



INNER WEST COUNCIL

Submission to the NSW Government Review of the *Boarding Houses Act 2012*

1 Introduction

Council welcomes the opportunity to submit proposals to improve the statutory regime for the regulation of boarding houses in NSW. The submission highlights the important and often challenging role that Councils like Inner West face in supporting a large, important and fragile local boarding house sector.

Council regularly engages with a range of stakeholders involved in the provision of the substantial range of boarding house accommodation that exists in the Inner West, and is keen to help ensure that safe, secure and affordable boarding house accommodation is made available to help meet the needs of the Inner West community. As a result this submission draws on Council's deep knowledge and experience of the operation of the sector and highlights a range of issues that need to be addressed in the review to support the continuing operation of the sector in the Inner West to meet growing community needs.

Council would be pleased to work with the Government and other stakeholders to help identify means of implementing the recommendations in this submission and the outcomes of the review.

2 Executive Summary

(a) Profile of boarding house residents

The Inner West contains one of highest concentrations of boarding houses in NSW. Over 3,300 residents live in boarding houses in the Inner West.

Research indicates that around 11% of all residents living in registered boarding houses across NSW are 60 years or older. Compared with other local government areas, the Inner West has a relatively high proportion of boarding houses with predominantly older residents. In coming years, this figure is likely to increase significantly, corresponding with the rapid ageing of the general population.¹

With respect to vulnerable lodgers or residents, including people with disability (mental illness and/or an intellectual, psychiatric, sensory or physical disability), research indicates that the official data understates the extent of residents with health issues and/or additional needs. Some informal estimates suggest that 30% of residents may be living in increased vulnerability.

¹ Chris Martin, [Boarding houses in New South Wales: growth, change and implications for equitable density](#), A research report for Shelter NSW, Shelter Brief No. 64, City Futures Research Centre, July 2019, p. 15.

(b) Accreditation system

A key policy challenge for the NSW Government in reviewing the *Boarding Houses Act 2012* (the Act) is to ensure a legal framework exists that establishes safe and affordable boarding houses in which care and support services make the optimal contribution to resident health and wellbeing.

In response to accurately determining the extent of care and support needs among boarding house residents, it is recommended that the NSW Government establishes, administers and adequately funds an effective accreditation system for all boarding houses covering registration and all levels of service provision including accommodation services, food services and personal care services.

(c) Compliance and enforcement activities

Councils currently carry a disproportionate amount of the regulatory enforcement responsibility under the Act and associated regulations. Under the Act, Councils are responsible for approving new boarding houses and enforcing safety and accommodation standards in existing boarding houses. They also have the power to fine operators if they are unregistered and order them to meet building, safety and accommodation standards.

Unregistered boarding houses and other forms of illegal or non-approved dwellings and works can pose a major challenge to councils. There is evidence that overcrowding is a problem in the sector and that students and travellers, along with asylum seekers and refugees, are living with uncertain tenancy arrangements and in vulnerable conditions. The non-approved use of premises and works can cause serious safety issues, especially in the event of a fire.

It is Council's view that all initial compliance inspections of Registered and Assisted Boarding Houses should be undertaken by a State agency such as the Office of Fair Trading. The role of local government authorities with respect to these premises should be confined to carrying out fire safety inspections.

It is therefore recommended that local councils be adequately resourced with NSW Government funding to carry out boarding house compliance and enforcement activities under newly reviewed and revised arrangements to be agreed between State and local government.

(d) Boarding House Resident Support Program

It is clear that more boarding house residents live with a range of health issues, including disabilities, than the general population. This creates a growing requirement from residents for support and funding packages from mental health, homelessness and tenancy support, aged care and the National Disability Insurance Scheme (NDIS).

It is therefore recommended that a NSW Government Boarding House Resident Support Program be established which comprehensively addresses residents' health and additional needs. Such a program, funded by the NSW Government, should co-ordinate access to existing service provision systems, and operate in a health and wellbeing promotion framework informed by a charter of residents' rights that explicitly includes advocacy support.

