. Internationally, with particular focus on European student cities, car parking is unnecessary when adequate, convenient public transport is available, or campus is nearby.

In the case of the subject site as discussed earlier within this submission, the Newcastle Interchange, a new, purpose-built piece of infrastructure that acts as a junction between the Hunter train line, the Central Coast/Sydney train line, and the Newcastle Light Rail is located within 200m of the site.

Under the Draft Housing SEPP the design described above and indicatively shown in Figure 4 would require the provision of 590 car parking spaces. However, realistically, the design described above could not be realised on the site under the Draft Housing SEPP due to the increase in minimum room sizes. The design shown incorporates international best practice student room sizes, inclusive of private bathroom facilities, generally at total size of approximately 12sqm.

Draft Housing SEPP would require these rooms to be of a minimum 12sqm excluding bathroom and or kitchen facilities, effectively increasing the minimum size of any similar room to approximately 15sqm. On a floor plate such as the one indicated at Figure 4, the minimum room size of the Draft Housing SEPP would result in far smaller communal spaces, resulting in cluster rooms that afford substandard communal activation, and encourage instead students to remain isolated within rooms.

Include the requirement for car parking and the development becomes untenable. For the site in question, a height limit of 60m dictates that car parking would be required in a basement to preserve useable height for dwellings. Excavation for a basement of 590 car parks would be among the largest carparking basement excavations in Newcastle, and would add a cost prohibition that would further reduce the viability of a vitally needed *Student Housing* development.

Figure 4 Indicative Floor Plan of Development under EIE controls



3 Conclusion

Comparison between the exhibited Explanation of Intended Effect for a new Housing Diversity SEPP discussion paper of July 2020 and the Draft Housing SEPP through the lens of *Student Housing* reveals several shortcomings.

The omission of the *Standard Instrument* term *Student Housing*, instead forcing developers in this niche field to rely on the broader, more onerous, and misaligned controls of *Co-living Housing* will have a detrimental effect on the open market, and will result in few, if any student specific housing ventures being undertaken.

It forces developers to choose to either; a) adapt internationally recognised best practice floor plans to meet the controls of a development type disparate to that required, or b) abandon projects and have alternate developers explore options for sites that will likely result in residential apartment development.

The Draft Housing SEPP contains controls that, in the case of *Co-living Housing* require provision of car parking at a rate significantly greater than that of SEPP 65 and the ADG. How additional car parking is intended to promote this type of development is unknown. Further, the requirement that developers seeking to undertake *Student Housing* be forced to provide car parking at same rates as *Co-living Housing*, clearly very different development types, is a barrier that is likely to force numerous developments focussed on the important *Student Housing* sector to abandon projects.

The Department is commended for taking initiative in providing a hope that *Student Housing* was getting the attention and controls required to facilitate good design outcomes in this sector, however the omission of specific controls and definitions in the Draft Housing SEPP is disappointing.

We implore the Department to explore the inclusion of the standalone *Student Housing* definition, and to include the EIE proposed key development standards for student housing in the Housing SEPP. The requirement of car parking will all but eliminate student housing from being pursued as a development type under the draft provisions as exhibited.

SLR and our client would welcome being involved or consulted further if the opportunity arose.

If there are any questions relating to the above submission, please do not hesitate to contact the undersigned on (02) 4940 0442.

Yours sincerely



CHRISTOPHER ROSS
Senior Project Consultant - Planning

[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: Wednesday, 25 August 2021 7:41 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP

Submitted on Wed, 25/08/2021 - 19:40

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

[REDACTED]

Last name

[REDACTED]

Organisation name

Small is the New Big

I would like my submission to remain confidential

Yes

Info

Email

[REDACTED]

Suburb

Marrickville

Postcode

[REDACTED]

Submission

Dear sirs

I am pleased that the NSW Government is trying to create models for affordable housing.

The community wants this but continues to choose for private investors to provide it.

We investors in turn are looking for a range of housing types in which to invest and many of us prefer smaller buildings.

I for instance am interested in providing co-housing for elderly women, who much prefer to live in small groups, in houses, in the suburbs where they may have lived all their lives.

Many people of all ages are interested in co-living. Many are professional and essential workers, who want to be part of the community and to have the choice of living in busy town centres or among standard family housing in the suburbs.

There are also many groups in need of inexpensive, good quality accommodation, including singles and DV survivors who need to be included rather than isolated from the community.

So, I ask that the SEPP plan includes a category of small co-housing, of perhaps up to 5 or 6 rooms, ensures that these are allowed in all residential areas, including low density, and allows them as complying development.
Thank you
[REDACTED]

I agree to the above statement
Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 9 August 2021 6:38 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, 09/08/2021 - 18:37

Submitted by: Anonymous

Submitted values are:

Submission Type

I am making a personal submission

Name

First name

Rita

Last name

Hogel

Organisation name

Small Is The New Big

I would like my submission to remain confidential

No

Info

Email

ritahogel@gmail.com

Suburb

Bellingen

Postcode

2454

Submission

Dear Sir/Madam,

I am a 72 year old fit female with 2 properties in Bellingen, NSW and a few of my similar age female acquaintances and friends in Bellingen and Coffs Harbour are not in as good financial position as I am.

Bellingen had housing shortages even well before covid, but now its even worse.

I also manage and renovate my 38 year old daughter's place in Bellingen who lives overseas plus another daughter (41) is thinking of renting out her place in Bellingen as she plans to move in with her partner.

So I am talking about 4 houses which could be used to benefit older women or young singles who have secured a job in Bellingen and are looking for affordable accommodation right in or very close to town.

My principal place of living is in Qld (and I am a lot of the time in Bellingen) and I am advocating that NSW implements in the new SEPP the useful strategies which have proven successful on every level in other states, eg:

ALLOW A SMALLER AFFORDABLE 3 TO 5 BEDROOM CO-LIVING MODEL ,

BYPASS COUNCIL BY ALLOWING A PRIVATE CERTIFIER TO CHECK IF ALL DEVELOPMENTS ARE COMPLYING (like in Qld and Vic)

ALLOW THIS IN LOW DENSITY AREAS R2

I have been to Affordable Housing meetings in Bellingen where council staff has attended as well (eg Daniel Bennett) and there is a lot of goodwill and ideas there. ("Bellingen Affordable Housing" facebook)

But ACTION needs to happen on a higher level.

Honestly in my dealings with Bellingen Council over the last 25 years I can only congratulate them. They do such a good job (of course residents who have no insight in how things work complain), they are overworked with more and more work due to legalities, responsibilities, insurances etc and TAKING ONE JOB OFF THEM by giving it to a private certifier to streamline quick approval would be of great benefit to council.

So please include in the SEPP above suggestions.

They benefit everyone:

- 😊 council has less work and is praised for catering well for all demographics.
- 😊 the well-being of the Bellingen community can continue to thrive by not being pulled down by rising homelessness. The Facebook page "Bellingen Rentals Grapevine and Share Accommodation" is full of able people unable to find a place to rent and having to leave the area.

These are single young people, dads and mums with one child, young couples having found work, a lot of older homeless women whose relatives live in Bellingen.

- 😊 kids with one parent can stay at their local school and dont have to move BECAUSE the rental has been sold and they have to move interstate or face homelessness.
- 😊 local schools loose five figure government funding because enrolment numbers are or will dwindle plus they lose staff and all other kids are offered less elective subject choices
- 😊 local businesses are affected if locals can stay and continue their jobs
- 😊 communities are dying eventually if mainly old and rich people can buy the 1 million plus properties and young working couples saving for a deposit or single working people cant find any places to live
- 😊 local nursing homes, aged care facilities and older people living at home need younger able support workers and health care workers who can afford living locally.

Younger people are saving \$ 200 a week on rent by being able to move into a co-living property instead of paying \$ 450 a week for a house and therefore they can save for a house deposit!

PLUS many of them enjoying the company of like minded young people working in eg health care or a trade, while still having their independence and privacy by having their own small well functioning space.

- 😊 property owners benefit financially and can pay more taxes.

Eg the usual 4 to 5 bed, 2 bath property was getting \$ 500 rent.

They spend an extra \$ 50,000 to transform it legally (and with all compliances and insurances in place) into a 5 bed, 5 bath with or without small kitchenettes plus a communal big kitchen with stove for cooking and communal inside and outside spaces.

They and rent it out to 5 singles, parent and child or older people paying eg \$ 200 to \$ 250 each and getting 2 times the rent after all deductions (mortgage, utilities, repairs and maintenance, insurances, fire and safety monthly or yearly checks, council rates, more tax on higher income).

So it's a WIN - WIN situation!

Thank you for helping to co-create and maintaining the world's best country to live in: Australia.
BTW, I am a migrant from Germany and I appreciate living in this country.

Kind regards

Rita Hogel
3 Dillon Close
Bellingen NSW 2454


ritahogel@gmail.com

I agree to the above statement

Yes

Mr Marcus Ray
Deputy Secretary, Planning & Assessment
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Attention: Housing Policy Team (via Planning Portal)

Dear Mr Ray,

RE: Draft State Environmental Planning Policy (Housing) 2021

SMEC welcomes the opportunity to provide comment on the draft State Environmental Planning Policy (Housing) 2021 currently on exhibition.

We are supportive of the intent to streamline the planning system and the consolidation of five (5) existing housing related SEPPs into one environmental planning instrument. SMEC appreciates the aim of the proposed Housing SEPP is to facilitate the delivery of diverse housing that meets the needs of the State's growing population.

To ensure the draft Housing SEPP is robust and promotes diverse and affordable housing opportunities, the following recommendations should be considered prior to the finalisation of the policy.

Recommendations:

- *The Seniors Living Policy: Urban Design Guidelines for Infill Development (2004)* is outdated and should be revised;
- Clarification is required to determine how a consent authority will consider whether the design of a development is compatible with the character of the local area;
- The financial feasibility of an affordable housing development being used for at least 15 years is misaligned with national housing funding terms of 10 years;
- The prohibition of boarding houses from the R2 Low Density Residential Zone will exclude an important affordable housing typology and should be amended; and
- The Vertical Village bonuses proposed should be permissible in any zone where shop top housing is permitted.

Our submission is focused in nature and does not consider all aspects of the draft policy. The table below outlines a number of matters for your review and consideration.

[Redacted Table]

Yours sincerely,

[Redacted Signature]

[Redacted Name]

CLAUSE	DESCRIPTION	COMMENT
CHAPTER 2 – AFFORDABLE HOUSING		
Part 2 Development for affordable housing		
17 Non-discretionary development standards – the Act, s 4.15	(j) if paragraphs (h) and (i) do not apply, the following minimum floor areas— (i) for each 1-bedroom dwelling—65m2, or (ii) for each 2-bedroom dwelling—90m2, or (iii) for each dwelling with at least 3 bedrooms—115m2 plus 12m2 for each bedroom in addition to 3 bedrooms.	The proposed default minimum bedroom sizes are supported as they are currently too small.
18 Design requirements	(1) Development consent must not be granted to development to which this Division applies unless the consent authority has considered the following, to the extent to which they are not inconsistent with this Policy— (a) the Seniors Living Policy: Urban Design Guidelines for Infill Development published by the Department of Infrastructure, Planning and Natural Resources in March 2004, (b) for development for the purposes of a dual occupancy, manor house or multi dwelling housing (terraces)—the Low Rise Housing Diversity Design Guide.	<p>For dual occupancy, manor house or multi dwelling housing (terraces) – does the Seniors Living Policy: Urban Design Guidelines also apply, or just the Low-Rise Housing Diversity Design Guide? i.e. is it an ‘and’ or ‘or’ between (a) and (b)?</p> <p>The Seniors Living Policy: Urban Design Guidelines for Infill Development (2004), is outdated and should not be promoted in the statutory draft SEPP but instead revised.</p>
	(3) Development consent must not be granted to development to which this Division applies unless the consent authority has considered whether the design of the development is compatible with the character of the local area.	<p>The consent authority will be required to consider the ‘character of the local area’, however, this is very subjective and a potential restriction on new housing typologies being encouraged by the draft SEPP.</p> <p>Furthermore, to ensure consistency and/or clarification of a development being compatible with the character of the local area, would the consent authority be referring to the NSW Government’s Local Character and Place Guideline (2019) or some other policy document / DCP, or the like?</p>
20 Must be used for affordable housing for at least 15 years	(1) Development consent must not be granted under this Division unless the consent authority is satisfied that for	The increase from 10 years to 15 years is supported. It should, however, be noted that NHFIC

CLAUSE	DESCRIPTION	COMMENT
	<p>a period of at least 15 years commencing on the day an occupation certificate is issued....</p> <p>(a) the affordable housing component of the development will be used for affordable housing, and (b) the affordable housing component will be managed by a registered community housing provider</p> <p>(2) Subsection (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by, or on behalf of, a public authority.</p>	finance terms are 10 years and may impact on a CHP's ability to refinance their dwellings.
Division 2 Boarding houses		
24 Standards for boarding houses	(1)(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	It is queried whether this is supposed to be a minimum standard rather than a maximum?
Division 5 Residential flat buildings – social housing providers, public authorities and joint ventures		
35 land to which Division applies	(1) This Division applies to the following land— (a) land in the Greater Sydney region within 800m of— (i) a public entrance to a railway station or light rail station, or (ii) for a light rail station with no entrance—a platform of the light rail station	Is it intentional that distances from bus stops have been removed and if so, why?
CHAPTER 3 – DIVERSE HOUSING		
Part 3 Co-living housing		
Co-living housing as an additional housing type in the Housing SEPP is supported.		
A definition of co-living housing is needed.		
Part 4 Seniors housing		
Division 3 Development standards		
76 Development standards for seniors housing – Zones RE2, SP1, RU5 and R2	(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.	Independent living units have been removed from R2 zone. However, this zone is compatible with ILUs.

CLAUSE	DESCRIPTION	COMMENT
SCHEDULE 1 AFFORDABLE HOUSING PRINCIPLES		
1 An affordable housing condition is authorised to be imposed, the condition should be imposed so that mixed and balanced communities are created.		This clause is not well written and does not make sense
SCHEDULE 7 AMENDMENT OF OTHER ENVIRONMENTAL PLANNING INSTRUMENTS		
7.2 State Environmental Planning Policy (Sydney Region Growth Centres) 2006 Appendices 10, 11, 12 and 13	Omit “Boarding houses;” from the Land Use Table, Zone R2 Low Density Residential, item 3 wherever occurring.	In Schedule 8, many regional areas and some parts of the Greater Sydney area do allow boarding houses in the R2 zone. Why the difference? Is it justifiable?

GENERAL COMMENTS

The intent of the draft SEPP is to promote diverse and affordable housing which is commendable. Notwithstanding, consideration and innovative solutions need to be given to ‘future proofing’ the housing policy. While a number of new initiatives have been considered i.e. co-living, supportive accommodation, additional housing typologies such as, but not limited to, the following could be included:

- Multi-generational housing;
- Adaptive re-use as infill development; and
- International ‘best practice’, one example, Pocket Living, Fizzy Living (London).

The prohibition of boarding houses from the R2 Low Density Residential Zone is contrary to the intent of the policy to provide affordable housing. To prohibit boarding housing in the R2 zone seems to be driven by community “push back” on this type of housing – a good opportunity to education the community of the benefits and importance of this type of housing.

Seniors Housing needs to be well located and providing opportunity for older cohorts to age in their communities. Therefore, the vertical village bonuses being proposed, should be permissible in any zone where shop top housing is permitted to ensure senior vertical villages are encouraged in town centres, mixed use and business zones where RFBs are typically prohibited.

29 Aug 2021

Department of Planning & Environment
4 Parramatta Square
PARRAMATTA NSW 2150

DRAFT HOUSING SEPP CONSULTATION DRAFT

Thankyou for the opportunity to provide comment on the draft State Environmental Planning Policy (Housing) 2021 (Housing SEPP), and associated draft Regulation changes.

I provide this submission on the basis of my experience:

- Designing housing for social housing providers as an architect
- Designing seniors housing for developers as an architect
- Member of design review panels across councils reviewing this form of development
- Member of planning panels – determining applications covered by this development
- Consultant to DPIE on housing policy and complying development – including my engagement to peer review the original ARH SEPP in 2009 and provision of the guidance material.
- Expert in Land and Environment Court – acting for council and applicants.

I generally support the proposed changes and consolidation of the SEPPs in order to deliver a diverse choice of housing for the people of NSW. We also applaud the use of design guidelines to ensure that the housing provides high levels of amenity and that the development will have a good fit within the communities in which they are located. Good design quality and amenity is essential for this form of housing to enhance the lives of the future residents and ensure acceptance of this development by the wider community.

The proposed draft appears to be able to balance the fine line in providing incentives for development to occur and protecting the amenity of the future residents and the character of the local area.

Currently development under the ARH SEPP makes up for a disproportionate amount of matters in the Land & Environment Court. This is most often as a result of tensions between controls in the LEP / DCP and SEPP, and / or poorly drafted controls in the SEPP. This is often unfortunate given the intent to deliver housing for those most in need and the cost constraints in doing so. The comments below draw on the experience of members and if incorporated will hopefully reduce these conflicts.

