

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

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

Thank you for the opportunity to provide feedback on the public consultation draft of State Environmental Planning Policy (Housing) 2021 (the 'Housing SEPP'). We make the following comments in addition to our earlier submission in response to the *Explanation of Intended Effects* for the draft instrument, exhibited last year.

Our comments are focused on provisions relating to contributions for affordable housing under Local Environmental Plans; Boarding houses; and co-living provisions. We also reiterate our previous remarks in relation to infill affordable housing; short term rental housing and data collection, monitoring and compliance.

1. Affordable housing conditions

The draft SEPP carries forward the provisions of the current SEPP 70 which permits contributions for affordable housing provided that these are authorised by an LEP.

Schedule One articulates principles for these contributions; principle 4 and 6 which imply that contributions must be for rental housing only and that buildings funded by these contributions must be retained for affordable housing in perpetuity. While unchanged, in our view, these principles are unnecessarily narrow; precluding the potential for future inclusionary planning approaches to deliver a range of affordable housing options, including low cost home ownership.

Our own research finds that inclusionary planning approaches requiring affordable housing to be included in new development typically allows a range of models to be delivered. The scale and location of the development, market conditions and the availability of other government subsidy for affordable housing construction can all influence the optimum mix of affordable units able to be delivered in a given situation. Therefore we suggest reconsidering the implication that affordable housing must be a particular tenure.

We further note that international best practice emphasises the provision of land for affordable housing, rather than cash contributions in lieu. This approach provides for genuinely mixed communities and overcomes the need for non profit affordable housing developers needing to compete in the open market for residential land. The principles could be updated to emphasise cash contribution requirements for smaller developments and or a higher rate for developers who provide a financial payment rather than land.

We recommend amending the principles accordingly.

2. Boarding houses and “co-living”

We note that there have been quite considerable changes between the *Explanation of Intended Effects* and the draft Housing SEPP now on exhibition, particularly in relation to the boarding houses and co-living provisions.

We make the following comments.

1. We do not support the unilateral change to make boarding houses an optional land use in the R2 zone of the standard instrument. This is a backwards step, since the original intent of the boarding house provisions of the current *State Environmental Planning Policy Affordable Rental Housing 2009* was to ensure that boarding houses could be retained and redeveloped in residential zones (without needing existing use rights) as they had been historically. We recommend that boarding houses continue to be a mandatory permissible use in the R2 zone.
2. We support the proposal to require boarding houses to include affordable housing. However, we are concerned that the new provisions appear to limit the development type to social housing providers only. This seems unnecessarily prescriptive. As we understand it, the objective of the proposed changes – that is – to make sure that generous planning concessions and bonuses support an affordable outcome – could be delivered by mixed tenure projects built or managed in partnership with a private provider. The new provisions appear to preclude this outcome.

In addition, this approach runs the risk of further stigmatising both boarding houses and social housing development. Community concern and opposition is likely to increase.

3. We are perplexed that the new ‘co-living’ provisions appear for all intents and purposes to be identical to the boarding house standards. The primary difference seems to be in the amount of density bonus provided, with a smaller bonus available for co-living developments until 2024.

We would suggest that the nomenclature for both boarding houses and co-living developments be standardised. If there is an appetite to shift terminology away from ‘boarding houses’ perhaps describe both development types as ‘co-living’ with ‘affordable co-living’ as a sub category attracting the density bonus. This would be consistent with the infill affordable housing development provisions.

We note however concern emerging internationally about the rise of “co-living” developments which are being equated to the tenement style housing of the early twentieth century. The extremely small size of these units mean that developers are able to increase yield at a much lower cost which is not typically passed on to tenants who are often required to pay more for a range of wrap around ‘services’.

Consequently, we would caution reliance on this housing form as “part of the State’s COVID recovery”, which is implied in the explanatory material. The COVID-19 period has underscored the importance of good quality housing offering space and flexibility which is not necessarily delivered by this housing type.

Overall, it will be important to monitor development trends in this sector and to review rental costs and tenant outcomes in the short and medium term.

3. In-fill affordable housing

Our own research suggests that there has been steady increase in developments which incorporate affordable rental housing, utilising the density bonus incentive. Affordable rental housing provided in this way requires no additional subsidy and can be delivered directly by the market; by a community provider; or as a partnership.

As well as providing important rental supply for lower income workers; the approach provides a secure rental lease for eligible tenants who otherwise face competition and uncertainty in the rental market.

We are potentially supportive of the proposed extension of the affordability requirement to 15 years, however we are unaware of the evidence base on which this extension is founded. We would strongly urge some review of the current and projected take up of the bonus and sensitivity testing to ensure that private providers will continue to take up the incentive with the additional affordability period requirement.

4. Monitoring and compliance

Publicly available data on the outcomes of current housing SEPPs is lacking. This is a missed opportunity and reflects the wider lack of differentiated data on housing development in NSW.

Residential development reported in the Local Development Performance Monitor, should distinguish each of the housing types identified in the SEPP. This includes in-fill affordable rental housing units produced (as a proportion of total dwellings in multi-unit projects); boarding house developments and rooms, and secondary dwellings (reported separately to the current category which conflates secondary dwellings and dual occupancy developments). Bedroom configurations as an indicator of dwelling size should also be recorded. With the increasing use of electronic lodgements, much of this information could be captured electronically which would increase both the timeliness and the accuracy of the monitoring data.

There is a need to capture approvals as well as determinations within each of these categories, as well as to record units which are lost through demolition/redevelopment. Dwellings in manufactured home estates and or residential parks must also be monitored.

Monitoring and compliance provisions are needed to ensure that the infill affordable rental housing projects and boarding houses comply with affordability requirements under the SEPP.

We recommend that a database of approved projects be established so that compliance can be more easily monitored. Standard conditions of consent requiring any changes to the designated community housing provider responsible for managing the affordable housing units to be notified to the consent authority or to a centrally maintained electronic register should be operationalised.

5. Short term rental accommodation

Finally, we note that the proposals around short-term rental accommodation have not yet been fully activated. We note the increasing rental crises in many regional areas which have also seen a recent rise in the diversion of housing into the short-term rental market.

Consequently, we recommend that affected local governments with tight rental housing pressures be permitted to prevent ongoing conversion of existing or new homes to the short term rental market via appropriate local provisions for nightly caps in residential areas. Ninety days is the maximum period regarded internationally as the threshold for protecting housing for residential uses.

We would be happy to elaborate on these remarks or provide any other assistance in relation to these matters.

Yours sincerely,

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