



Australian
Institute of
Architects

Housing Diversity State Environmental Planning Policy Discussion Paper – NSW Chapter Response

Submission to
Department of Planning, Industry and Environment

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NSW Chapter
Australian Institute of Architects

SUBMISSION BY

Australian Institute of Architects ABN 72 000 023 012

NSW Chapter
Tusculum
3 Manning Street
Potts Point NSW 2011
t. 02 9246 4055
e. nsw@architecture.com.au

Contact

Lisa King
Policy and Advocacy Manager, NSW
lisa.king@architecture.com.au

PURPOSE

- This submission is made by the Australian Institute of Architects' NSW Chapter (the Institute) in response to the Discussion Paper: A Housing Strategy for NSW (May 2020) and Explanation of Intended Effect for a new Housing Diversity SEPP (July 2020) on behalf of the Department of Planning, Industry and Environment (DPIE).
- Comments have been prepared with the assistance of the NSW Chapter's Built Environment Committee and Policy and Advocacy Manager, NSW, Lisa King.
- At the time of this submission, the Chapter President of the Institute is Kathlyn Loseby.
- The State Manager is Kate Concannon.

INFORMATION

The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with around 12,000 members across Australia and overseas. More than 3,000 of these are based in NSW.

The Institute exists to advance the interests of members, their professional standards and contemporary practice, and expand and advocate the value of architects and architecture to the sustainable growth of our communities, economy and culture.

The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design.

Introduction

We thank you for the opportunity to provide this response with respect to the important proposed reforms outlined in the *Explanation of Intended Effect for a new Housing Diversity SEPP (July 2020)*. We understand the Department of Planning, Industry and Environment (DPIE) intent is to implement a single, comprehensive instrument which would consolidate the Seniors or People with a Disability SEPP, the Affordable Rental Housing SEPP and SEPP 70 and at the same time update these instruments to better reflect current and future community requirements. The Institute of Architects (the Institute) recognises the importance of diverse, affordable housing and holds that housing is a fundamental human right. We support the Minister and the DPIE in their aims to secure an adequate supply of new dwellings, provide consolidated, clear and concise planning instruments which remove unnecessary barriers for consent, facilitate diversity in the housing market, and provide a social housing sector which meets current and future demand in our community.

The Institute shares the DPIE aims of ‘affordable, well-designed’ homes ‘in places people want to live’ along with ‘a strong social housing sector’. A central objective of the new SEPP and its assessment process should be to encourage quality design outcomes. Planning policy should, therefore, preserve design flexibility and assessment must be capable of recognising this.

Whilst many of the new proposed reforms target large institutional investors, and we welcome more of this form of investment, we are concerned that proposed changes will lead to the loss of many small and medium sized enterprises (SME) who actively drive innovation in this market. Furthermore, we would ask the DPIE how planning regulation will support the opportunity for new models of home ownership for ordinary community members who seek this? We believe by reducing the many restrictions on specific typologies, innovation will drive new models of housing which will benefit both investors and aspiring homeowners at all levels of the market. Of significant importance is the amenity and congruency of new housing with existing communities. Coherent design guidelines and the successful use of design review panels will be imperative. The Institute recommends the reduction of land use terms, believing this will assist in reducing the stigma of development types such as the boarding house. Guidance will be required to clarify the process when applications do not meet the standards.

The Institute strongly supports the DPIE aims of stimulating the construction sector and the creation and continuity of employment for this sector. We note that the more cumbersome and labour-intensive the planning process, the greater the non-productive costs of housing become, and the longer the delays in bringing this much-needed housing to fruition. Better, more streamlined policy, assessment and approval processes, mean better and faster outcomes. We ask the DPIE to consider the current word-count, number of checklists and tools in use when reviewing these instruments to ensure the outcome is a concise and efficient tool which improves the quality and affordability of the built environment. We believe the new SEPP should, above all, improve the affordability of housing for all residents of NSW through increased choice, amenity and value for money.