I would be delighted to meet with you to discuss these recommendations in further detail and provide evidence and examples of both good and bad development outcomes to assist in the finalisation of the SEPP.

STANDARD INSTRUMENT AMENDMENT ORDER

Proposal	Comment
Boarding House definition	Support the changes to the definition of boarding house and inclusion that it must be used to provide affordable housing.

ARCHITECTURE

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Architects Act Nominated Architect:
Peter Smith 7024

Co- Living	How is this different to a residential flat building that comprises only studio apartments?
Independent Living unit	Why do these need to be separately defined?

Other matters to be address:

There needs to be a clear distinction between the different forms of residential accommodation within the Standard Instrument so that developemnts can be properly characterised.

There is confusion within the industry as to whether 'rooms' within a boarding house, (and the same can be said for the new "co-living" definition) are also dwellings (as defined by the SI Instrument)– in instances where a kitchen, bathroom and laundry are contained within the room. The Land Environment Court¹ has determined where this is the case it is a dwelling. This has implications for relationships to the BASIX SEPP, but also provides limited distinction between what would be otherwise be a residential flat that comprised studio apartments.² To avoid confusion we recommend either of the following:

- State that room in a boarding house or co-living development is not a dwelling (preferred)
- Avoid the word 'room' in these definitions and refer to them as dwellings

Where there is such similarity between definitions, then

Note: Although the SEPP places restrictions on room sizes, where definitions are provided within the LEP, a development application can be submitted that does not use the SEPP, and hence avoids these restrictions.

Recommendation

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT (HOUSING) REGULATION 2021

We support the amendments proposed to this instrument.

As noted below, there are aspects of the Seniors Housing provisions that we believe are better placed as requirements of development application, or conditions of a development application rather than development standards in the SEPP.

This can operate similar to the provision Sched 1, Part 1, (2)(p) that requires a statement of

Note: This provision needs updating ias it refers to the ARH SEPP

¹ [SHMH Properties Australia Pty Ltd v City of Sydney Council - NSW Caselaw](#)

² A residential flat building is defined as "a building that contains 3 or more dwellings". Residential flat buildings are also required to be leased for more than 3 months (otherwise they become tourist and visitor accommodation) and can also have shared facilities, can have management services and can also be used for affordable housing

Recommendation:

DRAFT HOUSING SEPP

General Comments:

Land use zones:	<p>Historically, conflict has occurred within the planning system in NSW where SEPP's are seen to override the Local Environmental Plan. Care needs to be taken to ensure that development within an area meets the community expectation and balances this with the need for diverse housing.</p> <p>Amendments made to the Standard Instrument (and by default the LEP) ensure provide better communication to the community about the development permissible in their area.</p> <p>It is encouraging to see this mostly resolved with respect to land use in the draft.</p>
Bonuses	<p>While the Institute supports the use of bonuses to incentivise affordable housing, the size of the bonus should be relative to the scale of development, extent of affordable housing provided and the context.</p> <p>Many bonus provisions are provided but there is no guidance in most of the sections as to how the existing controls should be expanded to accommodate the larger form created by the bonus. The additional height provided in the Seniors Housing Part is a good example as to how it can be resolved.</p>
Mixed use of definitions and controls	<p>One of the challenges with the existing SEPPs is the use of terms that are different to those in the Standard Instrument or other policies. There should be a consistent use of terms across all planning policies in NSW. (eg landscaped area and deep soil)</p>
Accessible Area	<p>It needs to be made clear whether the 'accessible area' provisions is or is not a development standard. There have been a significant number of disputes in the LEC on this. Would be beneficial to ensure this is</p>

	made clear - either way.
Character test	The continued application of the character test is supported. However guidance is needed on how to analyse character and the extent to which the urban fabric around the development informs that character. We understand these guidelines were prepared in 2016 being "Draft Local Character and Compatibility Guidelines" This guide will be useful for applicants and councils and neighbours to better understand local character. We recommend it's inclusion by reference into the SEPP.

CHAPTER 1 – Affordable Housing

Cl	Proposal	Comment	Recommendation
3	Aims	No mention of design quality or amenity. Aim with respect to transport and proximity is vague.	Amend (f) <i>To provide housing that is well located close to transport and facilities, especially for seniors or people with a disability</i> Add new (g) <i>To provide housing that is has good design, contributes to the context, and has good amenity.</i>

CHAPTER 2 – Affordable Housing

Cl	Proposal	Comment	Recommendation
	PART 2 DIVISION1	INFIL AFFORDABLE HOUSING	
15	% of area used for affordable housing	Councils often dispute the calculation of the % of area used for affordable housing. Many applicants include corridors and floor area outside the dwelling (but may directly or indirectly service the dwelling) towards the area calculation. This has the effect of deflating the actual provision of affordable housing.	Add (3) <i>In this division the reference to gross floor area for the purpose of affordable housing includes only the area of the dwelling.</i>
16	Floor space ratio bonus	Where an existing FSR is less than 1.2:1, a 0.5:1 bonus is substantial, and is challenging. In particular in areas where the FSR is less than 0.5:1 – eg FSR 0.4 + 0.5 bonus – 225% larger than surrounding development.	Affordable housing bonus provision is a flat 20
16(2)		This clause is largely redundant, except when the FSR is less than 0.5. In other instances it is	

		confusing. See above	
17(2)(b) and (c)	Landscaped area	<p>Only suitable for low rise developments. For example apartment building with FSR 1.2:1 on 1500m² site (total FSR 1.7:1) – say 28 units. 35 x 28 = 980... = 65% site area.</p> <p>Further use of the landscaped area term is confusing in this instance, as it is not consistent with the SI definition of landscaped area. This definition is closer to the contemporary use of communal open space in the ADG.</p> <p>It is unclear as to the purpose of this standard. Aside that it sets an unbuilt upon area, aside max 70% site coverage for development – however it still excludes paving.</p>	<p>Prefer to delete, but If considered necessary – replace with ‘communal open space – similar to the ADG.</p> <p>Reduce to 25% site area – to be consistent with ADG.</p>
17(2)(d)	Deep soil	The definition in the dictionary of the draft SEPP suggests it has the same meaning as the definition of ‘landscaped area’ in the SI.	Replace term ‘deep soil’ with ‘landscaped area’
17(2)(e)	Solar access	<p>3 hrs contradicts the 2hr design criteria in both the Apartment Design Guide and the Low Rise Housing Diversity Guide.</p> <p>3hrs is only suitable for low rise / low density suburban areas – eg dwelling houses / villas / dual occupancies.</p>	Replace 2hrs with 3hrs to be consistent with current planning practice.
18(1)	Design Requirements	<p>There are 2 versions of the Low Rise Housing Diversity Design Guide. The version for development applications³ includes Multi-dwelling housing.</p> <p>Reference to the older Seniors Living Policy, is largely redundant</p> <p>Not all apartment buildings are subject to the Apartment Design Guide (for example those that are only 2 storey) The Apartment Design Guide is a better reference guide than the Seniors Living Guide.</p>	<p>Add ‘multi dwelling housing’ to the list of development in 18(1)(b)</p> <p>Add : <i>for development for the purpose of a residential flat building” – the Apartment Design Guide.</i></p> <p>Remove reference to Seniors Living Guide (unless there is development not captured by the other guides)</p>
20	Period of time affordable	Strongly support.	
DIVISION 2		BOARDING HOUSES	
23(2)(a)	Bonus Floor space	Bonus should be provided on land that multi dwelling housing is permissible	Add ‘multi dwelling housing’
23(2)(h)	Communal open space	<p>20% of site area is a very large area.</p> <p>Better outcomes can be obtained to require a</p>	<p>Replace (i) with</p> <p>With total area of at least 30m²</p>

³ [Medium Density Design Guide \(nsw.gov.au\)](http://mediumdensitydesignguide.nsw.gov.au)

		smaller area of 'communal open space' that is functional.	
23(2)f)(g)	Communal Room	Minimum dimension of 3m is not sufficient to furnish a communal room. Suggest at least 4.5m to allow for a kitchen bench (0.6m) 1.5m circulation (required to be accessible), 1m table, 0.6m clearance on each side.	Amend minimum dimension to 4.5m
24(d)	Facilities	What does 'adequate' mean. This will become a point of dispute between council and applicant. The NCC provides minimum standards for bathing for class 3 buildings – so not necessary to include. Adopt NCC Class 2 standards for laundries	Laundries: Copy - NCC F2.1(ii) Kitchen: within the room -
24(h)	Minimum lot size	The minimum lot size for residential flat buildings can be very large. 1800 – 2500m ² Boarding houses operate most successfully when kept small in size. The purchase of land for a boarding house should not compete with market housing. This is most appropriate now with the requirement for them to be 'affordable housing' The 600m ² min ensures affordable land is available.	Allow minimum lot size of 600m ² across all zones.
24(j)	Building separation	Highly support in principle.	
24(k)	Room dimensions	One of the biggest problems I have seen is the poor proportion of rooms – some only with a clear dimension 2.4m wide (for single rooms) – imaging being stuck there in a lockdown. At these small areas, minimum dimensions are more appropriate than areas as the directly relate the furnish-ability and functionality of the room. Use of the term 'gross floor area' in this context is confusing. See attachment.	Delete reference to min area. Replace with minimum clear room dimension (exclusive of wardrobe, and cupboards) - 3m – single room - 4m – double room
25	Subdivision of boarding rooms	This clause does not prohibit subsequent subdivision of a boarding house.	Add additional subclause to cl2.6 of standard instrument – same as secondary dwelling.
	Seniors Living Guideline	Old design guides are still referenced such as the Seniors Living guidelines which were produced over 17 years ago to deal with single storey villa homes for Seniors in suburban settings and these need updating to service affordable housing and seniors living projects	
	Housing Diversity	We support the reference to this guide.	

Guideline	The Regulations should be amended to require a design statement that addresses the objectives of the guideline and that development be designed by a qualified designer. – Similar to	
Character	Character is still a major driver for most of the development types which is appropriate however guidance is needed on how to analyse character and the extent to which the urban fabric around the site informs that character.	
Solar access	The requirement for 3 hours contradicts 2 hours required by the ADG and the Low Rise Housing Diversity Design Guide. 3 hours is difficult to achieve in urban areas. Suitable for single storey housing forms only.	
DIVISION 5	SOCIAL HOUSING PROVIDERS	
39	Period	Increase to 15 years for consistency with
PART 2 – GROUP HOUSING	This section does not have any controls or quality standards applying. There is not even a character requirement, but it can be in R 2 zones. It allows car ports in front of	

CHAPTER 3 – Diverse Housing

Cl	Proposal	Comment	Recommendation
PART 1		SECONDARY DWELLINGS	
		No comment	
Part 2		GROUP HOMES	
58(2)(C)		Reference to carport setback – should this be 1m behind the front building setback” – this is typical in most planning policies	
Part 3		Co-living housing	
63	Permissibility	Support	
64(2)(a)	Bonus	Support 10% bonus. However the should only be awarded if all residential accommodation is used for co-living housing.	Delete words “the additional floor space” and replace with “ <i>all residential accommodation</i> ”
64(2)(b)	Solar access	This is too important and should be a development standard	Move to cl 65
64(2)(g)	Car parking	1 space per dwelling is a lot. Area for car parking equals area for development. Footprint for car park space and circulation is approximately 26m ²	Reduce to 0.5 spaces per room
64(3)	Repeal bonus	If bonus is dedicated to co-living then it should	Adopt recommendation above for

		not need to be repealed.	bonus and delete.
64(1)	Generally	<p>It is unclear as to the purpose of these provisions. Co-living appears to be non-affordable apartments in a building that cannot be subdivided.</p> <p>Consider how this development is distinguished from a 'build to rent' residential flat building.</p> <p>This is a repeat of the boarding house provision. Given it is largely market housing – these standards should be different. DPIE carried out extensive work on 'micro apartments' in 2017-2018 the guidelines developed should form the basis of these standards.</p> <p>It is noted that there is no maximum area for the room.. One key aspect that distinguishes this from a residential flat building full of studio apartments is the size of each dwelling. The ADG specifies a minimum floor area for a Studio – 35m². This could be the trigger.</p>	<p>Maximum floor area for each private room – 35m²</p>
64(1)(a)	Room sizes	<p>Areas are too small and do not guarantee furnish ability. A bedroom in a residential flat building is required to have greater amenity.</p> <p>Use minimum dimensions rather than areas – these relate more closely to the furnish ability of the space and will by default exclude inclusion of hallways, corridors and space taken up by wardrobes. The rooms need to be large enough for functional living. Given these spaces often need to accommodate:</p> <ul style="list-style-type: none"> - Bed - Storage for clothes and other goods - Table with one or two chairs - Circulation to kitchen and bathroom - Comfortable chair or lounge for reading or watching TV - Small desk <p>It is critical that this area specified be the clear floor also exclude space for ward</p>	<p>Delete (i) and (i) replace with:</p> <p>minimum clear dimension, excluding wardrobes or cupboards: Single occupant: 3.5m Two occupants 4m</p> <p>Alternatively retain the areas but require that the specified area have a minimum clear dimension of 3.5m.</p> <p>Areas should probably increase – testing required.</p>
64(1)(b)	Min lot size	<p>Same comment as for boarding houses – this is a very useful form of infill development and can be accommodated on lots much smaller than those for residential flat buildings</p>	<p>Minimum lot size – 600m² for all zones</p>
64(1)(c)	Setbacks	<p>It is unreasonable to require compliance with setbacks as a development standard. This is an area where flexibility is required to ensure</p>	<p>Delete</p>

		compatibility with context.
64(1)(g)	Manager facility	Appropriate it is not a 'room'. Space should be separate from common area so it is secure. Area does not need to be specified.
PART 4		SENIORS HOUSING
	Generally	Unlike other sections this Part is very difficult to read and is overly complex with multiple definitions or terms. Much of it has been translated from the existing Seniors SEPP which was drafted pre Standard Instrument.
72	Definitions	To avoid confusion – locate all definitions within the Dictionary. There is no justification as to why the definition of gross floor area should be different to the standard instrument definition. The current definition in the Seniors SEPP was drafted prior to the Standard Instrument. This definition causes substantial confusion in the industry. In saying that – this definition is better than the one in the standard instrument in that it removes commonly disputed exclusions.
74(2)(c)	Height	Better outcomes are achieved where the height limit references the LEP height limit
74(3)	Height exception	This is a useful clause for lift overruns and plant – it should be incorporated into the SI.
76(d)	Restriction of seniors housing on R2 land	Other forms of seniors housing are appropriate on R2 zoned land where multi dwelling housing or residential flat buildings or other multi dwelling residential accommodation is permitted or where seniors housing is permitted in the land use table. This enables 'aging in place'. R3 zoned land is very much limited in the Sydney Metro area..
85	Design Infill self care housing	This guide is now out of date and superseded by more useful guides. ILU in the format of a residential flat building should be considered as SEPP 65 development.. Replace with: Must consider the design principles and objectives contained within: - <i>Apartment Design Guide</i> where dwellings are in the format of a residential flat building - <i>Low Rise Housing Diversity Guide for Development Applications</i> where the development contains development in the form of a manor house or multi-dwelling housing

90	Stormwater	Why is this a design principle. Stormwater provisions are adequately provided in LEP's and DCP's	
93	Waste Management	This is not a design principle that is typically contained in a contemporary SEPP – this content is adequately provided in DCP's	
96(2)	Non-discretionary standards	What is the purpose of a development standard at 74(2) of max height 9m, if the non-discretionary standard is 9.5m I understand the bonus incentive for hostels and residential care facilities – but the development standard is unnecessary in this context.	Delete development standard.
		Reference to landscaped area and deep soil area as discussed previously needs to be reviewed	Replace 'deep soil zone; with 'landscaped area' Replace 'landscaped area' with "communal or private open space" which are contemporary terms for the recreation area.
97(2)	Non-discretionary standards ILU	As above resolve use of 'landscaped area' and 'deep soil area'	Either delete reference to landscaped area, or replaces with "communal or private open space" and replace 'deep soil zone' with landscaped area.
97(2)i)	Balcony dimensions	How can a balcony that is 2m wide provide circulation space around furniture	Increase to 2.5m or 3m min dimension.
Division 8		Vertical Villages	
	Generally	The term 'vertical village' is confusing. It is not defined. Is it necessary? It would read more clearly if this section was titled " <i>Seniors housing on land zoned for residential flat buildings</i> " This whole division could then be deleted and clause 99 inserted into cl 74	Remove reference to vertical villages.
99(1)	Vertical Villages – min lot area	What if residential flat buildings are permissible on land with an area less than 2000m ² .	Refer to min lot size of residential flat buildings in an LEP.
99(2)	Bonus	Generally support.	