(e) Boarding houses and affordability

Council's recently prepared draft Housing Strategy has highlighted the significant need for more affordable housing stock of differing types in the Inner West to meet growing local needs. However it also notes that this role is primarily fulfilled by long established traditional boarding houses, and that the new generation boarding houses now more commonly being developed are targeted to serve a different demographic, and are rented at the same weekly open market rent as studio or one bedroom apartment.

Council is committed to advocate for an amendment to State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) to require boarding houses developed under the Policy be let at affordable rents. Council is also seeking exemption from the boarding house controls in the ARHSEPP so Council can develop its own controls to encourage boarding house development at affordable rents to meet local needs and secure better planning outcomes. Council has secured support for this position from a State Government coordinated Council Boarding House Working Group advising the Minister for Planning and Public Spaces.

It is important that the review supports this need to ensure new boarding houses now being developed are made available at affordable rents.

(f) Economic viability

There is evidence that boarding house proprietors are under significant financial pressure. In the registered sector, few new proprietors are entering the market. Existing proprietors are themselves ageing, and transitions to new ownership are declining.

Council calls on the NSW Government to research the key viability issues in the boarding house sector, and develop and implement an appropriate mixture of taxation and other incentives to ensure the sector's long term viability.

(g) Other issues

This submission also makes recommendations concerning clarifying the legal definition of boarding houses and related terms; maintaining an accurate and accessible Boarding House Register; and the allocation of State Government funds to increase the supply of social and affordable housing.

3 Recommendations

Council makes the following recommendations:

Recommendation 1: That the NSW Government establishes, administers and adequately funds an effective accreditation system for all boarding houses covering registration and all levels of service provision, including accommodation services, food services and personal care services.

Recommendation 2: That Section 16 of the *Boarding House Act*. Meaning of "persons with additional needs" be amended to ensure consistency with the *Disability Inclusion Act 2014*, the *Mental Health Act 2007*, the National Disability Insurance Scheme, and My Aged Care eligibility.

Recommendation 3: That the NSW Government establishes a Local Government Working Group on Boarding House Regulation in order to provide advice on redistributing compliance and enforcement responsibilities between the NSW Government and councils in the long term interests of lodgers' health, well-being and safety.

Recommendation 4: That Local Government is adequately resourced with NSW Government funding to carry out boarding house compliance activities under newly reviewed and revised arrangements to be agreed between State and Local Government.

Recommendation 5: That the definition of boarding houses in the Act be refined to properly differentiate boarding houses from other forms of residential accommodation.

Recommendation 6: That the Boarding House Register accurately reflects all registered boarding houses, their owners, managers and associated information at all times and that any breaches by boarding house operators be included in the Boarding House Register.

Recommendation 7: That councils and the public be given access to information contained in the Boarding House Register.

Recommendation 8: That the NSW Government investigates the extent of boarding house residents with mental health and other needs and establishes a Boarding House Support Program to comprehensively address resident needs. Such a program, funded by the NSW Government, should co-ordinate access to existing service provision systems and focus on health and wellbeing, informed by a charter of residents' rights that includes advocacy support.

Recommendation 9: That the NSW Government implements the recommendation of the Report to the Minister for Planning and Public Spaces from the Council Boarding House Working Group (August 2019), relating to *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) to "amend the definition of boarding houses in the ARHSEPP to ensure that boarding house rooms are affordable".²

Recommendation 10: That the review takes account of the interrelationships between the *Boarding Houses Act 2012* and other pieces of legislation including *Environmental Planning and Assessment Act 1979*, *Local Government Act 1993*, *State Environmental Planning Policy (Affordable Rental Housing) 2009* and their associated regulations.

Recommendation 11: That a boarding house viability and capacity building package of measures be developed by the NSW Government. This needs to address potential financial and other forms of assistance needed to secure the viability of the sector to enable it to deliver boarding house accommodation at affordable rents.

Recommendation 12: That the NSW Government invests in the development of more social and affordable rental housing to help close the affordable housing gap and reduce the pressure on the boarding house sector.³

² DPIE, *Report to the Minister from the Council Boarding House Working Group*, August 2019.

³ Refer to Judith Yates, [Social and affordable housing projections: 2016-2026 \(and 2036\)](#), *Community Housing Industry Association NSW*, June 2018.

