



9 September 2020

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

Inner West Council submission on the proposed Housing Diversity SEPP Explanation of Intended Effect

To the relevant officer,

Please consider this Inner West Council's formal submission to the proposed Housing Diversity State Environmental Planning Policy (SEPP) Explanation of Intended Effect (EIE). We thank the Department for the opportunity to comment on the proposal and hope our insights are beneficial to its refinement.

Overall, Council supports the intent of the proposed Housing Diversity SEPP as it is a step in the right direction for an integrated framework of planning provisions which will facilitate the delivery of diverse residential accommodation. Council commends the Department on moving towards a boarding house model that will deliver affordable housing as initially intended. The proposed Housing Diversity SEPP will have significant implications for the NSW community, landowners, property developers, student accommodation providers and community housing providers. This submission provides further discussion on the EIE and raises issues where the EIE does not strategically align with Council's plans, policies or strategies.

Boarding house amendments

The proposed changes to make future boarding houses affordable and operated by Community Housing Providers (CHPs) are welcomed by Council. This aligns with Council's strategic framework, including action 3D of the Local Housing Strategy, which calls for boarding house developments to be affordable and managed by CHPs in perpetuity. This is also consistent with the previous Council submissions to the Council Boarding House Working Group.

Council also welcomes the proposed changes for planning incentives including scaling back the bonus FSR to a standard 20% uplift and FSR incentives to be made available only to affordable boarding houses. However, there are concerns if the affordable housing restriction for new boarding houses remains in place for a limited 10-year period only. A boarding house developed using FSR incentives and design provisions relevant to only boarding houses should not be able to revert back to market rent and should remain affordable in perpetuity.

Council also requests for universal design standards under the Liveable Housing Design Guidelines to apply to all boarding houses, in line with its Local Housing Strategy Action 2A, to make boarding houses safer, more comfortable and easier to access for people of all ages and abilities.

Build-to-rent (BTR)

Council welcomes the new BTR land use in NSW planning system which has the potential to provide long-lasting community benefits, with greater housing choice for tenants who have access to high-quality dwellings, in a stable rental environment. However, it is questionable whether this initiative would result in genuine delivery of long-term rental accommodation. There are currently no impediments in the NSW planning system to the development of new housing for long-term rental purposes. However, the proposed standards for a development to qualify as BTR especially with at least 50 self-contained dwellings will inhibit the provision of BTR in urban-infill areas with small lots such as Inner West. There are concerns regarding the design standards that would apply to BTR as EIE

indicates that parts of State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development (SEPP 65) would continue to apply but the Apartment Design Guide will not necessarily apply to BTR typology. Whilst the design standards for BTR and minimum dwelling sizes are yet to be confirmed, there are concerns about setting lower design standards for BTR as compared to standard market dwellings without sufficient justification.

Overall, it is unclear whether the new proposed BTR arrangements would actually boost the supply of such housing and prove to genuinely offer long-term stability to tenants in the Inner West. It is suggested that the land use should be refined to include provisions that offer existing long-term tenants the first rights to acquire a unit when the rental period is over. It is also highly recommended that a minimum percentage of dwellings in the building be retained as affordable housing in perpetuity.

Many councils do not permit any type of residential accommodation in its commercial core to reduce land use conflicts and limit the reduction of employment-generating floor space in its commercial cores. There are concerns regarding potential adverse economic and land use impacts if BTR is permitted in B3 Commercial zoned land although Inner West will not be directly impacted by this change as it currently does not have any B3 zoned land. The proposed changes also seek to prohibit strata subdivision in perpetuity in B3 zone. To assist with the genuine uptake of BTR, it is suggested that prohibition of subdivision in perpetuity be expanded to other zones.

Council foresees unintended consequences with the introduction of the BTR land use. We question whether there will be a mechanism to prohibit the conversion of BTR developments to private apartments for sale upon their completion. For example a BTR development located in an R4 zone is completed, and it is then claimed that there is no demand for such a use and a DA is lodged to change the land use to a residential flat building, will there be any additional powers given to Council to prohibit this change? This will be especially important if the design standards are lower for BTR.

Table 1 in the EIE states that “Local provisions apply” would apply to the affordability status of BTR housing. It is unclear whether this means that Council set its own local provisions regarding affordability and rents; and how this would be implemented and monitored. Whilst the power for councils to set affordable local provisions to BTR is welcomed, further guidance is sought from the Department regarding implementing these provisions.

Co-living developments

The new co-living land use, otherwise known as ‘new generation’ boarding houses, is supported by Council, to address the gap generated by the affordability requirement for boarding house developments. Council supports and highly commends the Department to endorse that co-living developments will not attract a floor space bonus or other incentives and that these will only be allowed where residential flat buildings are currently permitted. Co-living dwellings should be subject to the Council LEP height, floor space ratios and DCP building envelopes.

Council also welcomes the preliminary design standards which stipulate larger rooms than boarding rooms in existing dwellings. However, it is unclear if the co-living developments will include only studios and not one, two- or three-bedroom apartments; and whether the minimum area 30-35sqm would include private kitchen or bathroom facilities. Further clarification regarding the design standards is sought from the Department. It is also suggested that Council should retain full control of the design criteria through a DCP.

Student housing

The introduction of 'student housing' as a formal land use term is welcomed. The introduction of the new student housing definition and planning controls will respond to the demand for a specific student accommodation definition and specialised planning controls from industry providers. Council also welcomes the opportunity to determine permissibility of this use through its own LEP and the restriction of floorspace and height incentives. However, concerns are raised regarding the proposed planning and design controls in the draft EIE.