Schedule 2 – Secondary Dwellings Complying Development

Cl	Proposal	Comment	Recommendation
	Generally	Standards and definitions are not consistent with the Housing Code in the Codes SEPP. This creates significant confusion.	

It is also very difficult to create a single CDC for a dwelling house and secondary dwelling when you need to do different calculations.

Eg:

Landscaped area controls are different
 Landscaped area is defined differently in the draft SEPP – the Codes SEPP uses the SI definition
 Site Coverage is no longer used

Schedule 5 – Standard concerning accessibility and usability

Cl	Proposal	Comment	Recommendation
	Generally	<p>The content of these standards contains items that are not suitable as development standards. The LEC recently decided that a development that does not demonstrate compliance with an item in this standard is required to vary the standard with a 4.6 variation.</p> <p>This schedule was developed prior to contemporary standards such as Liveable Housing.</p> <p>Should a development standard require 'D' pull handles in the cupboard or specify that power point locations. Is this necessary information in a development consent?</p>	<p>Replace schedule for ILU with requirement that all dwellings designed to satisfy Gold or Platinum Level Liveable Housing.</p> <p>Reference made that the development demonstrate it is capable of compliance with the standard.</p> <p>Full compliance demonstrated by condition of consent at CC stage,</p>

Dictionary

DICTIONARY			
	Accessible Area	Support the use of walking distance as a measure of distance.	
	Dictionary – Landscaped Area	<p>This is defined differently in the standard instrument LEP. It is confusing to have a terms that have different meanings.</p> <p>In contemporary planning policies this definition provided is closest to communal and private open space.</p> <p>Please use another term or use the same definition as provided in the standard instrument.</p>	Amend clauses as noted above
	Deep Soil Zone	This definition effectively matches landscaped area in the SI LEP. Not necessary if definition above is amended	Delete reference to deep soil zone and replace with landscaped area as defined by SI LEP

Walking Distance	Fantastic!! Great to finally have an agreed definition
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Please contact the undersigned to discuss any of the recommendations further.

Yours Faithfully
SMITH & TZANNES,



Peter Smith
Director
Registered Architect 7024



27th August 2021

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

RE: SUBMISSION TO DRAFT SEPP (HOUSING) 2021, PART 4 SENIORS HOUSING

SNL Building Constructions (SNL) are a construction company based in the Lower Hunter. We are focused on delivering a diverse range of quality residential projects, including both seniors living and affordable housing developments.

We welcome the opportunity to make a formal submission on the State Environmental Planning Policy (Housing) 2021 consultation draft instrument.

The aims of the draft policy which seek to facilitate the delivery of diverse housing that meets the needs of the State's growing population and support the development of a build-to-rent sector are supported by SNL. However, we have concerns that some components of the policy, as drafted, do not deliver on those objectives, and act as a direct disincentive for appropriate housing outcomes.

Schedule 4 – Flood Planning

We have significant concerns in relation to Section 68(1)(b) and Schedule 4 of the Draft SEPP, as they relate to land identified as 'flood planning'. The Flood Planning reference is too broad and is not defined within the draft instrument or the Standard instrument. It is unclear specifically what the limitation actually is, to enable all users of the policy to clearly and readily identify specific land that is excluded.

We are concerned that the instrument as drafted may act to prevent the development of seniors housing on sites which are partially flood affected but could still be appropriately developed for this purpose. Whilst flood planning is a relevant assessment consideration for seniors housing, circumstances vary and there are many examples where land that is affected or partially affected by flood planning controls can still reasonably accommodate seniors housing development, without resulting in any significant risk of flooding to life or property.

SNL currently have a significant landholding centred around 147A Newcastle Road, Wallsend. We are currently well progressed with the preparation a development application for a seniors housing development over the site. The site is ideally suited for a seniors housing development outcome, being appropriately zoned and well positioned within close proximity to existing services, transport facilities and recreational amenities.

A very small portion of the subject site is subject the local flood planning controls. Despite this, investigations carried out over the site indicate the site can be developed for seniors housing, with the flood risk posing a very low threat to life and property. It is our reading of Draft SEPP, that the instrument may prevent the development of the site for any form of seniors housing.

The sterilisation of land, no matter the extent of flood affectation, is inconsistent with the principles of the Floodplain Development Manual and the intent of the SEPP. The exclusion of land identified as “flood Planning” from the application of the SEPP appears to be an overreaction. We are not aware of development that has occurred in modern times that has placed seniors at risk due to flooding. It is far better for this matter to remain a merit consideration and for Council to simply refuse development should risk be too high.

The Figure below shows areas within the Newcastle LGA which are identified as affected by flooding as example of how extensive the implications of the flood planning references within the draft instrument may be.



Newcastle LGA – Flood affected Land

It is recommended that DPIE review the complete exclusion of land affected by ‘flood planning’ by excluding that from Schedule 4 and adding provisions which relate to assessment under flood planning clauses that now form part of the statutory planning system, in a similar way bushfire mapping and protection is provided for within the SEPP. Alternatively, a clearer and more specific definition of the broad exclusion is required so that it is clearly defined and communicated.

Clause 74(3), Clause 96(2)(b) and Clause 97(2)(b) - Height to facilitate appropriate servicing equipment

The intent behind this provision in introducing flexibility without the need for Clause 4.6 variations for appropriate servicing equipment is supported. However as drafted, Clause 74(3) appears to apply to all forms of seniors housing on all land, which we assume is unintended and otherwise works against the broad aims of the policy. There is also inconsistency between this and the drafting of other non-discretionary development standards that differentiate servicing equipment heights for different types of seniors housing, which again are not limited only to land in a residential zone where RFB are not permitted. It may be the intent of the policy that these provisions do not apply where RFB are permitted, but we cannot determine where that can be relied upon.

It is recommended that the content of Clause 74(3) should be limited only to land in a residential zone where RFB are not permitted and should be relocated to sit within Clause 74(2)(c) as new subclause (iii). Alternatively, the clause should be written more broadly to enable additional height up to 2.5m above any other height of building standard for servicing equipment on the roof in the circumstances listed.

Consideration should be given to the structure of this clause and others which enable varying heights for servicing equipment with Clauses 96 and 97 and should be either limited only to land in a residential zone where RFB are not permitted or written to enable height above any other development standard for the circumstances as listed.

Non-Discretionary Development Standards (Clauses 96 and 97)

The protections afforded by these clauses as reasons for which development cannot be refused are well understood. With the clarification of these as non-discretionary development standards, their effect is unclear should an application not comply with them and seek a merits-based design outcome and flexibility as provided for under Section 4.15 (3) of the EP&A Act. Additionally, there are certain standards for the two grouped types of seniors housing which should not apply to all land or circumstances (for example height and FSR). This appears to be picked up at least in part for vertical villages including ILUs, by Division 8 Clause 100, but could be structurally made much clearer. The use of the word non-discretionary implies these standards must be complied with.

Consideration should be given to providing a mechanism for flexibility to consider merits-based design outcomes that vary from the non-discretionary development standards listed in Clause 96 and 97 other than Clause 4.6 or be clear that these are standards for which Clause 4.6 would apply. Alternatively, do not identify these as development standards, but simply criteria that if satisfied cannot be used to refuse an application.

It is also recommended that the Department consider circumstances where the standards only apply in residential zones where RFB are not permitted, particularly as it relates to height and FSR.

It would assist if the instrument identified as part of Clause 96(2) and 97(2) that these are in relation to development for those purposes “other than development undertaken under Division 8”, to be clear on hierarchy and application of the standards.

Vertical Villages Non-Discretionary Standards

The intent behind limiting the Clause 96 and 97 standards via Clause 100 is supported in principle. However, it is unclear why standards of height should actually apply (refer also above submission point 3). Again, the wording “non-discretionary” implies these clauses are mandatory.

It is recommended that DPIE review the need for any non-discretionary development standards for vertical villages and how those standards apply in conjunction with other provisions

Please do not hesitate to contact the undersigned should further clarification be required on this submission.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'Leonie Lewis', is positioned above the printed name.

Leonie Lewis | B Comm

Finance & Development

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Comments on Proposed Housing SEPP (Aug 2021)

1. Introduction:

No mention is made of the need to plan communities that will meet people's social and emotional needs as well as their physical needs for shelter. The main objective is stimulating the economy via the construction industry, and the priority is high-density housing. It's very narrow-minded. An alternative would be to find ways of providing more land so as to enable more low-density housing.

2. Background p 3

- (paragraph 7) New land use terms to be introduced to make sure residential development will lead the economic recovery. That's the priority, not well-designed, attractive, sustainable housing.
- (paragraph 8) The new SEPP is "designed to attract institutional investment and provide for a more stable rental sector." This implies that home ownership is not as important as "stable rentals." The priority again is providing jobs in the building industries and encouraging large-scale investment in that sector.

3. Background p 4

(bottom of p 4): SEPP currently includes all NSW councils. Not a good idea. Councils should be able to opt in to any housing SEPP and should not be forced to be guided by the state policy. (see example of Tweed Council recently opting out of the SEPP governing rural land-sharing communities so they could prevent further MOs from being proposed or built in the shire.)

4. New Housing Diversity pp 5-6

The three new types of housing are all questionable. Again, the priorities are to "provide new opportunities for institutional investment in residential development" and create jobs in the building industry.

> Build-to-rent housing, especially with a "density bonus" means large-scale, high-rise apartment buildings with the smallest possible units and little parking.

> Purpose-built student housing is to attract international students. One-room apartments with built-in desks?

> Nothing wrong with "co-living" but the state shouldn't consider this to be a desirable arrangement for the majority of the population. Only people who have known each other well for quite a while should contemplate a co-living arrangement. It shouldn't be encouraged via a SEPP. Such developments could easily become nightmares for the residents if this category is treated like another form of BTR housing, which is what it appears to be here.

- Next to last bullet at bottom of page 5 seems good: LEPs to prevail if there's an inconsistency between LEP and SEPP.
- Last bullet says a "Site Compatibility Certificate" would be valid for 5 years. Seems far too generous. A lot can change in 5 years.
- Third paragraph up from the last on p 6 proposes LAHC projects to automatically become State Significant Development, which will make it extremely difficult for local people to have any say in them.

5. New Housing Types (pp 7-8)

- Note 1/2 parking space per dwelling or less for the various types of dwellings. That means a lot of cars will be on the streets around those buildings. A car-parking ratio shouldn't consider only the number of dwellings but should take into account the number of visitors, tradies, and others who will have occasion to park at the location.
- BTR housing is described as "designed to attract institutional investment" (i.e., big property developers) and provide "a more stable rental sector" (which could easily mean consistent, hefty, annual increases in rent).
- NSW government wants to provide "more certainty" for big developers who will develop BTR housing (That could easily mean build as quickly and cheaply as possible, get the units on the market, and start collecting rents.)
- Again, these big apartment buildings (50+ units) are proposed to automatically be considered State Significant Developments, except in Sydney, so locals will have little say about the development.
- The state wants to make sure large-scale apartment buildings remain in the hands of the developers rather than becoming strata title or communally owned properties. This will benefit the developers and will relegate large numbers of people to renting permanently. It could be that the intent is to avoid creating even more Air BNB properties, but that's not clear. The focus is on building a lot more housing but not in ways that will encourage home ownership, which tends to be a stabilising factor in a community.
- No mention here of the need for dwellings that have COVID-safe designs, e.g., top-quality ventilation systems, plenty of outdoor space, etc. Maybe this isn't the document to mention this, but there's a lot of mention of post-pandemic recovery and nothing about what the characteristics of post-pandemic housing ought be.

6. Co-living (pp 11-12)

- Says "many people willing to trade size of living spaces for access to desirable locations." What are the "desirable locations" that make it worthwhile to live in very cramped quarters? This may be a good argument for cities (e.g., within walking distance of the Opera House), but what does this mean in regional areas? Will people want to live in a small, one-room apartment in a high-rise building because they can walk into the nearest small town?
- The attractiveness of co-living dwellings will depend heavily on design excellence, but inventive design is not a priority. The Proposed Definition is problematic: single ownership and on-site management of a building with a communal living space and "at least 10 private rooms" that may or may not have private bathroom facilities. Also, parking standards would be minimal and local councils could reduce parking requirements further.
- Looks like there will be ways to make these dwellings as unattractive as possible (for the residents), e.g., on page 13, bottom of the table: the communal space could be reduced if all the dwellings have private open space. So, for example, if every unit has a small balcony, the communal open space could be reduced considerably, meaning the developer could cram more units into the complex.

7. Boarding Houses (pp 14-15)

Top of page 15: Should boarding house rooms have to be rented at affordable rates for at least 10 years and then revert to market rates? I'd say no. If the purpose of the project is to provide affordable living arrangements, the project should remain an affordable dwelling for its lifetime. OR the stipulation could be that the residents themselves could band together to acquire ownership of the property and turn it into a strata-title property or a collectively owned and managed property (such as co-op buildings in the States).

** Have to note that this document does not suggest any provisions for allowing and helping people in affordable rental units to work together to take over ownership of their buildings. The plan seems to be 1) give developers a chance to gain profits in developing the building as affordable housing and then, in 10 years time, 2) profit again by converting the building to a market-rate apartment block.

On page 15 is the discussion of boarding houses in R2 zones. A particularly bad idea is this: *"It is proposed that provisions will be included in the new SEPP to ensure LAHC will be able to develop boarding houses on government-owned land in the R2 zone, regardless of whether an LEP allows or prohibits boarding houses in that zone. Where boarding houses are permitted in the R2 zone under an environmental planning instrument, the 12-room limit will continue to apply."* This SEPP should not enable boarding-house development in an area where the LEP does not allow it.

8. Group Homes (p 16): The proposed SEPP would control the conversion of a property into a group home, taking the decision out of the hands of the local council. This is wrong. Communities don't need "a quicker and easier process to allow an existing dwelling to be used as a group home." Such a conversion has to be carefully thought out, taking into account the needs of the expected residents and the issues that would arise in the neighbourhood if the conversion were to take place, e.g., increased traffic, safety considerations, etc.

9. Social Housing Provisions (pp 20-21): Bad idea to allow LAHC to self-assess social housing developments with two stories and up to 20 units and thus not have to obtain local council consent. Any development in a local council area should be subject to obtaining local consent after the people in the immediate area have had a chance to make submissions to council about it. And even worse idea to *increase* the number of dwellings that LAHC can self-assess to 60! Not only would this take control away from local councils, it also would put in place a one-size-fits-all approach to social housing across the state. Also note the point that lower car-parking rates might well be proposed for these developments.

On page 21, more comments about having LAHC self-assess "any type of residential accommodation ... under another planning instrument" and also updating self-approval provisions for social housing to self-assess "all residential development...proposed to be undertaken by or on behalf of LAHC on state-owned land." Self-assessment and self-approval should be reduced, not increased!

10. Infill (p 22). A questionable goal: "It is therefore proposed to apply the infill affordable housing bonus to all 'accessible areas' across the State." Infill development should be governed by local councils, not controlled by this SEPP and the "density bonus."

11. The Pipeline (p 22): Reference on this page to certain policies being “critical to the future pipeline of projects that LAHC needs to deliver...” and “to improve the feasibility of delivering new communities” (Focus here is on getting things built as quickly as possible, presumably with minimal interference of local councils.)

12. Lift exemption (p 22): Intention is to stop requiring lifts for two-story buildings if the development is done with a social housing provider. Not providing lifts is seen as a cost-saving measure, and that appears to be the priority rather than what seniors may need.

13. SSDs (p 23): Another mention of declaring LAHC projects to be State Significant Development, which will take decision making out of the hands of local councils.

20 March 2019

Mr Jim Betts

Secretary

Department of Planning, Industry and
Environment

4 Parramatta Square

12 Darcy Street

Parramatta NSW 2150

Lodged via the NSW Planning Portal

Dear Mr Betts

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

We thank you for this opportunity to make a submission in response to the draft *State Environmental Planning Policy (Housing) 2021 (Draft SEPP)*, and for extending the time for us to make our submission, as requested on Friday 27 August 2021.

Southern Cross Care (NSW & ACT) Limited is a not-for profit organisation founded in 1970, and has been operating for more than 50 years. Today, we provide care and housing to more than 3,500 people, and operate in over 40 locations across NSW and ACT. Providing affordable seniors housing is a key part of our offering, at a concessional ratio of 50.6%.

As an operator and developer of seniors housing and aged care services in NSW, we applaud the stated aims of the Draft SEPP which include ensuring an adequate supply of diverse housing in NSW, and encouraging the development of housing that is designed and located in a manner that meets the needs of residents, especially seniors or people with a disability.

However, we are concerned that unless the Draft SEPP is amended, some of its provisions will adversely impact the feasibility of developing seniors housing, resulting in reduced supply and increased costs not only for operators but also for seniors seeking to access quality and affordable housing in their locality.

These impacts are compounded by the findings of the Royal Commission into Aged Care Quality and Safety (**Royal Commission**), which require substantial refurbishments of existing facilities and different operating models for new facilities, involving significant investment by many operators including Southern Cross Care.