4 Boarding houses in the Inner West and NSW

The City Futures Research Centre’s research for Shelter NSW; *Boarding houses in New South Wales: growth, change and implications for equitable density*, provides a detailed account of registered boarding houses in NSW between 2013-2018.⁴ The report shows that registered general boarding houses increased from 505 to 1,043 during these years while assisted boarding houses declined from 23 to 17 during this period.

Table 1. Registered boarding houses, NSW 2013-2018

	2013	2014	2015	2016	2017	2018
Total registered boarding houses	505	742	829	904	992	1,043
General boarding houses	482	720	809	884	974	1,026
Assisted boarding houses	23	22	20	20	18	17

Source: NSW Boarding Houses Register, NSW FACS. Note figures for general boarding houses are derived from total registered boarding houses (per register) and assisted boarding houses (per CAJ).

The report discusses the land tax exemption for low-cost boarding houses administered by NSW Revenue. Land tax exempt boarding houses form a sub-set of general boarding houses. While NSW Revenue did not provide data for the report, data provided in the NSW Parliament reveals a decline in land tax exempt boarding houses between 2013-2014, followed by a modest revival to 2017. At the very least this signals a question over the viability of this scheme as a capacity building measure for the sector.

Table 2. Low cost (land tax exempt) boarding houses, NSW 2013-17

	2013	2014	2015	2016	2017
Land tax exempt boarding houses	706	593	624	574	616

Source: NSW Parliament, Legislative Assembly House Papers: 8378 – Boarding Houses Land Tax Exemptions.

The City Futures’ report identifies 940 general boarding houses (excluding student only boarding houses) that were registered as at 2016. It is estimated that the sector provides accommodation for 12,400 residents across NSW. The City Futures’ report also acknowledges the existence of unregistered boarding houses, referred to as the informal sector. Thus the role that the boarding house sector plays in the ‘housing continuum’ in NSW is significant.⁵

Registered boarding houses in NSW are largely concentrated within the City of Sydney, Inner West Council and a small number of neighbouring council areas.⁶ The City of Sydney has the highest concentration with 26% of registered boarding houses in NSW followed by Inner West Council with 19%.

The Newtown Neighbourhood Centre’s database provides information on boarding houses within the Inner West. As of April 2018, the number of all boarding houses (registered, registered assisted and unregistered) totalled 329 (refer to Tables 3 and 4).

The distribution within the Inner West Council area is also notable. The former Marrickville Council area contains 69% of all boarding houses, while the former Ashfield Council area

⁴ Chris Martin, *op. cit.*

⁵ AHURI Brief, '[Understanding the housing continuum](#)', 21 November 2017.

⁶ H. Pawson *et al.*, [Rooming house futures: governing for growth, transparency and fairness—New South Wales Discussion Paper](#), AHURI, Feb 2015, pp. 8-11.

contains 21% and former Leichhardt Council area contains 10% of all boarding houses in the Council area.

Table 3. Former Inner West LGAs - Estimate of Boarding Houses by Type

Former LGA	Registered	Registered Assisted	Unregistered	Total	Percent
Ashfield	46		23	69	21.0
Leichhardt	19	1	12	32	9.7
Marrickville	115	3	110	228	69.3
Total	180	4	145	329	100

Based upon these figures, the total number of boarding house residents in the Inner West Council is estimated to be over 3,300.

Table 4. Former Inner West LGAs - Estimate of Boarding House Residents (average of 10 residents per boarding house)

Area	Registered	Registered Assisted	Unregistered	Total BH residents	Percent
Ashfield	460	30	230	720	21.6%
Leichhardt	190	30	120	340	10.2%
Marrickville	1,150	30	1100	2,280	68.3%
Total	1,800	90	1,450	3,340	100%

As the data above demonstrates, boarding houses play a very important role in meeting the Inner West's local housing needs.

(a) Resident characteristics

Boarding house residents in the Inner West have distinctive characteristics, compared to the larger population of boarding house residents in NSW.