Introducing new housing types

Build-to-rent housing:

- We are not aware of any current planning system barriers to the creation of Build-to-rent housing
- We do not see the need for additional regulation of this form of housing
- There are current participants in this sector i.e. Meriton who do not need to benefit from further subsidy
- The proposed specification of 50 self-contained dwellings with single ownership will remove SMEs from the sector and restrict the application to larger institutional developers with the potential to limit rather than create supply and innovation
- The power imbalance of landlord to tenant currently experienced in the market can and should be addressed through reform of the Residential Tenancies Act rather than the planning system
- Should the Build-to-rent model proceed, future subdivision should be clearly linked to the life expectancy of the building itself to avoid poor quality, limited lifespan construction being developed, and building maintenance being reduced as the subdivision date nears, culminating in poor consumer outcomes

- Should the Build-to-rent model proceed, it should have equivalent standards to the current SEPP 65 to ensure minimum amenity when it reverts to market

Purpose-built student housing:

- We understand the current use of boarding house legislation for student housing has not resulted in the intended affordable housing outcomes needed
- We understand this has also led to contentious outcomes in terms of scale and development incongruous with existing streetscapes and neighbourhoods
- We support the proposal to align floor space ratio with the relevant LEP
- We strongly recommend access to open space to support the mental health of occupants
- We strongly support the development of design guidelines to address current issues of amenity, scale, context and form
- Should the model include self-contained dwellings, which we recommend, we believe the minimum size 10m² will be too small
- We see this housing typology as having the potential to also meet the needs of other cohorts such as empty nesters moving to inner city locations and the growing number of single occupants living in cities today. There are examples of this in other global cities such as New York i.e. www.ollie.co This company uses both a Co-living and a Co-lodging model with Co-living being longer term tenants and Co-lodging shorter term

Co-living:

- We strongly support the existence of a co-living typology in the housing market
- We suggest this typology is not only an ideal rental product, but also may provide an option for buyers (who would not normally be able to afford to purchase an apartment) to enter the market
- We propose this model consists of self-contained dwellings with communal facilities and outdoor spaces as required
- We believe minimum size of dwellings should align with current boarding house models to allow the market to determine the mix and configuration, this should also be the case with the number of units allowable
- We do not support a minimum of 10 private rooms and assert children should also be able to live in this typology
- We would encourage further consultation with regard to the definition and model of the co-living typology be undertaken with key stakeholders such as ourselves, Co-housing Australia and Community Housing Groups to assist in establishing a product which provides long term rental or ownership options with resident-led (or Community Housing Providers in the case of affordable housing) management onsite. Additionally, Community Land Trust models should be considered here to encourage options which provide those currently locked out of the housing market an option to become future buyers
- We believe the co-living typology should include projects such as those of small and medium scale currently being developed under the New Generation Boarding House legislation

Updating existing provisions

Boarding house provisions of ARHSEPP:

The Definition

- We strongly support limiting the definition of boarding house under the ARHSEPP as Affordable on the condition that new alternate pathways are created under the co-living typology to preserve the emerging innovation and diversity in this sector
- We note evidence suggests rooms should be self-contained with the addition of communal and outdoor spaces
- We do not support the return of boarding houses to market rates after 10 years as this will be detrimental in terms of the security of tenure the tenants desire, will undermine the aim of delivering desperately-needed affordable housing, and will lead to poorer quality construction outcomes

R2 Low Density Residential Zone

- We strongly disagree with the proposal not to mandate boarding house development in the R2 Low Density Residential Zone
- We urge the DPIE to show leadership on this issue and argue that a 12 room boarding house has the equivalent footprint and scale of a large project home
- Managed by Community Housing Providers who have stringent operational guidelines, these dwellings pose no threat to surrounding communities
- This typology is capable of providing much needed keyworker housing in locations close to their work which is highly desired and currently rarely available in Sydney leading to better community outcomes
- We note the Housing Strategy Discussion Paper's recognition of 'the need for older people to stay in their community'. We believe this typology can assist in delivering on this aim
- We note current boarding houses have an 'accessible location' test (SEP ARH 27) which already limits which parts of R2 are suitable