Whilst the new design guidelines pertaining to student housing are yet to be developed, the minimum room size in the EIE is extremely low and will result in poor internal amenity for students. The proposed minimum 10sqm per student (with the possibility of allowing smaller areas when justified as stated in the EIE) is insufficient to meet students' needs e.g. adequate sleeping, living and study spaces. Council recommends that this minimum size be revised to at least comply with the existing boarding house minimum room size of 12sqm for single rooms and 16sqm for double rooms, excluding any areas used for a kitchen or bathroom.

The proposed indoor communal space standards are also considered to be insufficient and should be increased. In addition, the EIE requires no outdoor space if the development is in close proximity to an educational establishment 'with ample outdoor space'. This is contentious and raises significant assessment issues in determining adequate access to open space. Anecdotally, Council officers have heard that students in major Universities such as the University of Sydney and University of Technology Sydney rely on Council sporting grounds due to insufficient availability of on-campus recreational spaces.

Clarification is also sought regarding which educational establishments are implied in the EIE in determining the proximity needs and whether would include schools, private colleges and TAFEs or specifically apply to universities. Regardless, the proposed control which would diminish provision of on-site open space in student housing developments is not supported.

The EIE states that student housing will be defined as providing accommodation for students during teaching periods. Council recommend that this definition or the provisions relating to student housing be refined so that student housing always be principally for the accommodation of students. Whilst we welcome flexibility in the use of this accommodation, students should always be given the priority and right to remain within their accommodation, including any teaching break periods as long as the student is registered with an educational establishment. Otherwise, Council foresees a potential unintended consequence of this being that students are removed from their accommodation during non-teaching periods to use their accommodation for quasi tourist and visitor accommodation.

Generally, the introduction of these new land uses requires Council to develop new provisions in the Local Environmental Plans (LEP) and Development Control Plans (DCP) and review existing DCP boarding house provisions to ensure these remain relevant and reflect the changes envisaged in the new SEPP. Council requests the Department to provide sufficient time to councils to review the existing LEP/DCP controls and develop new BTR, co-living and student housing controls where local DCP provisions are required. A grace period should be established to give councils adequate time to amend LEP/DCP and develop guidelines for the new land uses.

Amendment to Part 3 of the ARHSEPP

Council welcomes the proposed changes to Part 3 of the ARHSEPP. Part 3 requires proving that a building contains low rental dwellings in order to collect a monetary contribution of their loss in the

event of demolition or strata subdivision. Currently the onus is on Council to prove that a building contains low rental dwellings and, in accordance with Part 3, it must be proven that the dwellings were low rental as at 28 January 2000. The amendments propose removing reference to this date and instead require that the dwellings need to have been low rental sometime within the last five years. Onus is also now on the developer to provide such proof.

This is welcomed as it has been difficult for Council to provide proof of private rent transactions on a specific date. While there are concerns that it is within the developers' interests to prove that there are no low-rental dwellings, the information available to Councils is lacking to prove this anyway.

Site compatibility certificates (SCCs)

There are concerns with the proposed extension of SCCs, as well as the general applicability of these certificates in industrial and business zoned land, as they undermine the purpose and function of employment lands.

Extending the validity of the certificates for five years as opposed to the current two years will further undermine the purpose and function of industrial and business zones which they are applied to.

Council encourages the Department to review SCCs and consider dropping them from the NSW planning system all together.

Amendments to social housing provisions of the State Environmental Planning Policy Affordable Rental Housing (2009) (ARHSEPP)

Council supports increasing the supply of social housing. However, the proposed increase of the self-assessment threshold for Land and Housing Corporation (LAHC) developments on Government owned land from the current 20 dwellings limit to a limit of 60 and requiring assessment against design guidelines which are yet to be revealed is of concern. It is recommended that councils be consulted in developing these design guidelines, especially if the mix of housing is proposed to include private, social and affordable dwellings.

Council is concerned that there is no guarantee that this re-development model will retain existing levels of social and affordable housing. To guard against such outcomes, Council recommends that changes to the planning provisions to be used by LAHC include a guarantee that such re-developments do not result in the loss of existing levels of social and affordable housing within project areas. Council also recommends that a cap be applied on the percentage of private dwellings permissible in the LAHC developments so that the social/affordable housing remains the dominant type of dwellings.

Seniors housing

Council is generally supportive of the proposed changes to seniors' housing provisions. This includes alignment of definitions to be consistent with the Standard Instrument LEP as well as clarifying that development standards of the LEP prevail to the extent of any consistency with the SEPP.

Amendments to ensure seniors housing has access to local facilities and transport does not include access to taxis, hire cars and ride share is also supported by Council.

Council would like to use this opportunity to request the Department to reform how funds are allocated and utilised for low-rental housing through Part 3 of the ARHSEPP. Currently, these funds are managed by the Department of Communities and Justice. With an affordable housing fund now established at Inner West

Council, we are now best placed to collect contributions from the loss of low-rental dwellings to efficiently redirect this money to the provision of affordable housing within the Inner West LGA.

Thank you again for giving us this opportunity to comment on the EIE. Should you need any further information or clarification regarding the content of this letter, please do not hesitate to contact Strategic Planner **Jarrad Sheather** on 9392 5210 or by e-mail at jarrad.sheather@innerwest.nsw.gov.au.

Sincerely,



Daniel East
Acting Strategic Planning Manager

