

Better Planning Network Inc. submission to the exhibition of the Housing Diversity SEPP Explanation of Intended Effects (EoIE).

The Housing Diversity SEPP (HDSEPP) aims to consolidate the following three existing SEPPs:

- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)
- State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) (SEPP 70)

A review of the ARHSEPP is long overdue. Under the ARHSEPP boarding houses have been marketised and financialised in ways that has not delivered ARHSEPP's original intent.

Developers identified market opportunities for student housing that has been a lucrative earner and not produced affordable rental housing for local communities. We welcome the proposal that 'student housing' will be included as a new LEP definition and that student accommodation will not get any bonus FSR.

The marketisation of boarding houses has lately shifted to co living spaces (upmarket boarding houses). currently allowable in all residential zoning. We therefore welcome the proposal that co living spaces will be included as a new definition

The rebranding of boarding houses and market initiatives under the existing SEPP of 'co living spaces' is not about affordability.

It is proposed that co-living development would contain room sizes (30-35 31 metres) that would sit between boarding house rooms (10sq. metres) and studio apartments in terms of size. Room size and location are key drivers of housing affordability.

Creating a separate definition for co living spaces and clearly separating from affordable housing is supported by Better Planning Network Inc. (BPN).

BPN (Better Planning Network Inc.) supports the requirement for boarding houses to provide affordable housing and the proposed new definitions:

boarding house means an affordable rental building that—

- (a) provides lodgers with a principal place of residence for 3 months or more, and
- (b) is managed by a registered not-for-profit community housing provider (CHP), and
- (c) has some shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or two adult lodgers,

Reducing the 0.5:1 bonus if the FSR is under 2.5:1 to a maximum of 20% is also supported. In low and medium density FSR zoning the bonuses are even higher. Removing the blanket application of the SEPP across all zones is welcomed. However, noted that public land is exempted.

The proposed changes still provides the developer incentive of returning developments to the market by charging market rents, strata subdividing BTR, selling whole buildings or units etc. after a period of some years.

How this will be operationalised and monitored remains a concern given the inadequate monitoring under the existing SEPP including insufficient data and reliance on under resourced local councils. Removing the 2000 date and replacing it with a provision

covering the previous 5 years is welcome. This proposal linked to public compensation for any loss of affordable housing sounds like a much needed improvement . However how that will be calculated remains to be seen. Existing Land and Environment court rulings found that the government cannot provide sufficient and reliable evidence. As stated it is essential that calculation criteria and monitoring is consistent and effective to ensure the loss can be demonstrated in the public interest and not organised by developers to minimise costs and maximise profits aided by by a gap in public monitoring. Developers have no requirement to protect the public interest. Their brief is to minimise costs and maximise profits. Protecting the public interest is the responsibility of the government. We strongly advocate for sufficient resourcing of the public sector to effectively protect the public interest for now and future generations. We look forward to details of how the public interest will in effect be protected.

This is particularly important given the continuing arrangement allowing housing developed under the SEPP to return to the open market after 10 years and the requirement o compensate for the loss of affordable housing. This proposal will continue to undermine the stated purpose of providing housing that is equitably affordable and not just affordable for the financially well off.

We understand this provision is in effect an incentive for developers however it undermines the continual provision of affordable housing. Supporting Community Housing Providers to manage 100% affordable housing in perpetuity should be seriously considered under the SEPP. Also provisions to protect tenants should be a requirement e.g. offering tenants first right of purchase and retaining a % of units as affordable housing.

We note that proposed provisions in the draft SEPP do not apply to government owned land in any zoning. It is unclear how the government will develop on publicly owned sites. Consideration should be given to affordable and social housing as a priority. Any development should be subject to LEP requirements in the zone and should be kept as affordable or social housing in perpetuity.

The Seniors Housing SEPP is similar to the existing Affordable Housing SEPP in that it applies across all zonings. The proposed changes indicate that despite this the local council LEP will prevail. However how that will actually work is unclear particularly if bonuses are included. Given the lack of clarity for this proposal the risk lies in how it will be interpreted in practice including in the L&E court. Lack of clarity and certainly in the rules provides lots of wriggle room for a developer to argue interpretation to its advantage. Further clarity is requested.

Another issue is the potential loss of green space to seniors housing as developers do deals with golf clubs, bowling clubs etc. for redevelopment proposals that provide cash strapped clubs with funds and new facilities as part of the the deal. Examples include Waverley and Eden LGAs. The growing financial viability of many clubs make them prime targets for developers seeking land in areas with high land costs and the potential for good profits. Using the Seniors Housing SEPP offers developers the opportunities that must be managed in the public interest. The lack of clarity in the proposals put that at risk.

Build-to-rent (BTR) housing

It is proposed to allow councils to determine height and FSR through local LEP>

Definition for 'Build-to-rent housing 'would

- contains at least 50 self-contained dwellings that are offered for long term private rent;
- is held within a single ownership;
- is operated by a single management entity; and
- includes on-site management.

Proposal to make BTR housing a compulsory permitted use in:

R4 - High Density Residential,

B3 – Commercial Core,

B4 - Mixed Use and

B8 – Metropolitan Centre zones.

It will also be permitted in R3 – Medium Density Residential where residential flat buildings are permitted.

Councils could also make BTR housing permissible in other zones through amendments to their LEPs.

Proposed that no strata subdivision in a BTR housing development for the first 15 years in residential zoning and in perpetuity in B3.

BTR will be assessed as SSD in metro and regional NSW if capital investment is over \$100m in metro and \$50m in regional areas. The City of Sydney LGA is exempt.

BTR has emerged as a housing development option over several decades the US and more recently in the UK. It is unclear what the purpose of making BTR compulsory in B3 zoning is. A mix of residential and new employment types is emerging in some areas particularly in cultural, digital and related fields. Examples include the regeneration of old industrial areas in Inner West Council into new work and living areas rather than rezoning and upzoning to full residential. Protecting employment zones is important to retain employment in local communities and to protect employment opportunities overall. While the proposal may be motivated by this objective it lacks the detail to protect the proposal from rapid over exploitation as BTR and the loss of employment areas. The impacts of noise, pollution etc. of traditional industrial lands on residential lands has diminished in recent decades and the zoning arrangements should adjust. However how this is operationalised in the public interest as opposed for quick returns for developers is not at all clear in the proposal. A limit on the % of a B3 zone for BTR should be included and the link between the BTR and the employment opportunities must be clearly demonstrated. In addition a % of BTR should be affordable housing.

Better Planning Network Inc (BPN) will need to see the detail and how the public interest is protected before we can support.

A missing element in the review is the provision of social housing and security of tenure across all housing options. BPN look forward to information on how the proposed SEPP will link to both these elements critical to the basic human right of shelter across NSW.

Thank you for your consideration of Better Planning Network Inc. (BPN) submission and we look forward to your feedback including responses to our queries.

If you require any clarification on our submission please contact Máire Sheehan at: secretary@betterplanningnetwork.org.au or on 0411697041.