Summary of our recommendations

To address these concerns, we make a number of recommendations for amendments to the Draft SEPP, summarised as follows:

- 1 Reinstatement the permissibility of ILUs within R2 zones by amending or deleting clause 76(1)(d) of the Draft SEPP;
- 2 Preserve the permissibility of all forms of seniors in a range of SP2 zones, not just those in which 'hospitals' are permitted, by amending clause 67(1)(d) of the Draft SEPP to specifically permit ILUs, or deleting the clause altogether;
- 3 Provide greater flexibility around the requirements for access to services and facilities for seniors housing developments in regional areas, acknowledging that it is not practical for them to be situated within 400m of those services or a public bus service;
- 4 Amend the vertical villages bonus provisions in clauses 98 and 99 to properly incentivise these developments – we consider the minimum site area should be 1,500m² and the bonus mechanism should offer a fixed bonus equal to an additional FSR of 0.5:1, rather than the tiered system proposed by clause 99(2)(a). We also recommend the land to which these provisions apply be expanded beyond land zoned for residential flat buildings, to include other medium to high density uses such as shop top housing;
- 5 Extend the SSD approval pathway to all forms of seniors housing development having a CIV greater than \$30 million in Greater Sydney and \$20 million in regional areas, whether the development comprises ILUs, a RACF, or a combination of the two, without any requirements around the percentage composition of particular seniors housing types within the development;
- 6 Revise the non discretionary development standards, specifically the landscaped area requirements for ILUs by social housing providers (clause 97(2)(d)) to ensure dispensation is given to social housing providers as

intended, and the landscaped area requirements for RACFs (clause 96(2)(e)) to ensure that an appropriate level of amenity is preserved for residents;

- 7 Include savings and transitional arrangements which preserve the continued application of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP Seniors) for a period of three years after the Draft SEPP comes into force, for detailed development applications lodged under an approved concept proposal, sites undergoing staged redevelopment (where there is no concept proposal but development is nevertheless planned in a staged way) and modification applications where the site remains under development; and
- 8 Preserve the ability to subdivide land within B3 zones, to support the feasibility of seniors housing in areas of greater density by enabling developers to subdivide and sell parts of the site.

These eight recommended changes are of paramount importance to Southern Cross Care, and we urge the Department to adopt them before the Draft SEPP is finalised. In addition, we make further observations about how the controls could be better refined to support the delivery of seniors housing, in section 9 below.

1 ILUs in R2 zones

We broadly support the abolition of site compatibility certificates, and the move to 'prescribed zones' to which the Draft SEPP applies, which provides greater clarity as to the permissibility of seniors housing.

However we are concerned that by making these changes, the Draft SEPP in fact reduces the amount of land to which the Draft SEPP applies, curtailing opportunities for seniors housing within both Greater Sydney and in regional areas. The proposal to permit only RACFs within R2 zones is an example of this, as is the confined application of the Draft SEPP to SP2 zones (discussed further below). Unless the relevant LEP permits seniors housing within those zones, then significant amounts of land suitable for seniors housing will be unable to realise its development potential in providing for the needs of seniors and people with a disability.

To illustrate how the Draft SEPP significantly curtails the opportunities for seniors housing, we point out that in the suburb of Plumpton just north of Mount Druitt, which has a total area of approximately 3km², 68.95% of the land is zoned R2. Assuming that development in each zone is achievable and every land parcel is suitable for development, on our analysis the Draft SEPP has the effect of significantly reducing the land available to be developed for ILUs, from approximately 80-90% (having regard to all land use zones within Plumpton) to approximately 8%.

Southern Cross Care owns land in R2 zones which is not presently developed for seniors housing, but which adjoins existing seniors housing facilities operated by Southern Cross Care and which, in some cases, cannot be accessed except from those existing facilities. Land of this kind is in Southern Cross Care's development pipeline. The prohibition of seniors housing within R2 zones, in this context, effectively sterilises that R2 zoned land, which is otherwise ideally suited to support an expansion of the relevant facilities, because existing use rights would not extend to the R2 land not presently used for seniors housing. An example of this is Southern Cross Care's site 'Norby' at 15 Hill Road, West Pennant Hills. This site is zoned R2 and has a site area of approximately 1,500m² but a small street frontage of approximately 4m. These attributes make the site best suited to being developed for ILUs to expand the existing Norby village, however this would not be possible if ILUs within R2 zones is prohibited by the Draft SEPP.

Southern Cross Care also owns a number of facilities within R2 zones, including vacant sites for which future development opportunities are being considered], and existing ILU villages which comprise older-style stock where opportunities to refurbish, expand or redevelop those villages are being explored. Examples include Southern Cross Village Corowa at 122 Guy Street, Corowa, Assumption Villa at 20-46 Brobenah Road, Leeton, and Cardinal Gilroy Village at 45 Barcom Street Street, Merrylands.

The feasibility of seniors housing developments relies heavily on ILUs, and we expect this to be even more so given the Royal Commission findings, which will see RACF developments become more costly to design and construct, and smaller in size. Co-locating a RACF with ILUs also provides the opportunity for residents to transition from an ILU to a RACF as they age, without having to move off site and potentially out of their local community.

Prohibiting ILU developments on R2 land will heavily constrains the opportunities for redevelopment or refurbishment of older-style stock, by making these ILUs reliant on existing use rights. Likewise, new ILU developments, and in-fill ILU developments around RACFs on R2 land will not be permitted.

Recommended change

The permissibility of ILUs within R2 zones should be reinstated, by amending clause 76(1)(d) of the Draft SEPP to specifically permit development for the purpose of ILUs, or alternatively, by deleting the clause altogether.

2 Seniors housing in SP2 zones

As discussed above, the 'prescribed zones' under the Draft SEPP will have the effect of curtailing opportunities for seniors housing. While we support the Draft SEPP's application to SP2 land where hospitals are permitted, we suggest the Department may not have fully considered the suitability of many other SP2 zones for seniors housing.

As clause 67 is currently drafted, the Draft SEPP applies only to SP2 zones in which development for the purpose of a 'hospital' is permitted. Other SP2 Infrastructure zones are often well suited to seniors housing developments, such as those in which 'health services facilities', 'place of public worship', 'educational establishment', 'community facilities' or 'seniors housing' are permitted. These types of SP2 zones are particularly relevant to religious charitable organisations (who may also be social housing providers) which may have significant landholdings in these zones. Where land within these zones is surplus to the needs of such organisations, and those organisations are not in the business of property development, this provides an opportunity for them to partner with seniors housing developers to deliver much needed seniors housing facilities.

Further, existing seniors housing developments within SP2 zones other than those in which 'hospital' is permitted will be subject to the same restrictions and challenges as R2 zoned land described above, through having to rely on existing use rights.

Examples of our landholdings within SP2 zones include:

- (a) 34 Sturt Street, Campbelltown, zoned SP2 Infrastructure (church, cemetery and seniors housing). This site is presently undeveloped, and even though the current SP2 zoning expressly includes use for the purposes of seniors housing, development for that purpose would no longer be possible under the Draft SEPP ;
- (b) Kildare Court at 216-218 Maroubra Road, Maroubra, zoned SP2 Infrastructure (seniors housing). This site is fully developed, but opportunities for redevelopment are being considered;
- (c) SCC Marsfield at 14 Vincentia Street, Marsfield, zoned SP2 Infrastructure (place of worship). This site is fully developed;
- (d) SCC South Coogee at 39 Gregory Street, South Coogee, zoned SP2 Infrastructure (educational establishment). This site is fully developed, but opportunities for redevelopment are being considered; and

- (e) SCC Young at 66 Demondrille Street, Young, zoned SP2 Infrastructure (health services facility). Only one quarter of this site is developed, and the remaining three quarters is yet to be developed.

Recommended change

The application of the Draft SEPP to land within SP2 zones under clause 67 should be expanded to include, in addition to hospitals, SP2 zones set aside for educational establishments, community facilities, places of public worship and seniors housing.

3 Vertical villages bonus

We support the Draft SEPP's retention of the concept of a vertical villages bonus, as a means of incentivising this type of development.

However, we are concerned that clauses 98 and 99, as currently drafted, do not provide operate as an incentive. The site area, the amount of the bonus and the land to which it applies are all factors which affect feasibility, and we suggest that each of these should be reconsidered as set out below.

In relation to the floorspace bonus mechanism itself, we do not think the tiered bonus provides a tangible incentive. A better approach would be to apply a fixed bonus equal to an additional 0.5:1, as is presently the case under SEPP Seniors.

The minimum site area of at least 2,000m² is too great, particularly given the land's underlying zoning is typically residential, for residential flat buildings to be permitted. As a not for profit provider of seniors housing, we cannot compete with residential property developers for large sites, or smaller sites where there is the opportunity to amalgamate them. Accordingly we suggest 1,500m² is an appropriate minimum site size. This balances the need for an adequately sized site to support greater density, with the affordability issue raised above.

The Department should also consider what other land can appropriately accommodate a vertical village, for example land where medium to high density uses such as shop top housing is permitted. This would also help to alleviate some of the competition for sites.

Recommended change

The vertical villages bonus provisions in clauses 98 and 99 should be amended to properly incentivise these developments. First and foremost, a fixed bonus should be provided instead of tiered bonuses. The fixed bonus should be equal to an additional FSR of 0.5:1. Second the minimum site area should be decreased to 1,500m². Third, the application of the bonus should be

expanded to include land where other medium to high density uses are permitted, such as shop top housing.

4 SSD approval pathway

We applaud the introduction of a SSD approval pathway for RACFs. We, like other operators, have encountered many difficulties in having this type of development approved at the local level.

However, we encourage the Department to look more broadly at seniors housing as a whole. ILU developments are equally deserving of State significant development status, given the importance of ensuring an adequate supply of diverse housing for seniors and people with a disability.

Elevating RACFs to SSD status without also doing the same for ILUs, and imposing a requirement that the RACF contribute to 60% of the CIV, ignores how critical ILUs are to making seniors housing developments feasible. Equally, as a result of the Royal Commission findings we expect that new RACFs will be smaller (and as a result, have a smaller CIV relative to ILUs) to meet the recommended new design and operational requirements.

Recommended change

The SSD approval pathway should be available to all forms of seniors housing development having a CIV greater than \$30 million in Greater Sydney and \$20 million in regional areas, whether the development comprises ILUs, a RACF, or a combination of the two, without any requirements around the percentage composition of particular seniors housing types within the development

5 Landscaped area requirements

There is a fine balance to be struck between giving dispensation to social housing providers to enable them to deliver an affordable housing product, and ensuring that an appropriate level of amenity is preserved for the residents. Our comments here on the landscaped area requirements for RACFs and ILUs seeks to strike that balance.

ILUs

In relation to ILUs, the Draft SEPP proposes that social housing providers provide at least 35m² of landscaped area per dwelling, and for non social housing providers, at least 30% of the site area is to be landscaped (clauses 97(2)(d) and (e)). We think the intention here is to provide dispensation to social housing providers, which we support in principle. However, the current drafting may have the reserve effect in some circumstances, for example where the ILUs are in a multi storey building. We suggest this should instead

be a choice between 35m² per dwelling or 30% of the site area, whichever is less.

RACFs

In relation to RACFs, the Draft SEPP proposes at least 10m² of internal and external communal open spaces for every bed and at least 15m² of landscaped area for every bed (clauses 97(2)(d) and (e)). In our view, the current SEPP Seniors is far more equitable in its approach for residents of RACFs, where by specifying a minimum 25m² of landscaped area per bed (clause 48(c) of SEPP Seniors). Our concern with the Draft SEPP is that it has 'split the difference' by taking 10m² from the landscaped area per bed requirement, and allowing developers to instead provide internal or external communal open space. Landscaped areas are an important provider of amenity to RACF residents who may seldom leave the site, and should not be reduced. Unless a site is severely constrained in the amount of landscaped area available, we suggest that instead of clauses 97(2)(d) and (e) of the Draft SEPP, the current provisions of clause 38(c) of SEPP Seniors should continue to apply.

Recommended change

Revise the non discretionary development standards described above.

The landscaped area requirements for ILUs by social housing providers (clause 97(2)(d)) should provide a choice between 35m² per dwelling or 30% of the site area, whichever is less, to ensure dispensation is given to social housing providers as intended.

The landscaped area requirements for RACFs under current clause 38(c) of SEPP Seniors should apply, instead of the provisions in clause 96(2)(e) of the Draft SEPP, to ensure that an appropriate level of amenity is preserved for residents.

6 Savings and transitional arrangements

We support the proposed savings and transitional arrangements in Schedule 6 of the Draft SEPP, which would allow SEPP Seniors to continue to apply to:

- (a) development applications made, but not yet determined; and
- (b) a development consent granted,

on or before the day SEPP Seniors is repealed.

However, the repeal of SEPP Seniors has real consequences for sites where staged development is taking place, or where a concept proposal has been approved, and detailed DAs are yet to be lodged.

It also has consequences for sites which are undergoing rezoning, which is a time intensive and costly process. If the State-based controls were to change part-way through the planning proposal process, this would risk compromising the delivery of seniors housing projects which have been carefully master-planned based on an understanding of how the State-based controls will operate, before the Draft SEPP comes into force.

For example, Southern Cross Care owns a site at 149 Boundary Road, Box Hill, which is zoned RU6. We have been progressing towards a planning proposal to rezone the land R2, on the understanding that SEPP Seniors would therefore apply. Unless our recommendation above in relation to R2 land is adopted by the Department, then the development potential of this land for seniors housing cannot be realised without savings and transitional arrangements which allow SEPP Seniors to continue to apply at least until after the land is rezoned.

Another example (discussed earlier in section 2 paragraph (e)), is SCC Young, at 66 Demondrille Street, Young, which is zoned SP2 Infrastructure (health services facility). If the Department does not adopt our recommendation above to extend the application of the Draft SEPP to a wider range of SP2 zones, then we will be unable to develop three quarters of this site as intended. In that event, savings and transitional arrangements will be critical to enable this site to realise its potential for ILUs, by relying on the current SEPP Seniors.

To avoid impeding the delivery of seniors housing developments that are under construction, or where further DAs are imminent, or where land is in the process of being rezoned, the savings and transitional provisions should also extend so that SEPP Seniors continues to apply to DAs lodged for a period of three years after the Draft SEPP comes into force, for sites undergoing staged redevelopment or that are subject to a concept proposal or are intended to be rezoned.

Recommended change

Include savings and transitional arrangements which preserve the continued application of SEPP Seniors to DAs lodged for a period of three years after the Draft SEPP comes into force, for detailed development applications lodged under an approved concept proposal, sites undergoing staged redevelopment (where there is no concept proposal but development is

nevertheless planned in a staged way), modification applications where the site remains under development, and sites that are intended to be rezoned.

7 Subdivision in B3 zones

It is clear that the Draft SEPP seeks to encourage seniors housing developments within urban areas, by including business zones in the prescribed zones to which the Draft SEPP applies.

However we are concerned that, for the first time, the Draft SEPP seeks to prohibit the subdivision of land within B3 zones. B3 Commercial Core is a zone in which subdivision, including strata and stratum subdivisions, are common. Likewise, land within this zone tends to be capable of supporting greater density and is therefore of higher value. The controls should seek to ensure such sites reach their full development potential.

We see no reason to prohibit subdivision within the B3 zone. In fact, we are aware of at least one example of a seniors housing development where subdivision of the residue land not used by the development formed an important part of the overall strategy for ensuring the seniors housing component was feasible. In that situation, the cost of acquiring the land and delivering the seniors housing development was offset by being able to subdivide and sell the residue to another developer, thereby ensuring the site achieved its full development potential.

Recommended change

Preserve the ability to subdivide land within B3 zones, to support the feasibility of seniors housing in areas of greater density by enabling developers to subdivide and sell parts of the site.

8 Access to services and facilities in regional areas

While the provisions relating to access to services and facilities are broadly supported, there needs to be a recognition of the practicalities of delivering seniors housing in regional areas, where proximity to services and facilities, and transport services, is not the same.

In clause 82, the concept of adequate access to facilities and services is defined by reference to facilities and services, or a transport service, being located at a distance of not more than 400m from the site. While this is generally appropriate for sites within Greater Sydney, there needs to be flexibility for social housing providers within Greater Sydney, as well as for sites within regional areas, to provide adequate access in other ways.

Recommended change

Provide greater flexibility around the requirements for access to services and facilities for seniors housing developments by social housing providers within Greater Sydney, and in regional areas, acknowledging that it is not practical for them to be situated within 400m of those services or a public bus service.

9 Further observations

The eight recommended changes above are of paramount importance to Southern Cross Care, and we urge the Department to adopt them before the Draft SEPP is finalised.

In addition, we make the following further observations about how the controls could be better refined to support the delivery of seniors housing.