Proposed 20% FSR bonus

- We understand the unintended impact of current FSR outcomes such as the 0.5:1 ratio resulting in the doubling of the size of the development, and accept the 20% FSR bonus as a reasonable amendment

Car parking

- The issue of car parking will be addressed in the Additional Provisions section of this submission

Proposed amendments to ARHSEPP provisions:

- We support the proposed amendments to ARHSEPP as outlined in the EIE

Proposed amendments to seniors housing or people with a disability provisions:

We recognise the current Seniors or People with a Disability SEPP is an outdated instrument which requires appropriate updating and it is important to emphasise it is *heavily* relied upon in the planning pathway for new Residential Aged Care and Independent Living developments.

The essential benefits of the current Seniors or People with a Disability SEPP include:

- The 1:1 FSR for Residential Aged Care buildings (RAC) in residential zonings
- The 8m height control definition being to the underside of the topmost ceiling. This is because an RAC floorplate which is often large (to allow for feasible number of beds for care staff ratios) has to be on a continuous level for accessibility and cannot step to accommodate sloping sites, or have loft or attic storeys.
- It is important to ensure the benefits of these provisions are not lost with the proposed deference to the LEP definitions

Some of the conflicts in the Seniors or People with a Disability SEPP against the SEPP objectives include:

- The requirement for the rear 25% of the site area to be single storey. We understand the objective is to protect the amenity of residential neighbours, however, often the 'rear boundary' is difficult to define (on irregular shaped or corner sites) or does not serve the purpose of protecting neighbours (if the rear faces a park for example). A distribution of 25% of the site area against residential shared neighbouring boundaries or alternative means of achieving this objective would be considered more appropriate

In the face of the significant change currently occurring in the Aged Care sector, the SEPP could include the provision for 'Assisted Living Units' in place of the outdated 'Hostel' definition. There is increasing demand for this type of accommodation, but it currently has no planning definition or assignment.

We welcome the integration of the Seniors or People with a Disability SEPP into a Housing Diversity SEPP and the potential to co-locate Seniors or People with a Disability housing with other types of multi-generational community living.

- Please see Appendix A for a comprehensive response regarding current seniors or people with a disability housing provisions
- We support the Seniors or People with a Disability SEPP advantages over other developers in terms of permissibility. Without this we recognize that many Seniors or People with a Disability housing projects could not be feasibly developed
- As the Seniors or People with a Disability SEPP was established in 2004, we believe an extensive re-examination of this SEPP is required to align it with current and future community needs and we welcome future engagement along with other relevant stakeholders to assist in this process. We see vertical villages being developed, surface carparking disappearing, and the potential for Seniors or People with a Disability housing and residential aged care facilities integrating with larger mixed-use developments as just some of the issues which must be addressed in the near future to accommodate the exponential growth in this sector

Proposed changes to the social housing provisions of the ARHSEPP:

- We support the proposed changes to the social housing provisions of the ARHSEPP
- Please see Additional Provisions section for comments regarding car parking

Proposed changes to the social housing provisions of the Seniors or People with a Disability SEPP:

Parking concessions for seniors or people with a disability housing

- The issue of car parking will be addressed in the Additional Provisions section of this submission

Clarify application of lift access exemption

- We strongly disagree with the removal of the requirement for lift access for Seniors or People with a Disability on or above the second floor
- We note the LAHC already holds a number of dwellings which house tenants whose mobility needs are not currently catered for in their existing accommodation
- We highly recommend the development of future-proof Seniors or People with a Disability housing which allows residents to age-in-place and is designed for the accessibility of those with all levels of mobility

