



# STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

under the Environmental Planning and Assessment Act 1979



**NSW CHAPTER**

Submission issued 27 August 2021

## ABOUT THE INSTITUTE

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The Australian Institute of Architects (the Institute) is the peak body for the Architectural profession in Australia. It is an independent, national member organisation with around 12,500 members across Australia and overseas including 3,000 members in the NSW Chapter.

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.

## PURPOSE

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- This submission is made by the Australian Institute of Architects (the Institute) to provide comment on State Environmental Planning Policy (Housing) 2021 under the Environmental Planning and Assessment Act 1979.
- At the time of this submission the National President is Tony Giannone FRAIA and the NSW Chapter President is Laura Cockburn FRAIA
- The Chief Executive Officer is Julia Cambage and the NSW State Manager is Kate Concannon.

## CONTACT DETAILS

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Australian Institute of Architects  
ABN 72 000 023 012

Contact Name: Lisa King | Advocacy and Policy Manager NSW  
Email: [lisa.king@architecture.com.au](mailto:lisa.king@architecture.com.au)

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# 1 INTRODUCTION

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## The Australian Institute of Architects' raising the quality of the built environment

The Australian Institute of Architects (the Institute) and its members are dedicated to raising the quality of the built environment for people and to the advancement of architecture. We seek to improve the enduring health and wellbeing of all Australians and our diverse communities. The design of the built environment shapes the places where we live, work and meet. The quality of the design affects how spaces and places function and has the potential to stimulate the economy and enhance the environment.

Good design adds value to all aspects of the built environment and the significant building sector of Australia's economy. Australian architects have a worldwide reputation for innovative design leadership and our profession is well placed to support governments by providing advice on ways to address key challenges in our built environment.

We thank you for the opportunity to provide this response to the draft Housing SEPP. We understand the intent of the Department of Planning, Industry and Environment (DPIE) 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 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.

Better, more streamlined policy, assessment and approval processes, mean better and faster outcomes. We believe the new SEPP should strive, above all, to improve the affordability of housing for all residents of NSW through increased choice, amenity and value for money.

## 2 CHAPTER 1 PRELIMINARY – FEEDBACK

11 Maps	
Recommendation 1 →	<b>Maps should be provided for public exhibition as soon as practicable</b>

*New design guidance will be developed for seniors housing, BTR housing, boarding houses and co-living housing in the second half of 2021. The new design guidance is likely to cover matters such as:*

- ***solar access, ventilation, storage and visual and acoustic privacy,***
- *criteria for shared amenities such as laundries and shared vehicles, and*
- *building maintenance, given the higher level of traffic and the higher value of assets that would be commonly accessible in this type of development.*

*(From Housing SEPP consultation draft frequently asked questions)*

The Institute looks forward to reviewing the abovementioned Guidance as soon as possible to ensure the provision of adequate amenity to residents of these importance housing typologies. We extend our services to assist in working collaboratively with the government in the development of this guidance given the expertise of our members in this area.

### 3 PART 2 DEVELOPMENT FOR AFFORDABLE HOUSING - FEEDBACK

#### *Division 1 In-fill affordable housing*

*17 Non-discretionary development standards—the Act, s 4.15*

*(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—*

*(d) a deep soil zone on at least 15% of the site area, where each deep soil zone has **minimum dimensions of 6m** and, if practicable, at least 65% of the **deep soil zone is located at the rear of the site***

#### 17 Non-discretionary development standards—the Act, s 4.15 (2) (d)

**Recommendation 2 →**

**These requirements may not be practicable given the nature of infill sites. A minimum dimension of 3m may be more suitable, in the location best determined by the site analysis, noting corner sites may have no dedicated ‘rear’ location.**

The Institute notes that most setback and landscaping provisions are currently contained in DCPs whereas in this SEPP proponents are directed towards the ‘relevant planning instrument’ ie. LEPs and SEPPs. We would recommend further definition clarity.

We also note that setback requirements for R4 should be described as 3 storeys and above rather than ‘exceeds 3 storeys’ to align with SEPP65.

Additionally, the Institute recommends the rewording of height controls to ensure utmost clarity in this important and often contentious area.

#### *Division 2 Boarding houses*

*23 Non-discretionary development standards—the Act, s 4.15*

*(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—*

*(f) for a boarding house containing 6 boarding rooms—*

*(i) a total of at least 30m<sup>2</sup> of communal living area, and (ii) minimum dimensions of 3m for each communal living area,*

*(g) for a boarding house containing more than 6 boarding rooms—*

*(i) a total of at least 30m<sup>2</sup> of communal living area plus at least a further 2m<sup>2</sup> for each boarding room in excess of 6 boarding rooms, and*

*(ii) minimum dimensions of 3m for each communal living area,*

*(h) communal open spaces—*

*(i) with a total area of at least 20% of the site area, and*

*(ii) each with minimum dimensions of 3m*

The Institute importantly understands it is the preference of most boarding house residents to have rooms which are fully self-contained and include private open space. This provides the residents with the basic freedom of choice many of us take for granted - when and how to interact with others.