- (a) We support the retention of non-discretionary development standards, however we see no reason why they should not apply to sites that are listed on the State Heritage Register, as is proposed by clause 95 of the Draft SEPP. Heritage listed sites, such as our site at 34 Sturt Street Campbelltown (the site of the former St Johns Church) are subject to a detailed heritage assessment and referral to Heritage NSW. As such the design of seniors housing developments on such sites is carefully considered from a heritage perspective and assessed during the DA process. If a departure from one of these non-discretionary development standards is justified on planning grounds, then heritage considerations would be taken into account in that context as well. The non-discretionary development standards should not be excluded for heritage listed sites, rather, the fact that the site is heritage listed may provide a basis to depart from those standards. We recommend clause 95 be removed.
- (b) Clauses 89(a)(i) of the Draft SEPP specifies design principles in relation to daylight access for neighbouring buildings. While it is accepted that preserving daylight access to neighbouring buildings is an important design consideration, the language of this clause leaves open for interpretation whether the amount of daylight in neighbouring buildings is 'adversely impacted', and is likely to be applied by consent authorities as a strict requirement that a proposed development must have no impact at all. We recommend this be amended, to:
 - (i) specify a percentage or number of hours at which the impact is considered to be adverse, and

- (ii) to exclude neighbouring buildings, or rooms in those buildings, that are not habitable.
- (c) Clause 89(b) of the Draft SEPP specifies design principles in relation to solar access for seniors housing development, by providing that the windows of living and dining areas should be located in a northerly direction. This is not always practicable either for RACFs or ILUs, depending on the site orientation, topography and neighbouring developments. We are concerned that like clause 89(a)(i), consent authorities will apply this clause as if it were a requirement that must be met, notwithstanding that clause 89 states the consent authority need only be satisfied that the development demonstrates 'adequate regard' has been had. We therefore suggest that clause 89(b) should be softened to make it clear that orienting living and dining area windows in a northerly direction need only be demonstrated where this is practicable, and to acknowledge explicitly that there may be other design, operational or amenity reasons why a different orientation is justified.

Southern Cross Care urges the Department to make amendments to the Draft SEPP, as recommended by our submission.

We are concerned that without these amendments, the land on which seniors housing may be developed will be significantly curtailed, and the feasibility and practicalities of delivering seniors housing developments will be compromised, making it more difficult for seniors housing providers to compete in the market and resulting in reduced supply and increased costs not only for operators but also for seniors seeking to access quality and affordable housing in their locality.

We thank you again for the opportunity to make this submission.

We would be pleased to discuss any aspect of our submissions, or to elaborate on any of the examples we have given regarding how the Draft SEPP will impact Southern Cross Care's portfolio. Please contact us if you wish to discuss it further with us.

Yours sincerely



Altaf Shaikh

SYFSHousingSEPPSubmission20210826

24 August 2021

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

Re: Housing SEPP, Phase Three

Dear Housing Policy Team,

I write to you on behalf of Southern Youth and Family Services (SYFS) with some feedback in relation to Phase Three of the Housing SEPP. We endorse the submission made by the Community Housing Industry Association (CHIA) regarding this SEPP, but wish to make an additional submission to highlight an issue that will disproportionately affect the housing systems in areas just beyond the Greater Sydney region as defined by the ABS – in particular the Illawarra, Central Coast, Hunter and Blue Mountains Regions.

Under the Affordable Housing definition in the SEPP (on page 10 of the consultation draft policy), the Illawarra and other satellite cities and regions would not be considered a part of “Greater Sydney”, even though our functional economic linkages to the Sydney economy have been noted by the State Government in other ways, for example by including us as part of Greater Sydney for the purposes of the COVID-19 public health orders. Additionally, our housing market is far more closely linked to dynamics in Sydney than it is to the regional NSW housing market. In spite of this, affordable housing thresholds in our region would be tied to the “Rest of NSW” Greater Statistical Area.

We hold concerns that the definition as it currently stands would unfairly disadvantage the overall functioning of the housing system in our region and in other regions with close proximity to Sydney like the Central Coast, Blue Mountains, and the Hunter. Rather than an issue that just affects CHPs and Tenants, this will filter throughout the whole housing service system.

To illustrate, we offer a comparison of the Illawarra with the Campbelltown LGA, located within Greater Sydney. Despite having relatively similar incomes and rents (based on 2016 census data), the Affordable Housing *very low* income threshold (50% of median household income) would be significantly higher in Campbelltown than it would be in the Illawarra (see below):

	Campbelltown	Illawarra
Median household income	1459	1352
50% of local median	729.5	676
Benchmarked income	1750	1168
50% of benchmark/affordable housing threshold	875	584
Variance btwn local median + benchmark	-145.5	92
% variance	83.37142857	115.7534

This is despite the two regions having very similar rental prices:

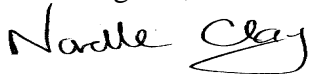
	Campbelltown	Illawarra
Median Rent	360	330
Benchmark Median Rent	440	270
% of benchmark	81.81818182	122.2222

Leaving the definition as is would restrict accessibility of affordable housing to lower income tenants in the Illawarra – who would need to earn less than \$584 per week (when 50% of the local median is \$676), versus Campbelltown residents who could earn up to \$875 per week (when 50% of local median is \$729.50).

This would affect the entire housing system as this limited accessibility filters through different modes and sectors. People who are exiting homelessness may see reduced options for transitioning to affordable housing, as a slight increase in their income may render them ineligible to maintain an affordable housing tenancy. As a result the Community Housing sector in the Illawarra will remain a more residualised sector of the housing system compared to other places within Greater Sydney where community housing is accessible to tenants on slightly higher (but still low) incomes. This will place greater strain on both the already-overheated private market as well as the social housing system in the region.

We would ask that the Illawarra region and regions with similar dynamics be included as a part of Greater Sydney for the purposes of the definition of Affordable Housing under Phase Three of the Housing SEPP. We are available to discuss this issue with the department should you require further information.

Kind Regards,



Ms Narelle Clay AM
Chief Executive Officer



9 September 2021

Housing Policy Team
Department of Planning Industry and Environment
By email: <https://www.planning.nsw.gov.au/housing-sepp>

Re: Submission to the proposed Housing SEPP

Thank you for the opportunity to make a submission to the draft Housing SEPP and for an extension to 9 September 2020, for SSROC to gather feedback from our member councils to provide our submission.

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

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

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

The supply of affordable and diverse housing is of great importance to our member councils.

Many of the live issues and forces that the proposed SEPP is intended to address are currently impacting the councils and their communities in SSROC.

Background

The Housing Diversity SEPP (HSEPP) aims to consolidate the following five existing SEPPs:

- *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)*
- *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)*

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

- *State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) (SEPP 70).*
- *State Environmental Planning Policy No 21—Caravan Parks; and*
- *State Environmental Planning Policy No 36—Manufactured Home Estates.*

SSROC welcomes the consolidation of these SEPPs as it provides more consistency and clarity around how they work together. SSROC supports the aim of delivering more diverse and affordable housing types. However our review of the proposed SEPP has identified potential issues in the draft instrument that may prevent it from being used as intended.

There is an opportunity to modernise language and ensure planning definitions are consistent and easy to understand.

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

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

This research uncovered a number of issues and gaps between planning intention and outcomes: most notably the low levels of affordable rental housing that is actually being provided under the planning instrument. The research found that boarding houses and secondary dwellings are providing forms of lower cost housing but are not providing affordable housing outcomes for low and very low income households in inner city and middle ring areas. Notably the research shows that diverse supply does not necessarily lead to more affordable housing.

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

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

Overview of the submission

This submission reviews each chapter of the draft SEPP and outlines SSROC's position and recommendations. As the provisions for caravan parks and manufactured home estates will be transferred to the Housing SEPP in their current form, this submission will focus on the other three SEPPs, including ARHSEPP, Seniors SEPP, and SEPP 70. SSROC is supportive of many provisions in the proposed Housing SEPP.

Recently, changes were made to the ARHSEPP to facilitate the delivery of social and affordable housing by the NSW Land and Housing Corporation and introduce build-to-rent housing into the NSW planning system. The Housing SEPP consultation draft does not include these newly made

provisions relating to LAHC social and affordable housing provisions, secondary dwellings in rural areas, and short-term rental accommodation, as these provisions will be reviewed 24 months after the Housing SEPP is made.

As these provisions will be included in the Housing SEPP in due course, SSROC asks for the opportunity to provide feedback before these provisions are finalised. It is noted that the framework for short-term rental accommodation (STRA) will commence in the Housing SEPP on 1 November 2021, and that the Build-to-Rent (BTR) provisions exhibited in the EIE have already come into effect in the ARHSEPP.

This submission is organised to broadly follow the chapters of the draft Housing SEPP and read as follows:

1. Chapter 1 Preliminary
2. Chapter 2 Affordable housing
3. Chapter 3 Diverse housing
4. Chapter 4 Seniors housing
5. Related issues

General Comments

SSROC welcomes the proposal to consolidate the SEPPs.

However, while we recognise the potential benefits of the proposed reforms, it is SSROC's view that the draft Housing SEPP still requires some important amendments. This submission seeks to recommend changes to ensure the new Housing SEPP appropriately supports and incentivises the delivery of affordable and diverse housing.

Key Recommendations

1.0 Preliminary

- The draft SEPP include the words 'affordable' and 'diverse' in the title to explicitly reflect the focus and intention of the draft SEPP.

2.0 Affordable Housing

- Adopt and adapt the definition for affordable housing in the EP&A Act to avoid confusion and to ensure consistency.
- Update the affordable housing principles to be consistent with the proposed definitions.
- Include the aim from SEPP 70, "makes a requirement with respect to the imposition of conditions relating to the provision of affordable housing" in the aims of the Housing SEPP.
- Retain the proposed affordable housing requirement for boarding houses in the finalised Housing SEPP, and that any related bonus provisions be reviewed regularly.
- The additional floor space bonus for in-fill affordable housing be used for affordable housing in perpetuity, consistent with the requirement for boarding houses.

3.0 Diverse Housing

- Improve the planning rules for boarding houses and co-living housing to achieve good design and sustainability outcomes.
- Improve the planning rules for secondary dwellings to achieve good design and amenity outcomes.
- Apply the Livable Housing Design Guidelines to enable people to age-in-place across diverse types of housing.

4.0 Seniors Housing

- The proposal to mandate seniors housing in the B3 Commercial Core is not supported as this may contradict the zone objectives and reduce the ability for councils to provide for jobs in those locations.
- The application of LEP permissibility and development standards should prevail over the SEPP prescribed zones for seniors housing.
- The seniors housing bonus is subject to a merit assessment or additional amenity and character criteria, and not be applicable to sites that have been the subject of a successful planning proposal to increase height or FSR within the preceding five years.

5.0 Related issues

- Ensure the proposed definitions are consistent with existing definitions in the NSW planning system.
- DPIE count secondary dwellings, boarding houses, build-to-rent housing and co-living housing as forms of housing that contribute to housing supply.
- DPIE establish a monitoring and review program for the commencement of the SEPP to ensure the outcomes sought are being achieved.

Detailed Comments

1.0 Preliminary

Name of Policy

As suggested in SSROC's submission to the exhibition of the Housing Diversity SEPP Explanation of Intended Effect, SSROC recommends that the draft SEPP include the words 'affordable' and 'diverse' in the title to explicitly reflect the intention of the draft SEPP. The current name - *State Environmental Planning Policy (Housing) 2021* is confusing as the draft SEPP did not consolidate all of the housing-related SEPPs, for example *SEPP 65 - Design Quality of Residential Apartment Development* or the housing components of the *Code SEPP* are not part of the consolidation.

Recommended Action:

The draft SEPP include the words 'affordable' and 'diverse' in the title to explicitly reflect the intention of the draft SEPP.

2.0 Affordable Housing

Overview

An aim of the Draft SEPP is to provide a consistent planning regime for the provision of new affordable housing. SSROC supports a more consistent approach that applies to all affordable housing across environmental planning instruments.

Chapter 2 Affordable Housing of the draft SEPP consolidates the two affordable housing SEPPs (ARHSEPP and SEPP 70). The main aims of the ARHSEPP are to provide incentives for in-fill affordable housing and boarding houses, while also to retain existing affordable rental housing. SEPP 70 on the other hand, recognises the need for affordable rental housing across the State and provides a pathway for Councils to levy for affordable housing contributions.

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

Definition of Affordable Housing

The draft Housing SEPP largely adapts the definition for affordable housing from the ARHSEPP and SEPP 70. The income brackets used for very low-income household, low-income household and moderate-income household are consistent with SEPP 70. The only difference is that the new definition added a condition that these households pay no more than 30% of that gross income in rent.

SSROC supports the addition of the condition to “pay no more than 30% of that gross income in rent”, as households are in housing affordability stress if they are in the bottom 40% for household incomes and paying more than 30% of their income in housing costs.”² This addition clearly identifies how much rent should be charged for affordable housing. In the drafting, however, it is unclear as to whether this is a definition for affordable housing, or it describes the eligibility of different types of households.

It is recommended that the definition be amended to clarify up front that it is a definition for affordable housing, not households.

Recommended Action:

The definition for affordable housing in the EP&A Act be amended to avoid confusion and ensure consistency, by clarifying that it is a definition for affordable housing, not households. . The suggested amendment is provided below in bold and underlined for clarity.

Affordable housing means housing for a very low income household, low income household or moderate income household that pays no more than 30% of that gross income in rent.³ In this Policy, a household is taken to be a very low income household, low income household or moderate income household if the household—

(a) has a gross income within the following ranges of percentages of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) or the Rest of NSW (Greater Capital City Statistical Area) **and pays no more than 30% of that gross income in rent**—

(i) very low income household—less than 50%,

² AHURI 2019, *Understanding the 30:40 indicator of housing affordability stress*, accessed from <https://www.ahuri.edu.au/research/ahuri-briefs/3040-indicator>

³ Adapted from the EP & A Act

- (ii) low income household—50–less than 80%,
- (iii) moderate income household—80–120%, or
- (b) is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under the Scheme.

Update the Affordable Housing Principles

The Draft SEPP proposes to transfer the existing affordable housing principles from SEPP 70. Principle 2 reads “*affordable housing is to be created and managed so that a socially diverse residential population representative of all income groups is developed and maintained in a locality*”.

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

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

Recommended Action:

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

Reinstate the aim from SEPP 70 – “makes a requirement with respect to the imposition of conditions relating to the provision of affordable housing”

SSROC supports the aims of the draft Housing SEPP in principle, however, notes that one important SEPP 70 aim has not been translated or reflected clearly in the aims. As the main purpose of SEPP 70 is to enable all Councils in NSW to impose conditions related to the provision of affordable housing, it is important that this aim is included in the aims of the draft Housing SEPP.

Recommended Action:

The following aim from SEPP 70 be added to the Housing SEPP aims:

- *To make a requirement with respect to the imposition of conditions relating to the provision of affordable housing.*

Boarding houses

Experience with the current ARHSEPP is that boarding houses have been largely built as micro-apartments and rented out at price points not accessible by low-income groups. Micro-apartments that received the boarding house bonuses under Division 3 Boarding Houses of the ARHSEPP are generally advertised as fully furnished studio apartments across Greater Sydney. The rents range

from \$300 to \$650 per week.⁴ The ARHSEPP has in practice been utilised to deliver housing products that are out of reach for low income and very low-income households.

Based on the definition of housing affordability (rent not exceeding 30% of the household income), for a very low-income household, rents higher than \$262 are unaffordable, for a low-income household, rents higher than \$420 are unaffordable. For a moderate-income household, rents higher than \$630 are unaffordable.⁵ It is essential that the Housing SEPP requires boarding houses to be affordable in perpetuity to deliver upon the aims of the draft SEPP, so that people with a household income lower than \$2,000 per week are able to live close to work, education and amenities.

SSROC commends the Department for the change to ensure boarding houses are delivered as genuine forms of affordable rental housing by requiring them to be used for affordable housing in perpetuity and be managed by a community housing provider. 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 requirement for affordable housing.

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

SSROC is supportive of the increase of floor space bonus from 20% to 25% to incentivise the delivery of this affordable housing model, provided the additional floor space is used only for the purpose of the boarding house. The bonus is only to apply **to land upon** which residential flat buildings are currently permissible, and upon which there are no heritage items.

This increase in bonus should be reviewed after 24 months as part of the Housing SEPP review with regards to development feasibility, and impacts upon local character, and whether a further increase is warranted to encourage delivery of true affordable housing. It is noted that development feasibility does not remain constant and could be influenced by many factors other than planning controls including construction costs, land prices, and general demands of the market.

It is therefore recommended that such a bonus be reviewed every two years to respond to changing market conditions. The rent for affordable housing is usually between 20% to 25% below the market rate⁶. An increase of 5% floor space bonus together with a 20% decrease in rental income may reduce the overall supply of boarding houses should land prices and construction costs in Sydney continue to increase. This however does not suggest that boarding houses should not be affordable, it just identifies that the amount of floor space bonus may need to be reviewed with changing market conditions.