Proposed changes to the social housing provisions of SRD SEPP

- We support the simplification of pathways for LAHC project assessment and trust it will be utilised to provide much-needed social housing

Additional Provisions

Car parking

- Car parking requirements are a contentious topic. The Institute strongly recommends the future-proofing of projects across all typologies through the abolition of minimum car parking requirements. With maximum requirements in place, the market can determine when, how and why car parking is required. We understand there are clear cases where car parking is vital and necessary; from students with a disability, families needing to ferry children to weekend sport, to the need for ambulances to access Seniors or People with a Disability housing. We also understand that mandating large numbers of car park spaces to development is counter to both principles of sustainability and affordability
- We encourage the accommodation of bicycle parking, ride share drop off points and limited parking allocated flexibly on an 'as needs' basis



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Summary

Thank you for the opportunity to review the *Discussion Paper: A Housing Strategy for NSW (May 2020)* and *Explanation of Intended Effect for a new Housing Diversity SEPP (July 2020)* and to provide our feedback and recommendations. We consider that a streamlined, concise and well-conceived Housing Diversity SEPP can effectively deliver agility, amenity, innovation and much-needed affordability into the NSW housing sector. We welcome the opportunity for continued consultation as this new SEPP evolves and we offer the Institute's support in assisting the DPIE to achieve high quality housing outcomes for all in NSW.

Appendix A: Seniors or People with a Disability Housing recommendations

1 General observations

Relevant Clause	Issue	Discussion	Recommendation
Clause 3 - Interpretation	The existing definitions are not aligned with the Standard LEP template and some of the terminology is outdated or misunderstood. (for example; the Gross Floor Area/GFA is measured to the outer face of the external wall)	For consistency the terminology within the Seniors or People with a Disability SEPP should reflect the SI LEP and be recalibrated. The definition of height is also not aligned currently with the SI LEP.	Update CI 3 to align with the SI LEP and be recalibrated.
Clause 12 - Hostels	Outdated term and accommodation typology. The need by providers to provide Assisted Living accommodation is highly sought after although no planning model is currently in place for this.	Hostels built for low care are outdated and no longer built	Revise this concept of low care aged accommodation as part of self-care and co-living with the availability of limited on site care services - suggestion: Assisted Living
Clause 31 – Design of Infill Housing Guidelines	These guidelines were published in 2004 and relate to Infill development.	These guidelines need to be updated and given weight to reflect consistency with other standards and relevance to the scale and typologies that the market is calling for. In current form they are often ignored by consent authorities including L&EC.	Guidelines referenced in the Seniors or People with a Disability SEPP – need to relate to typologies and densities.
Part 7 - Development standards that cannot be used as grounds to refuse consent	These deemed to comply provisions are sometimes considered 'Standards'.	Part 7 needs to be clear as to whether they are standards or deemed to comply provisions.	Part 7 needs to be referred to as development criteria.
Clause 41(2) – Standards for hostels	Currently this clause provides dispensation	The clause removes compliance with	The same concessions need to be offered for



and self-contained dwellings	for social housing providers in delivering self-contained dwellings but not hostels.	various standards if the applicant is a social housing provider but only for self-contained dwellings and not hostels.	hostels as they are for self-contained dwellings in clauses 2, 7, 8, 9, 10, 11, 12, 13 and 15-20 in Schedule 3.
Schedule 1 - Environmentally sensitive land	The land identified in schedule 1 does not align with the Standard LEP template and as such, is difficult to determine applicability.	Schedule 1 outlines land to which the SEPP does not apply. Those descriptors need to align with the Standard LEP template in order for those descriptions or expressions to be readily interpreted. For example, what is 'high flooding hazard' or floodway?	Align the exclusions in Schedule 1 with standard definitions that are contained with LEP template or mapping protocols.
Schedule 3 - Standards concerning accessibility and useability for hostels and self-contained dwellings	AS 1428.1 relates to standards for access and mobility for people between 18 and 60 in a residential context.	There is ambiguity between standards for people with disabilities and standards for seniors.	Until the Australian Standards are updated to reflect specific research on housing needs for Seniors or People with a Disability, then AS1428.1 and 1428.2 should be used as suggested guidelines only .
Schedule 3 - Standards concerning accessibility and useability for hostels and self-contained dwellings – car parking	Lack of clarity with respect to the percentage of parking spaces required for persons with a disability in independent and hostel accommodation	Provision of ALL car spaces as disabled spaces for independent and hostel residents was not required in previous iterations of the SEPP and is not required in practice.	Confirm the requirement for accessible spaces for people with a disability to AS2890 standards at 5% of required spaces.