As the City Futures' report shows, there is a strong gender dimension to registered boarding houses within the Inner West and across NSW, with two-thirds of residents being male. There are very few female only or mainly female registered boarding houses (refer to Table 5).

The data shows that around 11% of all residents living in registered boarding houses in NSW are 60 years or older. Compared with other LGAs, the Inner West already has a relatively higher proportion of boarding houses with predominantly older residents (see Tables 5 and 6). Over the next decade this figure is expected to increase significantly, corresponding with the rapid ageing of the general population.

With respect to vulnerable lodgers or residents (see Table 7), including people with disability (mental illness and/or an intellectual, psychiatric, sensory or physical disability), the City Futures' report suggests that the data understates the extent of residents with these characteristics. Even so, the data indicates that the number of residents with disability in registered boarding houses tends to be higher in both the City of Sydney and the Inner West. Some informal estimates suggest that 30% of residents may be living in increased vulnerability.

Table 5. Registered boarding houses in Inner West, by gender mix

Female only	Mostly female (67-99% female)	Mixed (34-66% male)	Mostly male (67-99% male)	Male only
3 (2%)	2 (1%)	50 (32%)	54 (35%)	46 (30%)

Source: NSW Boarding House Register

Table 6. Registered boarding houses in Inner West, by mix of older persons

Mostly under 60 years (up to 33%)	Moderately aged (33-66% aged 60+)	Predominately aged 60+ (more than 66%)
136	12	12

Source: NSW Boarding House Register

Table 7. Registered boarding houses in Inner West, by vulnerable residents, and assisted boarding houses

Two or more vulnerable residents	Two or more vulnerable or older residents	Assisted Boarding Houses
29	72	2

Source: NSW Boarding House Register

Key findings of the *Boarding Houses Act 2012, Evaluation Report 1* are important to this discussion:

- *“many boarding houses provide low-cost accommodation to some of the most marginalised and disadvantaged members of our community.*
- *boarding house residents occupy a precarious position in the private housing market, generally have low incomes, with many also having physical, intellectual, social and psychological difficulties which affect their everyday functioning in numerous ways”.*⁷

Boarding houses play a significant role in the Inner West’s housing system where they remain an important housing option for many who live with disability, age related impairment or other additional needs.

(b) The Inner West Council Role

Council has a significant continuing engagement with the boarding house sector and a strong interest in shaping better outcomes for residents following the review of the *Boarding Houses Act 2012*.

Under the *Boarding Houses Act 2012*, councils have a range of regulatory and compliance responsibilities. Legislation such as the *Environmental Planning and Assessment Act 1979* and the *Local Government Act 1993* prescribe regulatory and compliance responsibilities relating to the boarding houses and their lodgers.

Council is the development consent authority for most new boarding house proposals and is the compliance authority for most planning approvals. Council is concerned to be able to plan for the location of new boarding house development in the most appropriate locations through its own strategic planning, and has regularly advocated to the NSW Government for the opportunity to do so in order to ensure that localised impacts of the development can be properly addressed.

⁷ Drake, G., Blunden, H., Newton, K. and Lentini, E. [Boarding Houses Act 2012, Evaluation Report 1](#), 24 September 2014.

To help meet local housing needs, Council supports an affordable boarding house sector in which accommodation and services meet reasonable standards. Council is also committed to ensuring that the rights and well-being of boarding house residents are protected. Council continues to invest in the boarding house sector through grants to service providers, and engagement with residents through social programs.⁸

5 Key issues and recommendations

(a) Establishing an accreditation system

It is Council's view that the boarding house sector needs an accreditation system and that this system should be established and managed by an appropriate agency within the NSW Government.

For people with disability living in boarding houses, the intersections with the National Disability Insurance Scheme (NDIS) are complex. Boarding houses are excluded from the NDIS Quality and Safeguards regime for supported disability accommodation. Where people with disability living in boarding houses receive a Supported Independent Living (SIL) package for support services for daily tasks, their accommodation is also outside the quality framework. As a result, the existing regulatory regime fails to include a holistic assessment of how services are meeting the needs of people with disability if they live in a boarding house.

