

19 December 2018

Carolyn McNally  
Secretary  
Department of Planning  
320 Pitt Street  
Sydney NSW 2000

Dear Secretary,

### **Proposed Amendments to the ARHSEPP**

The Urban Development Institute of Australia (UDIA) NSW is the leading urban development industry group promoting the responsible growth of this State.

UDIA has a Social and Affordable Housing Taskforce that includes 20 industry leaders including developers, consultants, lawyers, and community housing providers. UDIA welcomes the opportunity to comment on the Explanation of Intended Effect (EIE) for the proposed amendments to the State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP).

The proposed amendment limits the number of boarding rooms in a Boarding House in the R2 zone to a maximum of 12 boarding rooms. This is regardless of developments compatibility with the other planning controls and the context of the development.

UDIA has strong and fundamental concerns with this approach which is a clumsy and reactionary approach with no evidentiary basis and that erodes investment certainty in NSW and works against the achievement of affordable housing. The UDIA submits that the proposed amendments should not make the amendments and instead the NSW Government should consult with stakeholders and the community on a set of design guidelines for Boarding Houses.

### **The amendment is clumsy and reactionary**

The reason suggested for the amendment is to ensure the built form of Boarding House development in the R2 zone is compatible with built form of other development in the local area. However, we would suggest that a development that meets the setback and height requirements would be consistent with other development in the local area.

UDIA submits that the cap is not required because the ARHSEPP also provides adequate and specific protection of compatibility of local character, specifically in clause 30A:

*A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.*

If compatibility is truly the reason for the proposed amendment, then an arbitrary 12 room cap is a clumsy approach. We would have thought suitably flexible design guidance would have been a suitable mechanism to minimise incompatibility with local character, especially considering the EIE appears to suggest consent authorities are unable to properly consider the compatibility of a proposal with the local area. We note that the Seniors Housing SEPP has such guidelines and this is a much better approach than an arbitrary limit on the number of rooms that has no rationale or evidentiary basis.

The blanket restriction to 12 rooms does not consider the lot size of the development. Where a site is larger, we consider there would be a greater capacity to accommodate a greater number of boarding rooms and still be compatible with local character. The EIE is also unclear on the mechanism of the restriction of 12 rooms, is the restriction per lot, or per DA or based on another metric. This needs to be urgently clarified.

### **There is no evidentiary basis for the change**

The cap on 12 boarding rooms appears to relate to a social impact concern for which there is no evidentiary basis in the exhibition documents. The only evidentiary material available, to UDIA's knowledge, actually contradicts the need for a restriction to 12 rooms. In June this year the Southern Sydney Regional Organisation of Councils commissioned the UNSW City Futures Research Centre to review the ARH SEPP and affordable housing in Central and Southern Sydney<sup>1</sup> (**UNSW Report**). The UNSW Report notes "despite some anecdotal commentary in media around these [boarding house] provisions, there is no known systematic evaluation of the outcomes".

The key conclusions of the UNSW Report as it applies to the metropolitan Council areas studied by them are:

- Since 2009, 280 new boarding houses have been approved.
- Two thirds of the rooms approved were restricted to three Council areas being the City of Sydney, Randwick and Inner West local government areas.
- New boarding houses were more common in urban renewal contexts not established low density suburbs. Most did not occur in R2 zones.

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<sup>1</sup> [https://cityfutures.be.unsw.edu.au/documents/496/AHSEPP\\_Review\\_SSROC\\_FINAL.pdf](https://cityfutures.be.unsw.edu.au/documents/496/AHSEPP_Review_SSROC_FINAL.pdf). The LGAs covered included Bayside, Burwood, Canada Bay, Canterbury-Bankstown, Georges River, Inner West, Randwick, Sutherland, Sydney, Waverley and Woollahra.

## **The amendment erodes investment certainty in NSW**

UDIA is disappointed the proposed amendment has come with no warning and the EIE does not include any savings and transitional arrangements. We would have expected there to be greater consideration by the government of the market impacts of an overnight restriction, which has come 'out of the blue'. Such actions are inconsistent with a NSW government policy objective to "Be the leading Australian state in business confidence".

At the very least the amendment should not apply to development applications lodged before the amendments come into effect and we suggest an eighteen-month transitional arrangement is logical to enable those who have acquired sites and made financial investments to attempt to secure planning approval without the arbitrary 12 room limit. The UNSW Report indicates that the average determination time for a boarding house application is almost a year. We note that in the interim period the proposed amendment would still be a consideration in decision-making along with compatibility.

## **The amendment decreases not increases affordable housing**

The proposed amendment is directly contrary to the aim of the ARH SEPP to effectively deliver new affordable rental housing and provide incentives. Boarding Houses are a critical part of providing innovative rental mixes through next-generation boarding houses and the like, and should consequently be considered more carefully.

A 12-room limit will not encourage affordable rental housing because it provides no financial incentive to provide a boarding house because any FSR incentive cannot be taken up with such a restriction. The proposed amendment will result in fewer affordable dwellings being delivered, and in some instances, it is possible that large and expensive 4 bedroom homes are built, instead of affordable rental housing. We believe this is a poor outcome for affordability and the delivery of affordable housing in the city.

The limit will also further restrict potential housing diversity where the boarding house typology could help support the missing middle and also provide other more affordable options in R2 zones.

UDIA recommends the government further look at innovative models of affordable housing, of which next generation boarding houses are a key component. We welcome the opportunity to discuss these ideas in more detail.

## **The amendments should not be made but replaced with design guidelines**

The UDIA submits the proposed amendments should not proceed and instead the government should consult with stakeholders and the community on design and character guidelines. If compatibility is the true concern intended to be addressed by the amendment, then guidelines (whether in the SEPP or referred to in the SEPP)

are the most appropriate mechanism to ensure there is a site-by-site consideration of local character. In this way the scheme adopted for seniors housing is mirrored and there is a consistency in approach to promoting forms of housing where it is needed most. Further, it ensures that there is a site-specific assessment of character. Such site-specific assessments may conclude that a development should have less than 12 rooms which is an appropriate outcome if a site specific approach is taken.

We would appreciate the opportunity to meet to explain our concerns in more detail and look forward to working with you to find a resolution for this matter that will avoid significant adverse impacts on the development industry and the supply of housing in NSW. Please contact Mr Elliott Hale, General Manager, Policy, Media, and Government Relations, UDIA NSW on (02) 9262 1214 or at [ehale@udiansw.com.au](mailto:ehale@udiansw.com.au) to arrange.

Yours sincerely

A handwritten signature in black ink that reads "Steve Mann". The signature is fluid and cursive, with a long horizontal stroke at the end.

**Steve Mann**  
**Chief Executive**

*The Urban Development Institute of Australia (UDIA) NSW is the leading property industry group promoting the responsible growth of this State. We have over 500 company members and more than 3,000 of their employees attend our events, sit on our committees, undertake training or are involved in the activities of the organisation on an annual basis. Our organisation is the oldest property development advocacy group in the country, having been established in 1962. Our advocacy is based on making our cities more liveable, affordable and connected.*