The Institute recommends a mechanism such as an incentive for those providers who deliver self-contained boarding house rooms with private open space. This could be a reduction of the communal living area required.

A further initiative could be the reduction of the communal living area required should it be adjacent and openable to a communal open space.

Communal open spaces should have a minimum solar access control.

<b>23 Non-discretionary development standards—the Act, s 4.15 (2) (f) (g) (h)</b>	
<b>Recommendation 3 →</b>	<b>The Institute strongly supports mechanisms to ensure boarding house rooms are self-contained and deliver adequate private open space to residents</b>
<b>Recommendation 4 →</b>	<b>Communal open space should have a minimum solar access control</b>

We look forward to reviewing the accompanying Guidance for Boarding Houses which we suggest should include:

- Definition of ‘compatibility’ of character of the area
- Correct definitions in terms of measuring the floor space of a boarding house room, including determining ‘useful’ space so that areas such as corridors to internal bathrooms are not included
- Specific guidance on the measurement of kitchen areas
- Ensuring children are not excluded from the definition of occupants (We note this form of housing to be particularly valuable to single parents with children)

- Definition of ‘adequate’ with reference to kitchens, bathrooms and laundries – we note the NCC does not require kitchens or laundries for Class 3 buildings
- Definition of ‘zoned for commercial purpose’
- Definition of ‘communal living area’

#### *24 Standards for boarding houses*

*(1) Development consent must not be granted under this Division unless the consent authority is satisfied that—*

*(h) the minimum lot size for the development is not less than—*

*(i) for development on land in Zone R2 Low Density Residential—the minimum lot size requirements for manor houses under a relevant planning instrument, or **600m<sup>2</sup>***

### **24 Standards for Boarding Houses, (1) (h) (i)**

**Recommendation 5 →**

**The Institute is concerned the 600m<sup>2</sup> minimum lot size will prevent this much-needed housing form being built on infill sites**

#### *25 Must be used for affordable housing in perpetuity*

*(1) Development consent must not be granted under this Division unless the consent authority is satisfied that from the date of the issue of the occupation certificate and continuing in perpetuity—*

*(a) the boarding house will be used for affordable housing, and*

*(b) the boarding house will be managed by a registered community housing provider.*

*(2) Subsection*

*(1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by a public authority.*

*26 Subdivision of boarding houses not permitted Development consent must not be granted for the subdivision of a boarding house permitted under this Division.*

The Institute strongly supports that Boarding Houses remain affordable in perpetuity and may not be subdivided. We commend the government for these initiatives.

The Institute would like to take the opportunity to, once again, urge reconsideration of the mandating of Boarding Housing in the R2 Low Density Residential Zone.



We 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.

## 4 PART 3 CO-LIVING HOUSING - FEEDBACK

*64 Non-discretionary development standards—the Act, s 4.15*

*(2) The following are non-discretionary development standards in relation to the carrying out of the development under this Part—*

*(a) for development on non-heritage land in a zone in which residential flat buildings are permitted—a floor space ratio not exceeding—*

*(i) the maximum permissible floor space ratio for residential accommodation on the land, and*

*(ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing*

### 64 Non-discretionary development standards—the Act, s 4.15, (2) (a) (ii)

**Recommendation 6 →**

**The Institute strongly holds that an incentive or bonus must deliver positive outcomes for the community as a whole and as such, no height and FSR bonus should be available in this typology unless it is in the process of provision of affordable housing in perpetuity**

We note previous Guidance required for review for Boarding Houses also applies to Co-living. We additionally note at this juncture there is no maximum size indicated for Co-living development.

## 5 PART 4 SENIORS HOUSING – FEEDBACK

### *Division 1 Land to which Part applies*

#### *67 Land to which Part applies*

*This Part applies to land in the following zones—*

- (h) Zone B3 **Commercial Core**,*
- (j) Zone B5 **Business Development**,*
- (k) Zone B6 **Enterprise Corridor**,*
- (l) Zone B7 **Business Park**,*

#### **67 Land to which Part applies (h) (j) (k) (l)**

##### **Recommendation 7 →**

**The Institute does not consider land in these zones as suitable for Seniors Housing and would ask that further consideration be given to the deserved amenity of residents in Seniors Housing**

### *Division 3 Development standards*

#### *78 Use of ground floor of seniors housing in commercial zones*

*(1) This section applies to a building used for the purposes of seniors housing on land zoned primarily for commercial purposes.*

*(2) Development consent must not be granted for development involving the building unless the part of the ground floor of the building that fronts a street will not be used for residential purposes.*

*(3) Subsection (2) does not apply to a part of a building that—*

*(a) faces a service lane that does not require active street frontages, or (b) is used for any of the following purposes—*