Recommended Action:

Retain the proposed affordable housing requirement for boarding houses in the finalised Housing SEPP.

Boarding house incentive provisions be reviewed regularly to ensure they are effective and not producing out-of-scale development.

⁴ Sourced from current boarding house listings in the Waverley LGA.

⁵ The median weekly household income for Greater Sydney is \$1,750 based on ABS Census data 2016.

⁶ NSW Government, Communities and Justice 2018, *Renting affordable housing*

Boarding Houses in R2 Low Density

SSROC strongly supports the proposed amendments to boarding house provisions. They respond to the call from local government sector that boarding houses should genuinely provide housing that is affordable for very low and low-income households and address councils' increasing concerns about amenity impacts about out-of-scale boarding houses in R2 zones.

Councils recognise the need for social and affordable housing but are concerned about provisions allowing the Land and Housing Corporation (LAHC) to build boarding houses in the R2 zone will result in ongoing planning issues arising from boarding houses that are out of scale with surrounding development. The self-assessment pathway also limits councils' ability to provide meaningful input, particularly given the SEPP only provides councils with 21 days to comment.

If DPIE intends to progress the change, SSROC proposes the following:

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

Recommended Action:

The boarding house provisions for LAHC should be carefully monitored to ensure that councils and their communities do not see unacceptable outcomes such as out-of-scale development, as a result of these provisions.

In-fill affordable housing: Retaining affordable rental housing in perpetuity to provide permanent housing solutions for people on very low to moderate incomes, including key workers

An aim of the draft SEPP is to mitigate the loss of existing affordable rental housing. While the draft SEPP looks to achieve this aim by requiring certain boarding houses to be used for affordable housing in perpetuity (clause 25), it does not achieve this aim for other housing types. In particular:

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

To address this issue, the SEPP should:

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

The floor space bonuses for in-fill affordable housing remains unchanged in the draft SEPP. SSROC supports the clarification that the additional floor space ratio must be used for the

purposes of affordable housing. This additional clause clarifies any dispute around whether the additional floor space could be applied across the whole site and for uses other than affordable housing.

The draft SEPP proposes to increase the number of years that the additional floor space needs to be used for affordable housing has increased from 10 years to 15 years.

While this modest increase is supported, SSROC strongly recommends that the additional floor space be used for affordable housing in perpetuity. Clearly the shortage of affordable housing is not a short or medium-term housing problem. The 2021-22 NSW Intergenerational Report shows the need for affordable housing will continue to grow. Providing infill affordable housing in perpetuity will ensure a steadier supply of affordable housing and provide more certainty for the community housing providers that manage these units. It will also create consistency with the ongoing affordability requirement for boarding houses. Both in-fill affordable housing and boarding houses are important typologies in the provision of affordable housing, therefore the requirement for the retention of affordable housing should be the same.

SSROC notes that the NSW Government's 2021-22 Intergenerational Report has predicted that if those who retire without owning a home require social housing at a similar rate to today's retirees, this would increase demand for social housing by 68,000 households by 2060-61 – more than double the current social housing waiting list.

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

Recommended Action:

The additional floor space bonus given for in-fill affordable housing be used for affordable housing in perpetuity, consistent with the requirement for boarding houses.

Require boarding houses on land owned by the Land and Housing Corporation or to a development application made by a public authority to be used as affordable housing in perpetuity.

Retain clause 17(1)(b) of the *SEPP (Affordable Rental Housing) 2009* to ensure infill affordable housing is used as affordable housing.

Establish a search engine for dwellings certified as affordable rental housing.

Conditions of Consent

SSROC does not support the removal of the 88E restriction to be registered on title for in-fill affordable housing development where the affordable housing is not provided in perpetuity. The registration on title should be retained for transparency for future owners, and to ensure enforcement of the requirement.

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

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

The NSW Registrar of Community Housing is well placed to maintain a database of approved and completed affordable housing dwellings and to confirm that registered CHPs are managing those dwellings. While this is proposed for boarding house development, the draft Housing SEPP has not extended this requirement to in-fill affordable housing. This would lessen the administrative burden on Councils and consolidate and simplify arrangements.

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

The Registrar could enable and also monitor reinvestment decisions when assets are renewed when they reach the need of their useful life.

Recommended Action:

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

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

Issuing of site compatibility certificates for residential flat buildings where it would contradict a council's master plan program for centres

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

SSROC does not support this proposal where it is inconsistent with a councils' LSPS and *Housing Strategy*. Master plan programs will determine suitable locations for residential flat buildings within the vicinity of railway stations.

This restriction should also apply where master plans are underway. The issue of site compatibility certificates would pre-empt the final recommendations of the master plans.

Recommended Action:

The SEPP does not enable the issuing site compatibility certificates for residential flat buildings where this would contradict many councils' master planning for centres.

Flexibility for different housing forms

SSROC does not support the minimum 450m² lot size for infill affordable housing as it is inadequate to achieve good design outcomes and is, as a consequence, inconsistent with many councils' lot size controls.

An aim of the draft SEPP is to provide a consistent planning regime for the provision of new affordable and diverse housing. Whilst the draft SEPP achieves this aim by requiring boarding houses (clause 24) and co-living housing (clause 65) to comply with council lot size requirements, it does not do so for infill affordable housing (clause 17(2)(a)).

SSROC does not support this proposal as it is inconsistent with many councils' lot size requirements and is inadequate to accommodate the proposed dwellings, setbacks to adjoining residential land, private open space and landscaped areas, driveways and vehicle manoeuvring areas.

This issue is illustrated in the following table with a comparison with Canterbury Bankstown Council's LEP.

CBC LEP (minimum lot sizes requirements)	Draft SEPP (minimum lot size requirements)
<ul style="list-style-type: none"> Dwelling houses = 450m² Dual occupancies (attached) = 500m² Dual occupancies (detached) = 700m² Attached dwellings = 750m² Multi dwelling housing = 1,000m² Multi dwelling housing (terraces) = 1,000m² Residential flat buildings = 1,500m² 	<p>Clause 17: Infill affordable housing</p> <ul style="list-style-type: none"> Dwelling houses = 450m² Dual occupancies (attached) = 450m² Dual occupancies (detached) = 450m² Attached dwellings = 450m² Multi dwelling housing = 450m² Multi dwelling housing (terraces) = 450m² Residential flat buildings = 450m²

Recommended Action:

Amend the lot size requirement for infill affordable housing (clause 17) to ensure in-fill affordable housing complies with good design outcomes and with council lot size requirements.

Other Design Changes

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 council LEPs. A clarifying statement should be included that allows consideration of LEP standards, as outlined in further detail below.

In relation to the proposed development standards outlined in Chapter 2, Division 1 SSROC 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.

3.0 Diverse Housing

Co-living

The draft Housing SEPP introduces new planning provisions for ‘co-living housing’. The provisions are similar to those that will apply to boarding houses, except that there is no affordability requirement. Co-living will be permitted in locations where councils are planning for higher density residential development including R3 Medium Density and R4 High Density land.

SSROC acknowledges that the micro-apartment style of development will be enabled under the Co-living component of the Housing SEPP. SSROC is supportive of the additional 10% floor space bonus for co-living housing located on land where residential flat buildings are permitted and on which there are no heritage items until 1 August 2024, on the condition there is a proportion of affordable housing in the co-living accommodation provided. This floor space bonus is less than what is currently in place for boarding houses under the ARHSEPP and is also less than the boarding house bonus proposed in the draft Housing SEPP. This additional bonus however would ensure that co-living development remains a viable product for developers and provides time for the market to adjust to the new provisions. This form of housing also provides an important diversity of housing options and provides an attractive market option for renters.

Application of the Apartment Design Guide to Co-living

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

The concern is that the Draft SEPP may be inconsistent with the *Better Placed Policy* as it is unclear whether the design requirements for boarding houses and co-living housing will ensure there is:

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

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

Design guidance

It is noted that new design guidance is intended to be provided for seniors housing, boarding houses and co-living housing in late 2021 in line with the making of the draft SEPP. While SSROC acknowledges the need for design guidelines to be available at the commencement of the Housing SEPP, this leaves little opportunity for councils to contribute to, or review the guidelines, prior to their finalisation. Ideally, design guidelines should have been exhibited concurrently with the draft SEPP to provide a greater understanding of the changes.

Notwithstanding, SSROC requests the opportunity for councils to review and provide comments on the design guidance prior to finalisation.

Application of development control standards and BASIX

The Department of Planning, Industry and Environment's *Explanation of Intended Effect for a Design and Place SEPP* highlights that the sustainability performance of residential buildings is one of the main drivers of energy and water efficiency for housing in NSW⁷.

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

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

Allowing variations to minimum site dimensions, rates of car parking and heights in the Housing SEPP are needed to respond to different patterns, density of development and transport infrastructure across local government areas.

Recommended Actions:

The Housing SEPP should:

- apply the Apartment Design Guide and BASIX to boarding houses and co-living housing.
- Provide greater flexibility for councils where different housing forms are permitted and for council development standards such as rates of car parking to apply.

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

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

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

Canterbury Bankstown Council reports that in many instances, these dwellings are now appearing as major secondary houses with covered ancillary development, containing up to three/four bedrooms squeezed to fit within the building footprint. This scenario creates inadequate living conditions for renters, together with inadequate private open spaces and access. Inadequate parking creates added problems and concerns for the community.

⁷ page 36

Recommended Actions:

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

Apply the Livable Housing Design Guidelines to enable people to age in place

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

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

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

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

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

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

Recommended Action:

Consider referencing and promoting the application of the *Livable Housing Design Guidelines* (to at least silver standard) to secondary dwellings, boarding houses, build-to-rent housing and co-living housing.

Group housing

SSROC supports the conversion of an existing dwelling to a group home to support people in need. The existing group home provisions will be transferred in their current form to the proposed Housing SEPP, with a comprehensive review of these provisions to take place later in 2021. SSROC asks for the opportunity to provide feedback for the review of these provisions.

4.0 Seniors Housing

Not supporting the proposal to mandate seniors housing in the B3 Commercial Core

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

- Mandating seniors housing in the B3 Commercial Core would reduce the ability for councils to provide for jobs in those locations.
- The State and local policies recommend establishing the B3 Commercial Core to protect areas for the long-term supply of commercial floor space.
- In many instances this proposal will be in conflict with councils' strategic intent found in their Local Strategic Planning Statements that have been assured by the Greater Sydney Commission. Seniors housing in the B3 Commercial Core will often contradict the zone objectives and the intent of the new planning framework which aims to ensure strategic planning occurs in a coordinated and orderly manner.
- Safeguarding employment floorspace in commercial centres is necessary due to the recent bias towards housing development in these centres. Failure to protect land for commercial uses could result in these centres being dominated by residential development that locks out the potential for significant commercial floor space.
- While residential development in, or nearby town centres, is important to maintain vibrancy, activity and passive surveillance, Strategic Centres must as a priority cater for the State Government's substantial employment targets.
- A key concern is the proposal to mandate seniors housing in the B3 Commercial Core will erode the ability of employment zones to deliver jobs targets.

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

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

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

Recommended Action:

The SEPP does not mandate seniors housing in the B3 Commercial Core as it can contradict the zone objectives and reduce the ability for councils and the NSW Government to provide for jobs in these locations.

Permissibility

The draft Housing SEPP proposes prescribed zones where seniors housing will be permissible and removes the site compatibility certificate pathway. It is noted that any development that has already received a site compatibility certificate is still able to utilise this.

The removal of the site compatibility pathway is supported, as greater certainty is provided for the community about the likely locations for seniors housing developments. However, the inclusion of prescribed zones in the draft SEPP is not supported, as this would override council's strategic planning work with regards to the most appropriate locations for seniors housing.

As noted of particular concern is the inclusion of seniors housing in the B3 Commercial Core as a prescribed zone. The recent inclusion of the Build to Rent use in the B3 Commercial Core zone has also recently undermined many councils' important strategic planning work. To provide for residential uses in the B3 Commercial Core zone is not only inconsistent with the zone objectives, but it is inconsistent with the objectives of the *District Plans* and many *Local Strategic Planning Statements*, which seek to provide for economic development in commercial cores.

The application of LEP permissibility and development standards should prevail over the SEPP prescribed zones for seniors housing.

Recommended Action:

Permissibility should remain with councils to determine which zones in the relevant local environmental plan are appropriate for seniors housing, particularly as it relates to business zones in which the primary purpose is to provide commercial development.

Vertical Villages Bonus

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.

The draft Housing SEPP now proposes changes to FSR and height bonuses available under the vertical villages for sites over 2,000m² where residential flat buildings are permissible. While bonus provisions may be appropriate to incentivise certain types of development, these should also include a merit assessment to determine whether the full bonus is appropriate for the specific site.

With the proposed FSR incentives within business zones of up to 25%, the broader economic implications need to be considered to ensure a council retains the ability to deliver employment floor space in strategic centres. The minimum 2,000m² site area requirement for vertical villages could result in the concentration of vertical villages in the more important economic strategic centres.

With coupling of the potential FSR bonus of up to 25%, with a height bonus of up to 3.8m, it is recommended that vertical village development comply with the building separation requirements outlined in the NSW Apartment Design Guideline.

For example, in Waverley Council, existing planning proposals have sought to amend the WLEP by increasing the development capacity of the site for the purposes of seniors housing only. These proposals have been consulted upon with the community, and the maximum increase is prescribed based on what is appropriate for the subject site and surrounding character. Accordingly, any additional bonus above a recent increase would be seen as undermining the planning proposal process and the community's trust and transparency in the planning process.

Recommended Action:

The Vertical Villages provision include additional amenity and character criteria and that the bonus height and FSR be subject to a merit assessment.

The proposed draft SEPP bonus provisions should not be available on sites that have been the subject of a planning proposal process that resulted in an increase in height or FSR in the preceding 5 years.

Prohibition on Independent Living Units in the R2 zone

Many councils' Local Housing Strategies identify the delivery of seniors housing as an important part of enhancing housing choice and diversity in lower density residential areas. The draft Housing SEPP currently prohibits development for the purpose of Independent Living Units (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 local government areas particularly if the State Significance Development pathway is modified as suggested.

The Explanation of Intended Effect for the new Housing Diversity SEPP clarified that development standards in an LEP prevail when there is inconsistency with the SEPP in relation to ILUs in the R2 zone. However, this clarification has been removed in the draft Housing SEPP and should be reinstated.

State Significant Development Pathway

Many SSROC councils do 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 relatively low when considering the infrastructure associated with residential care facilities. While SSROC notes that the demand for seniors housing will continue to grow, removing local councils as the consent authority for seniors housing is inappropriate.

Councils' local planning frameworks are well equipped to assess such residential developments. SSROC 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, are incompatible with the local character of the area and inconsistent with community expectations. If DPIE intends to pursue this approval pathway, SSROC 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, SSROC provides the following comments 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) and (f) Non-discretionary development standards for hostels and residential care facilities – clarification is sought as to how landscaping and deep soil requirements will be applied in business zones that are typically built boundary to boundary with limited opportunity for landscaping or deep soil zones.
- Clause 97(d), (e) and (f) Non-discretionary development standards for independent living units – clarification is sought as to how landscaping and deep soil requirements will be applied in business zones that are typically built boundary to boundary with limited opportunity for landscaping or deep soil zones.
- Schedule 4 Environmentally Sensitive Land (flood planning) – clarification is sought as to the definition of ‘flood planning’ referred to in Schedule 4.

5.0 Related issues

Ensuring the proposed definitions are consistent with existing definitions in the NSW planning system

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

Recommended Actions:

- Amend the definition of ‘environmentally sensitive area’ to include land identified by an environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance.
- Clarify the extent of the definition of ‘non-heritage land’
- Ensure the definitions of ‘landscaped area’ and ‘deep soil zone’ are consistent with the Standard Instrument LEP and the Apartment Design Guide.
- Introduce a definition for vertical village to ensure the bonus FSR is correctly applied (clause 99).

Improved Monitoring: include secondary dwellings, boarding houses, build-to-rent housing and co-living housing as forms of housing that contribute to housing supply

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.

Randwick Council has seen approximately 2,000 boarding house rooms recently approved in the LGA. As such, SSROC proposes 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 councils, the community and DPIE to better understand how the forthcoming Housing SEPP is being implemented and achieving its stated outcomes.

Research commissioned by Southern Sydney Regional Organisation of Councils and prepared by the University of NSW City Futures Research Centre, found in the period between July 2007 and

June 2017, that 8,212 secondary dwellings were constructed across the SSROC region comprising eleven council areas. Canterbury Bankstown accounted for 52%, resulting in over 4,000 secondary dwellings being constructed within Canterbury Bankstown LGA over the decade.