There is a need for the amendment of Section 36 of the *Boarding Houses Act 2012* Meaning of "persons with additional needs" to ensure consistency with the *Disability Inclusion Act 2014*, the *Mental Health Act 2007*, the National Disability Insurance Scheme, and My Aged Care.

It is an increasing dilemma for people who live with more than one impairment to deal with system intersections when NDIS only recognises a primary disability. Definitional consistency must also recognise the complexity of needs that people experience. This is especially so given the profile of boarding house residents with multiple physical and mental health issues, in addition to one or more diagnosed impairments. Such alignment can help eligible residents receive further NDIS plan management support, and in some cases more appropriate disability specific housing.

Other sectors providing residential accommodation have accreditation systems including aged care facilities, homeless services, and disability specific accommodation. Royal Commissions are underway into both Aged Care Quality and Safety and Violence, Abuse, Neglect and Exploitation of People with Disability. Accreditation and standards based definitions of required levels and types of care and support are critical for establishing benchmarks and evaluating quality and effectiveness. Greater engagement with rights enshrined in International Conventions on the rights of older people and people with disability need inclusion in the *Boarding House Act 2012*. This would form a statutory basis for a new accreditation system to be developed.

⁸ Programs include the Boarding House Outreach Program which is a collaboration between Inner West Council and a range of homelessness services and NSW Government agencies including Department of Communities and Justice, Sydney Local Health District, Newtown Neighbourhood Centre, Missionbeat, Wesley Mission, Youth Off The Streets, NEAMI Way to Home, Launchpad and The Exodus Foundation.

Council is very supportive of the model of preventative health that is proposed by the Local Health District in its submission to the review.

It is noted that Queensland's *Residential Services (Accreditation) Act 2002* requires proprietors to register and become accredited for up to three levels of service provision: *accommodation service* (mandatory for all registered residential services); *food service*; and *personal care service*.⁹

These three levels are outlined below in more detail:

Accommodation service: Level 1 (compulsory) relates to a resident's right to:

- privacy and independence;
- individual resident agreements;
- appropriate record keeping;
- protection from abuse and neglect;
- grievance mechanisms;
- adequate goods and equipment;
- access to external professional service providers;
- cleanliness and maintenance;
- appropriate security and emergency measures;
- appropriate business and work health and safety practices; and
- human resource management and staff training.

Food service: Level 2 relates to a resident's right to:

- nutritious food;
- safe and hygienic delivery of food, storage, preparation and service; and
- kitchen and dining facilities that meet minimum requirements.

Personal care service: Level 3 relates to a resident's access to:

- external support services;
- accountable financial and clerical support;
- medication management and health care;
- help with clothing and hygiene management;
- the living environment;
- leisure activities;
- social networking; and
- participation in decision-making processes.

Council believes that such an accreditation system, adapted for the boarding house sector in NSW, should be introduced, administered and funded by an appropriate NSW Government agency as is the case in Queensland. Under this system compliance for boarding houses and responsibility for the capacity of the sector should pass to the NSW Government.

⁹ Queensland Government, *Factsheet: Overview of the Residential Services (Accreditation) Act 2002* - <https://rightwhereyoulive.org.au/wp-content/uploads/2018/07/DHPW-Overview-of-the-Residential-Services-Accreditation-Act.pdf>

Recommendation 1: That the NSW Government establishes, administers and adequately funds an effective accreditation system for all boarding houses covering registration and all levels of service provision including accommodation services, food services and personal care services.

Recommendation 2: That Section 36 of the Act, Meaning of “persons with additional needs”, be amended to ensure consistency with the *Disability Inclusion Act 2014*, the *Mental Health Act 2007*, the National Disability Insurance Scheme, and My Aged Care eligibility.