*(i) a lobby for a residential, serviced apartment, hotel or tenanted component of the building,*

*(ii) access for fire services,*

*(iii) vehicular access.*

*(4) Subsection*

*(2) does not apply if another environmental planning instrument permits the use of the ground floor of the building for residential purposes*

## 78 Use of ground floor of seniors housing in commercial zones

<b>Recommendation 8 →</b>	<b>The Institute recommends further clarity be provided to determine whether uses such as carparking and non-residential components ie. communal living areas are suitable at ground floor in commercial zones</b>
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*80 Fire sprinkler systems in residential care facilities*

*(1) A consent authority must not grant consent for development for the purposes of a residential care facility unless the facility will include a fire sprinkler system.*

*(2) Development for the purposes of the installation of a fire sprinkler system in a residential care facility may be carried out with development consent.*

## 80 Fire sprinkler systems in residential care facilities

<b>Recommendation 9 →</b>	<b>The Institute recommends further clarity be provided to detail how this clause can be satisfied in the development application process</b>
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***Division 5 Design requirements***

*86 Design of seniors housing*

*A consent authority must not consent to development under this Part unless the consent authority is satisfied that the development demonstrates adequate regard has been given to the principles set out in Division 6.*

## 86 Design of seniors housing

<b>Recommendation 10 →</b>	<b>The Institute strongly recommends reinstatement of the requirement for a comprehensive Site Analysis (<i>SEPP HSPD30 Site Analysis</i>) in addition to stated aims for good design. We do not consider the current draft adequately addresses this important requirement</b>
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## **Division 6 Design principles**

### *89 Solar access and design for climate*

*Development for the purposes of seniors housing should—*

*(a) for development involving the erection of a new building—be designed—*

*(i) to provide residents of the building with adequate daylight, and*

*(ii) in a way that does not adversely impact the amount of daylight in neighbouring buildings, and*

*(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation, solar heating and lighting by locating the windows of living and dining areas in a northerly direction*

<b>89 Solar access and design for climate</b>	
<b>Recommendation 11 →</b>	<p><b>The term ‘daylight’ should be replaced with the term ‘sunlight’.</b></p> <p><b>The term ‘natural ventilation’ should be replaced with the term ‘cross-ventilation’.</b></p>
<b>Recommendation 12 →</b>	<p><b>Given we are in a climate emergency, the Institute strongly suggests the strengthening of requirements under ‘design for climate’</b></p>

## **Division 7 Non-discretionary development standards**

*96 Non-discretionary development standards for hostels and residential care facilities—the Act, s 4.15*

*(2) The following are non-discretionary development standards in relation to development for the purposes of a hostel or a residential care facility—*

*(d) internal and external communal open spaces with a total area of at least—*

*(i) for a hostel—**8m<sup>2</sup>** for every bed, or*

*(ii) for a residential care facility—**10m<sup>2</sup>** for every bed,*

*(e) at least **15m<sup>2</sup>** of landscaped area for every bed*

*(f) a deep soil zone on at least 15% of the site area, where each deep soil zone has minimum dimensions of **6m** and, if practicable, at least 65% of the deep soil zone is located at the **rear of the site***

## 96 Non-discretionary development standards for hostels and residential care facilities—the Act, s 4.15 (2) (d) (e) (f)

Recommendation 13 →	Clarity is required to determine if the landscaped area is in addition to or inclusive of communal open spaces
Recommendation 14 →	See Recommendation 2 regarding 6m requirement and rear of the site description

### *Division 8 Development for vertical villages*

#### *99 Development for vertical villages permitted with consent*

*(1) Development consent must not be granted for development to which this Division applies unless the site area of the development is at least 2,000m<sup>2</sup>.*

*(2) Development consent may be granted for development to which this Division applies if the development will result in a building with—*

*(a) the maximum permissible floor space ratio plus—*

*(i) 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, or*

*(ii) 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, or*

*(iii) 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, and*

*(b) a building height exceeding the maximum permissible building height by no more than 3.8m*

## 99 Development for vertical villages permitted with consent (2) (a) (iii)

Recommendation 15 →	While the Institute understands the pressures of an ageing population and the impact on the need for Seniors Housing, we hold that a 25% bonus should only be available for projects with a large proportion of affordable housing. A bonus of 10% would be more appropriate should this not be the case.
Recommendation 16 →	<i>HSPD SEPP 45 Vertical Villages (6) (a) (ii)</i> required 10% affordable housing. We strongly recommend this be included in the Housing SEPP Vertical Villages

## 6 CONCLUSION

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Thank you for the opportunity to review the State Environmental Planning Policy (Housing) 2021 and to provide our feedback and recommendations. We consider that a streamlined, concise and well-conceived Housing SEPP can effectively deliver agility, amenity, innovation and much-needed affordability into the NSW housing sector.

Should you require any further information or wish to discuss any of our recommendations, please feel free to contact us.

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, affordable housing outcomes for all in NSW.