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

The study prepared by the UNSW City Futures Research Centre notes:

“... the volume of approvals raises number of broader planning related issues. This kind of incremental growth in dwelling is not generally factored in planning for growth across the Sydney region. In the case of Canterbury-Bankstown where secondary dwellings account for 31% of dwelling growth between 2006 and 2017, this figure represents a substantial contribution to dwelling stock levels. While this may be viewed as beneficial to delivering dwelling growth, if it has not been factored in growth estimates and not form part of local infrastructure and service planning, then this represents a significant black spot in the planning process. Additional pressures on public transport, schools, local amenities and facilities, water infrastructure and road networks are likely to result without any plan in place to address additional demand”⁸.

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

Recommended Actions:

- Improve the NSW Government’s data collection by formally including secondary dwellings, boarding houses, build to rent and co-living housing as forms that contribute to housing supply and local councils dwelling targets.
- DPIE establish a monitoring and review program for the commencement of the SEPP to ensure the housing outcomes sought are being achieved.

Conclusion

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

While welcoming many of the changes, councils are concerned that some new provisions will undermine their local planning strategies and result in development that is not responsive to the local context. Blanket provisions that apply state-wide do not accommodate the unique differences between areas. This points to a need for the proposed Housing SEPP to provide greater discretion

⁸ Research report commissioned by Southern Sydney Regional Organisation of Councils (SSROC), June 2018, page 18.

for councils to determine both where certain forms of housing can be built and the development standards that apply.

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

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

Again, thank you for the opportunity to comment on the proposed Housing SEPP. We are keen to participate in any further consultation stages for the introduction of the new SEPP, in particular consultations about changes that will particularly impact on local councils.

Yours faithfully



Helen Sloan
Acting General Manager
Southern Sydney Regional Organisation of Councils

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Friday, 27 August 2021 2:05 PM
To: DPE PS Housing Policy Mailbox
Subject: Webform submission from: Proposed Housing SEPP

Follow Up Flag: Follow up
Flag Status: Flagged

Submitted on Fri, 27/08/2021 - 14:04

Submitted by: Anonymous

Submitted values are:

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Submission

Re: Submission on the draft State Environmental Planning Policy (Housing) 2021

I am writing to you to request the removal of clause 8.38 of the draft State Environmental Planning Policy (Housing) 2021.

Page 4 of the document titled "LAHC, Part 3 of ARHSEPP and Secondary Dwelling amendments – Frequently asked questions" on the Department of Planning, Industry and Environment website outlines a process where Council is required to lodge a Planning Proposal in order to introduce size limitations to Secondary Dwellings on rural land. After reading the above document, I felt reassured that Council would be required to lodge a Planning Proposal in order to introduce size restrictions to Secondary Dwellings on rural land. Based on the FAQ document, I have spent considerable time and money preparing to lodge a DA for a Secondary Dwelling based on there being no size restriction for a secondary dwelling on my rural land in Pittwater. It appears the Department of Planning, Industry and Environment are now wanting to change the process from that outlined on their website.

I point out that draft clause 8.38 incorrectly states "8.38 Pittwater Local Environmental Plan 2019", instead of "8.38 Pittwater Local Environmental Plan 2014".

I request that due to the misinformation published on the Department of Planning, Industry and Environment website, combined with the typographical error in the draft State Environmental Planning Policy (Housing) 2021, that the proposed changes to the Pittwater LEP are omitted from the final State Environmental Planning Policy (Housing) 2021. This will ensure the planning proposal process as outlined on the Department of Planning, Industry and Environment website will be followed and that a proper public consultation process will be undertaken, should a change be proposed.

Yours faithfully,

Stephen Smith

I agree to the above statement

Yes

From: noreply@feedback.planningportal.nsw.gov.au on behalf of Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Monday, 23 August 2021 1:14 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, 23/08/2021 - 13:13

Submitted by: Anonymous

Submitted values are:

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Submission

To Whom It May Concern:

It has come to my attention that you are seeking submission on the proposed changes to NSW planning policy.

Thank you very much for giving myself and others to have input on the proposed changes.

From my opinion co-living is positively associated with health outcomes through psychosocial determinants of health, such as increased social support, sense of community and physical, emotional and economic security, as well as reduced social isolation for vulnerable groups of our population. Such group as low-income middle-aged women and single parent families.

Research studies found improvements in quality of life and wellbeing. Gains were explained by increased autonomy, increased opportunities to participate in the community and greater solidarity among residents, in both senior [1] and intergenerational [2] projects.

Other research studies found that cohousing increased residents' sense of security through both the physical and the social environment. In addition, it reduced residents' sense of economic insecurity.

Sense of security gained was found among both senior [3, 4]. Co-living increased residents' sense of security through both the physical and the social environment. In addition, it reduced residents' sense of economic insecurity [5].

The Guardian UK [6] reported that: cohousing offers a solution to housing affordability problems. The solution from co-living in the form of neighbourly, supportive lifestyle it brings.

In view of the above, in my submission, I would like to support the following changes:

- The government should allow certifier approval for this smaller model provided conditions of a Complying Development are met.
- The government should allow a smaller affordable 3-5 bedroom/6 person (max) co-living model
- The government to authorize this smaller model in R2 zones,

Kind regards,
Stephen Tosin Famakinwa
Email: ftosin@hotmail.com
Tel. [REDACTED]

Reference:

- [1] Nusbaum LE. How the elder co-housing model of living affects residents' experience of autonomy: a self-determination theory perspective. ProQuest Diss Theses. Ann Arbor: The Wright Institute; 2010;77.
- [2] Cooper M, Rodman MC. Accessibility and quality of life in housing cooperatives. Environ Behav. 1994;26:49–70.
- [3] Jolanki O, Vilkkio A. The meaning of a "sense of community" in a Finnish senior co-housing community. J Hous Elderly. 2015;29:111–25.
- [4] Glass AP, Vander Plaats RS. A conceptual model for aging better together intentionally. J Aging Stud. 2013;27:428–42.
- [5] Wasylishyn C, Johnson JL. Living in a housing co-operative for low income women: Issues of identity, environment and control. Soc Sci Med. 1998;47:973–81
- [6] <https://www.theguardian.com/housing-network/2016/jun/30/communal-living-uk-cohousing-society>

I agree to the above statement

Yes

27 August 2021

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

Submission to the Draft Housing State Environmental Planning Policy (SEPP)

Thank you for the opportunity to provide Stockland's submission to the *Draft Housing SEPP* and accompanying legislative changes (the draft SEPP).

Stockland is Australia's largest diversified property group and largest residential developer, with over \$8 billion invested across NSW within our residential, retail, retirement, logistics and workplace portfolios. In the residential communities space, Stockland is a leading residential developer in Australia and is focused on delivering a range of master planned communities and medium density housing in growth areas across the country, with a residential development pipeline including land, apartment and mixed use developments.

Stockland is a top three retirement living operator in Australia, with over 60 established villages, 21 of which are in NSW. Following the recent acquisition of the Halcyon portfolio, along with our existing Thrive communities, Stockland is a leading developer and manager of residential land lease lifestyle communities, which cater for over 50's.

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

The draft SEPP proposes to consolidate and substantially revise five existing SEPPs into one SEPP, as well as introduce new concepts and associated development standards for new land uses. We welcome the opportunity to review the statutory instrument which assists with understanding the implications of the changes previously outlined in 2020.

While the draft SEPP, and the Explanation of Intended Effect that preceded it, proposes to introduce new housing concepts such as Co-Living and Build to Rent (the latter having already commenced), we believe that the draft SEPP may, on balance, have the effect of discouraging, rather than encouraging, diverse and adequate housing supply in locations where people want to live.

Our submission explores a number of topics of particular concern to Stockland, which we set out below, including several case studies and examples:

- The pressing need to increase the supply of seniors housing
- Why the minimum age to access seniors housing remain should unchanged
- Issues with the statutory application of the draft SEPP
- Significant concerns around the prohibitions and exclusions for seniors housing
- Vertical villages and renewal of existing villages, and
- SEPP 36 Manufactured Home Estates.

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Need to Increase the supply of Seniors Housing

Ageing Population and the role of the Seniors SEPP

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

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

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

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

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

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

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

For this reason, the proposed amendments – which build on a number of changes which have ‘watered down’ the SEPP over the years - are of concern.

The Housing SEPP will not increase Supply

Policy makers need to ensure the right combination of incentives and regulation are implemented to deliver an **increase** in supply of accommodation options for seniors, singles, couples and students.

The language used in the Aims of the draft SEPP that actively seeking to increase supply is no longer a priority. The draft SEPP aims to “*ensure an **adequate** supply*” of a range of housing types, in contrast to the current Seniors SEPP which aims to “*encourage the provision of housing*” and to “*increase the supply*” of housing for seniors or people with a disability

The step-back from increased supply is reflected in many elements of the draft SEPP, including:

- the exclusion of ILUs from R2 zones;
- new character tests;
- new height limits under the SEPP regardless of the LEP height limits;
- exclusion of swathes of land from operation of the SEPP including heritage conservation areas, flood planning areas, urban zoned land within the metropolitan rural area for new villages;
- inability to seek a SCC for land adjoining land zoned for urban purposes.

These matters must be reviewed and reconsidered in order to ensure ongoing supply.

Proposed increase in minimum age to access Seniors Housing

The draft SEPP proposes to amend the definition of *Seniors* to increase the minimum age to access seniors housing from 55 to 60 years old.

The FAQ being exhibited with the draft SEPP justifies this change as follows:

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

Stockland does not support this change, and submits that the age should remain at 55, for reasons set out below.

Access to super is not a planning matter

- The justification provided in the FAQ for the proposed age increase raises a fundamental concern about the appropriateness of amending a long standing State housing planning policy to align with a Commonwealth government financial regulation.

- There is no requirement that persons residing in Seniors housing must be self-funded retirees or on an Aged Pension, and given the pressures to continue working well beyond 'traditional' retirement age it is increasingly likely that residents will still be working. Tying it to superannuation access is therefore irrelevant.
- The change to the preservation age under superannuation legislation is unlikely to affect the age at which people consider downsizing (but rather when they decide to retire) and therefore we question the rationale for the change.
- The age of access to super as at 2021 is 56 years and it will not increase to 60 until 2025, making the proposal to increase the minimum age from 2021 premature in any event.
- Aligning to superannuation preservation age now may lead to calls to further revise in the future to align with other Commonwealth programs or Acts, of which there are many:
 - Superannuation preservation age: The age of access to super is increasing from 55 to 60 over a 5 year period (2020 to 2025). The Government has expressed intentions to increase the preservation age to 67 in the future and greater increases have been mooted (to 70) as the cost to the budget of supporting aged persons continues to rise.
 - Age Pension: On 1 July 2021, Age Pension age increased to 66 years and 6 months for people born from 1 July 1955 to 31 December 1956, inclusive. If your birthdate is on or after 1 January 1957, the age increases to 67. This will be the Age Pension age from 1 July 2023.
 - My Aged Care home support packages and programs: Available for those 65 years or older (50 years or older for Aboriginal or Torres Strait Islander people), or 50 years or older (45 years or older for Aboriginal and Torres Strait Islander people) and on a low income, homeless, or at risk of being homeless.

Seniors Housing provides important housing choice and support financial goals for older people

- The Seniors SEPP is currently aimed at housing for people who are at a stage in their life where they are considering downsizing. The SEPP not only facilitates benefits for older persons through the availability of appropriate housing but also has flow on benefits to the broader community in terms of access to diverse housing supply, affordability, and supporting aging in place. Increasing the minimum age threshold will only serve to reduce the scope of the SEPP and the delivery of these benefits,
- Retirement villages are an affordable housing option for many older people. This includes working older single people, particularly women.
- The AHURI report *Effective downsizing options for older Australians* (February 2020) research covered the 55+ age group. The research shows that downsizing, or 'rightsizing' as it is also termed, is an integral part of the current and future housing preferences of older Australians. The research found that 26% of over 55s had downsized, and a further 29% had considered downsizing. Older Australians perceive downsizing as more than just a reduction in dwelling size. Rather, it refers to internal and

external spaces becoming more manageable, and a reduction in belongings. It also includes a financial benefit to the household.

Arbitrarily increasing the minimum age will create confusion and division

- Changing the definition of Seniors will impact who can purchase or occupy Seniors dwellings going forward, and cause unnecessary confusion and division between different aged care facilities and seniors housing communities. Older villages could be occupied by 55 year olds, while alterations or additions to existing villages, or new villages, could only be occupied by 60 year olds.
- In order to determine the maximum age for any village, it would be necessary to know the date of the lodgement of the DA for the original facility, as well as the date of the lodgement of any modifications or new DAs which may have extended the building or replaced existing conditions post-Housing SEPP commencement.
- In relation to Residential Care Facilities, the proposed age increase will introduce a higher minimum age to occupation of the facility for aged persons. While it is 55 now, it is proposed to increase to 60, and may increase to 67 or more in the future should the preservation age be increased again. This is conflict with My Aged Care, which already provides subsidised aged care places for 50 years or older for Aboriginal or Torres Strait Islander people or those on a low income, homeless, or at risk of being homeless. The implications of this further increase should be carefully considered and subject to consultation with aged care providers and the Commonwealth government in relation to supply, demand and funding of aged care places.

In conclusion, there is a complete absence of any clear planning basis to increase the age of persons who are able to access Seniors housing and care facilities. In contrast, there are a number of valid concerns arising from the age increase.

CASE STUDY: Halcyon and Thrive: Residential Land Lease Communities

Stockland recently acquired the Halcyon residential land lease communities business, which builds on the Thrive (Qld) and Minta (Vic) land lease projects recently launched by Stockland. The Halcyon business includes 3800 residential sites spread over 13 land lease communities, including six established communities, four under development, and planned. Combined with the existing and planned Stockland projects across the nation, this acquisition grows the total Stockland portfolio to 7800 sites. These communities are aimed at “Over 50’s”, and in NSW can be developed using the provisions of the Seniors SEPP.

Land Lease communities offer affordable manufactured homes aimed at downsizers and the retirement sector. As a market, the over-50s are looking for well-designed, personalised housing; security; access to facilities and activities to maintain active lifestyles and which support aging in place.

Halcyon’s data indicates that in the past, around 3% of purchasers have been under 60, however through COVID this has tripled to 9% as older Australians seek to access more affordable housing in master-planned communities. An arbitrary increase in age to 60 will affect buyers in NSW and create a greater disparity between states.

Statutory Application of the Draft SEPP Provisions to Seniors Housing proposals

Current Situation: Seniors SEPP is facultative, not mandatory

The Courts have established the facultative nature of the current Seniors SEPP. Relevantly, the Seniors SEPP is not mandatory to all development for the purpose of seniors housing where such housing is permitted under an LEP. This position is summarised below in paragraphs 46-47 and 49 of *Principal Healthcare Finance Pty Limited v Blacktown City Council* [2021] NSWLEC 1247.

The operation of the Seniors Housing SEPP

46. *I accept the applicant's submission that the question of whether a proposal for seniors housing made under another EPI is to be assessed under the Seniors Housing SEPP is a matter of construing the operation of the SEPP. Importantly, there is no provision in the Seniors Housing SEPP that applies any part of the SEPP to all development for the purpose of seniors housing. This is in contrast to other SEPPs, which operate to apply the SEPP both to particular land and to particular development; see, for example, State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) and State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH).*
47. *The omission of a provision in the Seniors Housing SEPP applying the SEPP, or parts of the SEPP, to all development for seniors housing is intentional and this is demonstrated by comparing the operation of the Seniors Housing SEPP to other SEPPs which operate to apply certain provisions of those SEPPs to particular development regardless of which EPI an application is made under. It is reasonable to compare the operation of SEPPs because all the SEPPs emanate from a single legislative authority and are intended to operate concurrently. It is clear from the operation of the Seniors Housing SEPP that the legislative authority intended that the SEPP achieve the aim of encouraging the provision of housing for seniors and people with a disability by setting aside local planning controls that would otherwise prevent such development on certain land, at cl 2(1)(a) and 2(2)(a).*
48. ...
49. *In other words, the purpose of the policy informing the Seniors Housing SEPP is to overcome a prohibition for seniors housing in the Land Use Table of an applicable EPI in order to increase the availability of land that can be developed for seniors housing, as a means to augmenting the provision, by the private sector, of suitable housing for seniors and people with a disability in New South Wales. It is not an aim of the Seniors Housing SEPP, at cl 2, to dictate development standards or requirements for all seniors housing development the subject of applications made under other EPIs. The references to "good design" (cl 2(1)(c)) and "design principles that should be followed to achieve built form that responds to the characteristics of its site and form" (cl 2(2)(b)) are in relation to the aim to encourage the provision of housing that is appropriate for use by the cohort and responds to the characteristics of the site. The reference to "good design" is not a goal for seniors housing per se.*

[our emphasis]

Provisions such as cl 15 of the Seniors SEPP, which enables seniors housing developments that would otherwise be prohibited under an LEP to be approved provided they meet certain standards in the SEPP, contribute to the construction of the SEPP as a facultative instrument that can be “switched on” at the election of a proponent.