2 Matters that require reworking

Relevant Clause	Issue	Discussion	Recommendation
Clause 4 (c) - building located in the rear 25% area of the site	This standard generates inefficiency in terms of	This standard does not address the site-specific elements of	If the driver is to transition scale and bulk between land



must not exceed 1 storey in height	development potential of the site. In most cases (corner sites, irregular shaped sites and land without residential neighbours) the 'rear of the site' is difficult to define.	solar orientation, relationship to adjoining land uses and likely privacy issues.	uses, then it may be preferable to have some performance guidelines such as setbacks.
Clause 26 - Location and access to facilities	This clause does not distinguish readily between aged care and retirement living and the provision of services and facilities to the residents. It is outdated for Aged Care which is now very much 'high care', dementia care and end of life care where residents will not be physically able to access public transport.	This requirement does not discern the differing needs of retirement living and aged care residents. Those in retirement living may still drive, hence, not reliant on walking to gain access to facilities and services. However, residents in aged care often cannot independently gain access to facilities and services. Consequently, many of these services and facilities are provided on site or a bus scheduled regularly to take residents to various locations.	The requirement of being no more than 400m from services and facilities is removed provided the proposed development can demonstrate there are services and facilities provided on site and/or regular transport is available for residents to have access to facilities and services.
Clause 40 – development standards- minimum sizes and building height.	The 8 metre or less height restriction is outdated now with many typologies seeking to deliver 2.7m floor to ceiling heights. The height control measured specifically to the ceiling however is particularly helpful in seeking compliance.	That coupled with lift overruns, solar panels and mechanical ventilation systems do impact on the ability to achieve the height requirement. It should be noted that the definition of height in the Seniors or People with a Disability SEPP is useful as it recognizes these additional height elements above the ceiling height.	The height remains defined under the Seniors or People with a Disability SEPP and increased to 9m for land zoned R2. In other zones, the height relates to the LEP Height Map.



3 Opportunities to respond to emerging trends

Clause	Issue	Discussion	Recommendation
CI 45 – Vertical Villages	There is no definition of a vertical village in clause 3, nor design guidelines for interpretation and application.	There is an opportunity to provide a platform for the industry to deliver a range of housing types that is well located, encourages co- location of services and facilities and explores the opportunity for other land uses.	Vertical Villages need to be defined to deliver both aged care and/or seniors or people with a disability housing with and without an affordability component. Its application should be broadened to include other zonings where employment generation is an objective along with the co- location of other compatible uses such as childcare, retail and commercial.
CI 48 and 50 - FSR	To reflect the increasing densification of Sydney so appropriate housing forms remain competitive to develop and deliver.		Regardless of the vertical village opportunity, it is recommended that the FSR for RACF is amended to permit a 1.5:1 in R1, R3 and R4 zones. For self-contained dwellings the SEPP is amended to permit an FSR of 1:1 if co located with a RACF and 1.5:1 in R1, R3 and R4 zones.
Schedule 3 - Standards concerning accessibility and useability for hostels and self-contained dwellings – car parking	To reflect the trend towards car sharing	Car sharing such as Go Get is becoming a more usual means of transport in many city areas	Propose a reduction in required car spaces if car sharing systems are part (or in the immediate vicinity) of a development