(b) Compliance

The introduction of the *Boarding Houses Act 2012*¹⁰ resulted in expanded compliance and enforcement responsibilities for councils. Councils now carry a disproportionate amount of the regulatory enforcement authority of the Act and regulations. Councils are responsible for approving new boarding houses and enforcing safety and accommodation standards in existing boarding houses. They also have the power to fine operators if they are unregistered and order them to meet building, safety and accommodation standards.¹¹

Unregistered boarding houses and other forms of illegal or non-approved dwellings and works also pose a challenge to councils. This non-approved use of premises and works, which may not comply with the building code, can cause serious safety issues, especially in the event of a fire. It has been estimated, for instance, that there are at least 145 unauthorised boarding houses operating in the Inner West.¹²

There is evidence that operators in the unregistered sector are aware of the legislation which defines boarding houses as premises that “*provide beds, for a fee or reward, for use by 5 or more residents*”. Some operators provide three or four resident beds as a way of attempting to circumvent the legislation.¹³

The requirement for annual inspection of boarding houses places substantial demands on resourcing for Council. On average, the booking, investigating, inspection and the preparation of the inspection reports takes four hours per property. Any compliance and/or enforcement action required as a result of these inspections increases resourcing requirements.

It is Council’s view that all initial compliance inspections of Registered and Assisted Boarding Houses should be undertaken by the Office of Fair Trading. The role of local government authorities with respect to these premises should be confined to carrying out fire safety inspections.

Currently the NSW Government charges a registration fee to boarding house owners at the time of registration, and is the recipient of payments received from penalties issued for breaches of Section 9 of the Act. The NSW Government could utilise these sources of revenue to ‘self fund’ compliance activities relating to registered and unauthorised boarding houses, as well as other forms of illegal or non-approved dwellings and works.¹⁴ In addition,

¹⁰ *Boarding Houses Act 2012, No. 74*

¹¹ NSW Fair Trading, [Boarding Houses Act 2012: Guide for Councils](#), June 2013.

¹² Refer to Table 3: Inner West - Estimate of Boarding Houses by Type, p.3.

¹³ Information provided by Council compliance officers, 28 August 2019.

¹⁴ The City of Sydney set up a special taskforce to crack down on illegal rentals. Refer to Esther Han, [‘Illegal accommodation: City of Sydney cracks down on black market syndicates’](#), *Sydney Morning Herald*, updated 16 June 2015 – accessed 22

revenue raised by registration fees and penalties could be redirected to councils to help fund their specific compliance activities, such as fire safety.

When carrying out its compliance and enforcement activities, Council takes into account its concern for the wellbeing of residents, such as their need for further support or other issues relating to their capacity or vulnerability. There needs to be more clearly defined pathways for accessing case management support and pathways to funded care and support in such circumstances.

Recommendation 3: That the NSW Government establishes a Local Government Working Group on Boarding House Regulation in order to provide advice on redistributing compliance and enforcement responsibilities between the NSW Government and councils in the long term interests of lodgers' health, well-being and safety.

Recommendation 4: That Local Government is adequately resourced with NSW Government funding to carry out boarding house compliance activities under newly reviewed and revised arrangements to be agreed between State and Local Government.

(c) Clarifying the definition of boarding houses and related terms

There is a lack of clarity relating to the definition of boarding houses under the Act. The current definition of boarding houses does not clearly differentiate them from other forms of residential accommodation such as student accommodation, co-living, and refuges and crisis accommodation. The definitions are important as these different types of accommodation require different modes of regulation.

It is the view of Council that commonly termed, but legally undefined, *new generation boarding houses* comprising self-contained rooms linked to Residential Tenancy Agreements without sharing other facilities, should not be considered boarding houses and should not be subject to or regulated by the Act under review.

Recommendation 5: That the definition of boarding houses in the Act be refined to properly differentiate boarding houses from other forms of residential accommodation.

(d) The Boarding House Register

The current Boarding House Register under the Act does not include all boarding houses. The Register needs to be comprehensive, accurate and kept up-to-date at all times.

It is considered that councils should have access to the Register to assist them with their regulatory activities. It is also proposed that the public should have access to information contained in the Register to help inform people seeking safe and well managed boarding house accommodation.

Breaches or prosecutions should also be added to the Register for the purpose of informing councils and the public. This may also provide an incentive for boarding house operators to improve and/or maintain standards.

September 2019. Also refer to Amy McNeillage, ["You just take it": the students at the sharp end of Sydney's housing nightmare](#), *The Guardian*, 20 March 2018.