Proposed Situation: SEPP will be mandatory

Many of the key seniors housing provisions in the draft SEPP appear to tend towards a construction that compliance with the SEPP will be mandatory for all seniors housing developments, rather than elective. The following points suggest this:

- there are no provisions similar to cl 15 of the Seniors SEPP; rather, the wording used throughout the draft SEPP appears to have a mandatory effect (eg. “Development consent must not be granted for development for the purposes of seniors housing unless...”);
- although certain provisions contain qualifying language, such as cl 77 which imposes criteria on development permitted “under this Part”, but as “this Part” covers seniors housing as a whole, it is a moot point if seniors housing cannot be approved under another instrument; and
- the SEPP will still only apply to developments in prescribed zones, but this is probably intended to capture all circumstances in which seniors housing is permissible. It is unlikely that seniors housing will be a permissible use outside those zones in many LEPs (though the possibility that some developments may fall outside the scope of the SEPP is at least recognised by cl 71(b)).

Relationship between the SEPP and local controls

The EIE intended that the SEPP will “clarify” that development standards in an LEP shall prevail to the extent there is any inconsistency with the SEPP. We raised concerns about this in our previous submission, and are pleased to note that this proposal has been dropped.

However, given the above issue regarding the application of the SEPP to all development, the exhibited drafting would seem to have an opposite effect, with the draft SEPP apparently prevailing over local controls no matter what:

1. Regardless of whether or not the SEPP is to be relied upon for permissibility;
2. Regardless of whether the LEP controls are more favourable than the SEPP; and
3. With no mechanism to vary the development standards.

The SEPP will introduce development standards which may be more stringent than local controls for ILUs, RACs and particularly Vertical Villages, including development standards around maximum height of building, site coverage, deep soil and so on. In addition, mandatory site-related requirements would apply around location and access to facilities and services (including those draft standards in Schedule 5), and the application of the Seniors Living Urban Design Guideline (to be replaced by an updated Guideline, yet to be released in draft).

Use of Clause 4.6 to vary development standards

The draft SEPP does not contain an explicit clause enabling exceptions to development standards, requiring the use of Clause 4.6 in the local instrument to argue a non-compliance. Given the challenges associated with Clause 4.6 variations, it is concerning that extensive variations of the development standards under the draft SEPP may be required, even if the development complies with local controls.

CASE STUDY: Lourdes Retirement Village and Aged Care

Where renewal of existing facilities are proposed, this would force the proposal to be subject to the SEPP provisions even where site-specific controls are intended to apply to those sites.

Stockland is currently progressing a Planning Proposal (PP) and draft DCP to support the renewal of Lourdes Retirement Village and co-located Killara Glades Aged Care facility, and a Gateway Determination is anticipated to a revised version of the PP imminently. The land is currently zoned R2 but will be rezoned R3. Residential Flat Buildings are prohibited in the R3 zone, however Seniors Housing is permitted.

The PP also seeks to amend the maximum height of buildings from 9.5m to heights ranging from 9.5m to 22m, and the FSR control from 0.3:1 to 0.75:1.

As Seniors Housing is permitted in the R3 zone under the LEP, it was intended that the Seniors SEPP would not be relied upon for the future DA. However, if the draft SEPP proceeds as drafted, the consent authority would be forced to consider all provisions relating to Seniors housing in the draft SEPP, including the development standards in draft Clause 74(2), which relevantly provides that:

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

These provisions are drafted to apply to all Seniors Housing, and therefore would be relevant to both the ILU and RCF (noting also that contradictory non-discretionary development standards apply to RCFs under draft clause 96). In the case of Lourdes, this will result in the following non-compliance with the SEPP.

	Lourdes site-specific LEP and DCP	Draft SEPP
Height in Metres	9.5m, 11.5m, 14.5m, 16m, 17.5m, 20.5m, 22m	<ul style="list-style-type: none"> Development standard max 9m for all forms of Seniors Housing in zone where RFBs are prohibited Contradictory non-discretionary development standard for RCFs: 9.5m or 11.5m including plant
Height in storeys adjacent to boundary	2, 3 and 4 storeys	2 storeys

It is apparent that the LEP would permit far greater height limits at Lourdes. The prospect of arguing a Clause 4.6 variation for a 22m tall building where a 9m height limit prevails under the SEPP, creates uncertainty and risk in the determination of future DAs.

Recommendation

As the SEPP controls prevail over the LEP, and the SEPP applies even where Seniors housing is permitted, attempts to utilise more generous LEP and DCP controls would trigger what may be an series of significant Clause 4.6 variations for a range of development standards in the draft SEPP such as height in metres, height in storeys, setbacks, deep soil and so on. A satisfactory resolution of this issue is required prior to finalisation of the SEPP, which may include the following in combination;:

- limit the application of the SEPP to development which elects to (as is the current situation), and
- enable the flexible application of SEPP provisions in circumstances where local controls are less onerous.

Prohibitions and Exclusions

R2 Low Density Zone

Under the draft SEPP, the R2 zone is proposed to be a prescribed zone in which seniors housing is permitted with consent (continuing the current Seniors SEPP approach). However this approach is then undermined by a curious approach of adding a “development standard” which prevents the consent authority from granting consent to seniors housing in the R2 zone unless it is carried out only for the purposes of a residential care facility. This is not a numerical development standard that could be varied, but is effectively a prohibition.

The first issue to be raised is that this clause appears to apply to all applications for seniors housing, even where the land use is permitted in the zone under another EPI – a clearly unacceptable approach.

The second and more fundamental issue is that the draft SEPP would enable Councils to prohibit ILUs in the R2 Zone. Approximately two-thirds of LEPs across NSW already prohibit Seniors Housing in the R2 zone and the draft SEPP would only further reduce seniors housing supply if councils were given this option. When combined with the heritage conservation area and MRA exclusions, the amount of land on which low to medium density seniors housing could be developed is severely curtailed.

Further, this proposed restriction does not recognise that many larger seniors living projects offer a range of care options from independent living through to dementia and high care in the same campus / project.

Finally, the exclusion from the R2 zone will also render countless existing ILU developments prohibited development and therefore reliant on existing use rights, a highly undesirable outcome which may restrict opportunities for renewal of outdated villages.

Stockland urges government to reconsider this exclusion and permit ILUs in the R2 Zone.

CASE STUDY: Stockland's Retirement Living Portfolio

A total of 12 out of 22 existing or planned NSW villages are on land zoned R2 Low Density Residential (55%).

Focussing on Sydney Metropolitan Area, 9 of the 14 existing or planned villages are on land zoned R2 Low Density Residential (64%).

These statistics demonstrate that the R2 zone has a long history of supporting seniors housing development, and this approach needs to continue. The statistics also demonstrate that countless seniors housing developments may become subject to existing use rights.

Metropolitan Rural Zone Exclusion

The July 2020 amendment to the Seniors SEPP entirely excludes all land within the Metropolitan Rural Area (MRA) from the operation of the SEPP. Removing the ability for Government to issue Site Compatibility Certificates for housing within the MRA will make it challenging to deliver seniors housing in some areas, as it is uncompetitive against residential in zoned areas. Of greater concern, the exclusion goes well beyond the primary issue identified by the Greater Sydney Commission of the 'creep' of retirement villages into the MRA. Instead, the exclusion impacts on numerous metropolitan suburbs and villages which, for whatever reason, have been mapped within the MRA despite having an urban zoning. This includes suburbs within Wollondilly and Hills Shire, amongst others.

We are concerned about the blanket MRA exclusion. If the primary concern is the creep of seniors housing into rural land, a more nuanced approach would be to refine the provisions that applied to SCCs for rural zoned land rather than a blanket exclusion. However the draft SEPP moves further away from this possibility.

Under the draft SEPP, the MRA exclusion is still in place. While the SEPP proposes to allow seniors housing in business and residential zoned land within the MRA, this exception only applies as long as seniors housing is existing on the land, or a DA was lodged prior to July 2020. This prevents any new seniors proposals in these suburbs under the SEPP, despite prescribed business or residential zoning being in place.

CASE STUDY: Retirement Villages in Wollondilly LGA

Bargo and Tahmoor, along with several other suburbs in Wollondilly LGA, are mapped within the MRA. As such, the recent MRA exclusion mapping under the Seniors SEPP impacts on two existing Stockland suburban villages:

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

Although the draft SEPP will except the sites from the MRA exclusion because the land is already developed for seniors housing, the sites are still hamstrung by the R2 zoning in which ILUs would be prohibited. As a result of this, any upgrade, intensification, expansion or renewal of these villages would be subject to Council's LEP. This would be highly problematic, given that the existing villages were developed under SEPP 5 and Seniors Housing is prohibited in the R2 zone under the LEP, triggering existing use rights.

CASE STUDY: The Gables

Stockland is developing the residential community known as The Gables. The Gables forms the majority of the Box Hill North Release Area, which is urban land within the Hills Shire immediately adjacent to the North West Growth Area.

Although Box Hill North is zoned for urban purposes, it is impacted by the recently imposed Seniors SEPP MRA overlay. In our view, this is a mapping error carried over from the District Plans, as the MRA map does not align with the urban footprint, and we submit that this should be amended.

If the mapping remains unchanged, under the draft SEPP, the site would continue to be excluded from the operation of the SEPP despite its residential zoning, as a DA is yet to be lodged. We submit that this should also be amended.

A final complication introduced by the draft SEPP is that ILUs are to be prohibited in the R2 zone. This will prevent seniors housing from being developed, even if the other matters are addressed.

Stockland prides itself on delivering inclusive communities that provide for a variety of different housing opportunities, with housing for seniors and downsizers being a key offering in the majority of our award winning communities. To this end, we acquired The Gables with a plan to develop seniors housing as part of a diverse and holistic housing offering. Recent and draft proposed changes to the SEPP restricts the ability of our development to make a meaningful contribution to housing diversity in the Hills Shire, noting that other parts of The Gables have been significantly developed and there are limited opportunities for a seniors housing development of efficient scale to be delivered elsewhere.

Environmentally Sensitive Land

We support the rationalisation of the definition of environmentally sensitive land, such the ambiguity and broadness of this schedule in the current Seniors SEPP is significantly reduced. We are however concerned that land identified as 'flood planning' in another environmental planning instrument will be automatically excluded from the SEPP, whereas currently this exclusion only applies to land identified as 'floodway' or 'high flooding hazard'. This could potentially exclude large areas of land from the SEPP where the actual flood hazard is minor.

Excluding Flood Planning Areas (FPA) entirely from the operation of a SEPP is a concern. Going forward, FPA maps will be prepared by all Councils and can be included in LEPs or DCPs, and can cover land where the flood risk is extremely low and easily managed through design.

An example is Parramatta LGA, where swathes of the LGA are identifies as Low Flood Risk Area (between 1 in 100 and PMF), or a Floodplain Risk Management areas, which may be interpreted as or mapped as FPAs in the future. Another example is Woollahra, where entire suburbs are mapped as FPAs.

Combined with heritage conservation area and R2 zone restrictions, entire LGAs risk becoming no-go zones for much needed housing for our aging population, preventing access to permissibility provisions and in the case of vertical villages, preventing access FSR bonuses. We submit that only areas of high flooding hazard should be summarily restricted from access to the SEPP provisions.

Renewal of Villages and new vertical villages

Renewal of Existing Villages

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

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

It is highly concerning that not only does the draft SEPP fail to introduce any new provisions to support the renewal of dated villages, it actively discourages and prevents renewal by prohibiting ILUs in R2 zones.

The draft SEPP should be revised and expanded to both facilitate and incentivise the redevelopment and renewal of outdated seniors housing.

Vertical Villages

In order to encourage vertical villages in mixed use zones and town centres, the FSR bonuses should also be available in any zone where Shop Top Housing is permitted, given that Residential Flat Buildings are typically prohibited in B2, B3 and B4 zones.

The 0.5:1 default FSR on land without FSR standards will act as a disincentive for seniors housing, such as in R4 High Density Residential zones (and many R3 Medium Density Residential and R1 General Residential zones) where prevailing built form and density controls result in development far in excess of a 0.5:1 FSR. There is no opt out of the provision should the proposal meet the site requirements, resulting in an effective downzoning which would clearly discourage development of vertical villages.

Some LGAs tend not to utilise FSR maps, such as those Councils which make up the Northern Beaches, and Hornsby. The drafting should be revised to prevent yet another statutory provision which discourages the provision of seniors housing in these (and other) LGAs.

SEPP 36 – Manufactured Home Estates

According to the FAQ accompanying the draft SEPP, the SEPP will transfer the provision of SEPP 36 – Manufactured Home Estates and SEPP 21 – Caravan Parks into the Housing SEPP “generally” in their current form, however the drafting is not available. In addition, the FAQ document notes that a comprehensive review of these provisions will be carried out in late 2021, after which time the provisions would be comprehensively updated.

As a leading developer of residential land lease communities in Australia, Stockland would welcome the opportunity to provide input to the review of SEPP 36.

Pending the completion of the review, we strongly recommend that the provisions of SEPP 21 and SEPP 36 not be moved into the SEPP, for several important reasons:

- No opportunity has been provided for review of the drafting of the “generally” unchanged provisions
- There are already complexities with how SEPP 36 - which is not a standard instrument SEPP - interrelates with other acts and regulations including the Seniors SEPP, Local Government Act, Local Government MHE Regulation and the Residential Land Lease Communities Act.
- It is important to understand how the relocated provisions will interact with the Housing SEPP as a whole. Moving the provisions into the SEPP will inevitably alter the interpretation of the provisions in ways that may not be anticipated
- There is no urgency to move the provisions for the sole purpose of fast tracking the consolidation of SEPPs, given that the intent is that the current provisions will “generally” continue until the review is complete.

In summary we recommend that SEPPs 36 and 21 remain in force until a comprehensive review is completed.

Conclusion

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

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

Kind Regards



Ben Cantwell

General Manager, Built Form Communities
Stockland



File Ref: 2020/385142

5 October 2021

Sandy Chappel
Director, Housing Policy
Planning Policy
NSW Department of Planning, Industry and Environment
Locked Bag 4009
Ashfield BC, NSW 1800
housingpolicy@planningnsw.gov.au

Dear Ms Chappel,

RE: Exhibition of Housing SEPP Consultation Draft

Sutherland Shire Council made a preliminary submission on the Housing SEPP Consultation Draft on 27 August 2021. This submission was endorsed by Council on 20 September 2021. A copy of the original submission is attached for your reference.

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

Yours sincerely,

Mark Carlon
Manager Strategic Planning

27 August 2021

Housing Policy Team

Department of Planning, Industry and Environment
4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
housingpolicy@planning.nsw.gov.au

RE: Housing SEPP Consultation Draft

Dear Sir or Madam,

Please find enclosed Sydney Water's commentary on the Housing SEPP consultation draft which:

- Consolidates provisions from 5 existing housing-related SEPPs;
- Amends some state-level planning provisions, particularly for boarding houses and seniors housing developments; and
- Amends some state-level planning provisions to support social housing developments undertaken by the NSW Land and Housing Corporation ((LAHC) on government-owned land.

Sydney Water notes that the consultation draft does not include the caravan park and manufactured home estate provisions and that the existing provisions will be included in the finalised Housing SEPP.

Sydney Water has no objections to the Housing SEPP consultation draft, however, we wish to raise two points for consideration in taking the SEPP forward. In September 2020, Sydney Water responded to the Housing Diversity SEPP Explanation of Intended Effects. While amendments to the Housing SEPP have been proposed since the exhibition of the EIE last year, our below comments build upon our previous response.

Secondary dwellings greater than 60sqm

Currently, secondary dwellings within our catchment and with a GFA over 60sqm are referred to Sydney Water for assessment, as noted in our guidelines. These generally require a Building Plan Approval or Section 73 application to assess and connect to our system. This can be particularly important in rural areas, where there may be capacity constraints, especially where the proposed development sits within a Priority Sewerage Scheme (PSP). Currently this mechanism is controlled via the Council's LEP and the SEPPs existing complying development clauses and we ask that the amendments notes these requirements to ensure that secondary dwellings above 60sqm are still referred to Sydney Water and are not processed via complying development.

NSW Land and Housing Corporation (LAHC) development size under complying development

Sydney Water thanks the Department for amending the proposal. The EIE noted the proposal to enable the NSW LAHC to develop housing projects of up to 60 dwellings without Council approval, with this being an increase from the previously agreed 20 dwellings. Sydney Water

notes this has now been amended to allow the NSW LAHC to develop boarding house developments with a maximum of 12 boarding rooms if located within an R2 zone, and a maximum height of 8.5m without requiring development consent. We recommend that the NSW LAHC approaches Sydney Water in advance of the Section 73 process to advise of any significant development that does not require development consent to ensure that the development servicing needs can be met. This should be done via their Account Manager or via the Feasibility process.

If you require any further information, please contact the Growth Planning Team at urbangrowth@sydneywater.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "K. Leitch", with a stylized flourish extending to the right.

Kristine Leitch

Commercial Growth Manager

City Growth and Development, Business Development Group

Sydney Water, 1 Smith Street, Parramatta NSW 2150