Recommendation 6: That the Boarding House Register accurately reflects all registered boarding houses, their owners, managers and associated information at all times and that any breaches by boarding house operators be included in the Boarding House Register.

Recommendation 7: That councils and the public be given access to information contained in the Boarding House Register.

(e) Creating a Boarding House Resident Support Program

The *Boarding Houses Act 2012* divides registrable boarding houses into two categories: *General boarding houses* that accommodate five or more paying residents and *Assisted boarding houses* that accommodate two or more persons with additional needs.

It is notable that the NSW Government's announcement on boarding house reforms in 2012 coincided with coroner Mary Jerram handing down her findings into six deaths at a boarding house in Marrickville between 2009 and 2010. The coroner's report found that the deceased had been "uncared for, poorly treated medically and neglected". Further, the coroner was highly critical of the care and treatment of thousands of disadvantaged and mentally ill people in the state's boarding houses, declaring that "if a society is judged by the treatment of its most vulnerable members, then ours is failing miserably".¹⁵ It is evident, however, that significant numbers of residents continue to experience poor outcomes from sub-optimal treatment in some boarding houses.

The general profile of boarding house residents indicates higher than average prevalence of cognitive disability. Residents are also more likely to have experienced other disadvantage including homelessness and to have served gaol terms. The Inner West has a relatively high proportion of boarding houses with predominantly older lodgers. In an ageing population, the proportion of elderly lodgers in the Inner West is likely to increase, and it is well known that the prevalence of age related disability and impairment increases with age.¹⁶

Evidence also indicates that official data on vulnerable residents with cognitive and other disability is under-stated. One evaluation study found that 35% of boarding house residents reported that there were two or more people requiring daily care including assistance with showering, moving around and taking medication. Also in 2017, proprietors reported that of all residents requiring daily care in their boarding house, 36% did not have adequate access to services.¹⁷

Council recognises that there are some support programs provided through Department of Communities and Justice and Health NSW that assist vulnerable residents in general and assisted boarding houses.

While some residents with health issues may be able to access NDIS packages, there are many residents that would not necessarily be eligible for assistance under NDIS.

There is therefore a need for the NSW Government to investigate the extent of boarding house residents with mental health and other needs and for an integrated Boarding House Support Program to be established that comprehensively addresses these needs. Such a program would need to operate in conjunction with the proposed new registration process.

¹⁵ Paul Bidy, 'Six deaths in boarding house stir coroner's ire', *Sydney Morning Herald*, 12 May 2012.

¹⁶ Chris Martin, *op. cit.* pp. 15-16.

¹⁷ Gabrielle Drake, *Evaluation of the Boarding Houses Act 2012: Report 4 and Final Report*, Feb 2018, p. 32.

Recommendation 8: That the NSW Government investigates the extent of boarding house residents with mental health and other needs and establishes a Boarding House Support Program to comprehensively address resident needs. Such a program, funded by the NSW Government, should co-ordinate access to existing service provision systems and focus on health and wellbeing, informed by a charter of residents' rights that includes advocacy support.

(f) Making boarding houses affordable

Council's recently prepared draft Housing Strategy has highlighted the significant need for more affordable housing stock of differing types in the Inner West to meet growing local needs. It acknowledges the important role that affordable boarding house accommodation can play to meet the needs of some of our most vulnerable members of the community. However it also notes that this role is primarily fulfilled by long established traditional boarding houses, and that the *new generation boarding houses* now more commonly being developed are targeted to serve a different demographic, and are rented at the same weekly open market rent as studio or one bedroom apartment. This is not assisting in bridging the local affordable housing gap.

The draft Housing Strategy states that an *"estimated 571 social/affordable dwellings, or other affordable rental accommodation such as boarding rooms available at an affordable rental rate, would need to be delivered per year to meet all housing need (estimated homelessness, households in housing stress) by 2036."* To bridge this gap *"around 57% of all dwellings approved annually must be affordable/social housing to meet the estimated demand for social/affordable housing."*¹⁸

The draft Housing Strategy states Council's commitment to advocate for an amendment to State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) to require boarding houses developed under the Policy be let at affordable rents. It also states Council's commitment to seek exemption from the boarding house controls in the ARHSEPP so Council can develop its own controls to encourage boarding house development at affordable rents to meet local needs and secure better planning outcomes.

Council has recently participated, along with eight other councils, in a State Government coordinated Council Boarding House Working Group to provide the Minister with advice on boarding house development and criteria under which councils could justify an exemption from the boarding house provisions in *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP).

Council argued strongly in the Working Group for the definition of boarding houses to be amended in the ARHSEPP in order to ensure that boarding house rooms are affordable and this is an adopted recommendation of the Working Group. The Working Group also recommended that all boarding houses be managed by a registered not-for-profit Community Housing Provider which would assist with ensuring compliance with the affordability requirement. These reforms would help ensure that future boarding house developments will be required to charge affordable rents as defined by the legislation.¹⁹

¹⁸ Inner West Council, [Our Inner West Draft Housing Strategy](#), 28 May 2019, pp. 67-68.

¹⁹ Laurence Troy et al, [State Environmental Planning Policy \(Affordable Rental Housing\) 2009 and affordable housing in Central and Southern Sydney](#), City Futures Research Centre, June 2018.

It is important to ensure that any changes made to the definition of boarding houses in the ARHSEPP, as a result of the Working Group's recommendations, are reflected in the *Boarding Houses Act 2012*. The Act also needs to be consistent with other pieces of legislation and case law relating to the definition of boarding houses, lodgers and lodging.

Recommendation 9: That the NSW Government implements the recommendation of the Report to the Minister for Planning and Public Spaces from the Council Boarding House Working Group (August 2019), relating to State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) to “*amend the definition of boarding houses in the ARHSEPP to ensure that boarding house rooms are affordable.*”²⁰

Recommendation 10: That the review takes account of the interrelationships between the *Boarding Houses Act 2012* and other pieces of legislation including *Environmental Planning and Assessment Act 1979*, *Local Government Act 1993*, *State Environmental Planning Policy (Affordable Rental Housing) 2009* and their associated regulations.

(g) Strengthening the viability of the boarding house sector

Council has an interest in promoting the economic viability of the boarding house sector to generate affordable homes and help meet the housing needs of the local community.

While the existing land tax exemption for registered low-boarding houses, which is administered by NSW Revenue, helps promote both affordability and economic viability, this alone does not appear to be fostering new developments in the Inner West or elsewhere.

Another limited form of financial assistance potentially available to owners and operators of existing boarding houses is the Boarding House Financial Assistance Program – Fire Safety that provides grants of up to \$60,000 to help undertake essential fire safety works. However this Program is currently under review and no further applications are being accepted.

It is important that the review considers additional financial and other potential support measures and concessions to bolster the viability of the sector to enable it to deliver boarding house accommodation at affordable rents.

Recommendation 11: That a boarding house viability and capacity building package of measures be developed by the NSW Government. This needs to address potential financial and other forms of assistance needed to secure the viability of the sector to enable it to deliver boarding house accommodation at affordable rents.

(h) Increasing the supply of social and affordable rental housing

For individuals on very low to low incomes, traditional boarding houses can offer one of very few available affordable housing options. To help address the affordable housing gap and combat increasing levels of homelessness the State Government needs to invest in supporting the development of substantially more social and affordable housing of all types.

²⁰ NSW Department of Planning, Industry and Environment, *Planning for boarding house development: Report to the Minister from the Council Boarding House Working Group*, August 2019.

Shelter NSW has urged the NSW Government to commit to increasing the supply of social housing by at least 5,000 homes a year for the next 10 years to at least return the share of social housing to the level that prevailed two decades ago.²¹

Traditional boarding houses represent one type of accommodation that helps meet the needs of vulnerable and low income people. An expansion of social and affordable housing will contribute to relieving the pressure on the declining stock of affordable boarding houses in the Inner West Council area and elsewhere.

Recommendation 12: That the NSW Government invests in the development of more social and affordable rental housing to help close the affordable housing gap and reduce the pressure on the boarding house sector.

²¹ Shelter NSW, [NSW Election 2019: Commit To Fixing Housing in NSW](#), Nov 2018.