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Director, Housing & Infrastructure Policy
Department of Planning and Environment
GPO Box 39
SYDNEY 2001

RE: Submission to Draft Affordable Housing State Environmental Planning Policy No. 70 – Affordable Housing (SEPP 70)

This submission has been prepared by Mecone on behalf of Toga, who we have been working with to identify the opportunity and feasibility for the efficient and equitable delivery of affordable housing through a number of their development sites in Sydney.

Mecone and Toga wish to congratulate the Department on their current proposal to increase the delivery of Affordable Housing¹ in NSW through the expansion of *State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes)* (SEPP 70). SEPP 70 has been in operation since 2002 and currently applies to a number of precincts within the City of Sydney and Willoughby Council Local Government Areas (LGAs).

In addition, *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP) and *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP Seniors) have also provided incentives to increase the delivery Affordable and Social Housing. However, there is still a significant undersupply of Affordable Housing in Sydney, with the Greater Sydney Commission (GSC) estimating that some 4,000-8,000 Affordable Housing dwellings need to be provided in metropolitan Sydney each year to meet demand from very low and low income households.

Many Councils are of the view that 'inclusionary zoning' controls such as SEPP 70 are the best mechanism to deliver Affordable Housing in the required numbers. However, it is important to note that the City of Sydney, the Council that has most vigorously pursued delivery of Affordable Housing in its LGA, will still be unable to meet its own target of 7.5% for Affordable Housing up to 2030 solely by utilising inclusionary zoning provisions such as those provided under SEPP 70.

In addition, the 'Future Directions for Social Housing' prepared by the NSW Government provides a vision for social housing over the next 10 years. The document demonstrates that many individual and families currently on Social Housing waitlists would be better supported on private rental Affordable Housing dwellings. However, this cannot occur if the required Affordable Housing stock is not being delivered.

Consequently, the pressures on low income and moderate income households will continue to increase unless additional measures are taken to improve housing affordability, and the delivery of more Affordable Housing within the broader housing market.

While Toga strongly supports the provision of affordable housing in new developments, the proposed expansion of SEPP 70 to include Randwick, Northern Beaches, Inner West, Ryde

¹ 'Affordable Housing' is usually defined as housing that does not absorb more than 30% of a very low, low or moderate household's income.

and Canada Bay LGAs will not, on its own, enable the delivery of the required numbers of Affordable Housing dwellings in a consistent manner throughout the greater Sydney area.

This submission outlines some of the potential weaknesses in only modifying SEPP 70 as proposed, without also undertaking a more holistic and consistent approach to delivery of Affordable Housing throughout the greater Sydney region.

Consistent and efficient application between LGAs

The New South Wales Government has been trying to implement consistent planning reform across the State. The recent mandated implementation of state-wide mechanisms such as the Standard Instrument and Apartment Design Guide has increased certainty for the development industry across the multitude of local government administrative boundaries.

The *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARH SEPP) has provided state wide consistent incentives to delivering affordable housing. However the application of this incentive mechanism works on a limited basis for individual infill developments, and cannot deliver Affordable Housing at a broader LGA level like SEPP 70.

SEPP 70 is administered through a state planning policy, and therefore attempts to be consistent across administrative boundaries in NSW. However, as each individual Council can seek to impose individual contributions and/or approaches in their differing Local Environmental Plans, which can potentially result in multiple different Affordable Housing Contribution Schemes across different LGAs.

The relevant Council under individual Affordable Housing Programs determines how the Affordable Housing Contribution is applied. This means that contribution rates and their applications vary across and within existing Local Government Areas as no standard for an Affordable Housing Contribution Program is provided in the SEPP 70. The City of Sydney alone has three different affordable housing programs (Green Square Affordable Housing Program, City West Affordable Housing Program and the Southern Employment Lands Affordable Housing Program) that apply varying rates and controls within the same Local Government Area.

The proposed SEPP 70 review will include Randwick, Inner West, Northern Beaches, City of Ryde and Canada Bay LGAs, all of which have started preparing Affordable Housing Programs. These programs vary significantly in terms of what types of development they apply to and the rate of affordable housing to be provided:

- Randwick City Council
 - o Newmarket Green – 5% contribution being 20 x 1 bedroom and 20 x 2 bedroom all dedicated to Council and managed by a registered Community Housing Provider.
 - o Kensington and Kingsford Town Centres – 3-5% of all residential accommodation floor space to be dedicated to Council and managed by a registered Community Housing Provider.
- Inner West Council
 - o The Bays urban renewal precinct – 30% of Gross Floor Area to be dedicated to Council as affordable housing contribution
 - o New release areas, brownfield/infill sites and major urban renewal projects including Parramatta Road Urban Transformation Area and the Sydenham to Bankstown Urban Renewal Corridor – 15% of Gross Floor Area of the development, for developments with a Gross Floor Area of 1,700m² or greater to be dedicated to Council as an affordable housing contribution.

- Northern Beaches Council
 - o Council wide – no percentage identified as this stage.
- Ryde City Council
 - o Council wide – dedication of 5% of all future housing stock to Council through various mechanisms (not exclusively through SEPP 70)
- City of Canada Bay
 - o Rhodes East Renewal Area – dedication of 5% of all residential floor area to Council or payment of a contribution.

The lack of a standard application removes certainty and makes it more difficult to deliver affordable housing across different parts of Sydney

The NSW planning system is delivered through a distinct Strategic Context that is applied at Metropolitan/Regional, District and Local levels. It is generally understood that affordable housing pressures are greatest in Metropolitan Sydney. Action 4 of the Draft Greater Sydney Region Plan outlines that the Greater Sydney Commission will streamline the implementation of new programs. This includes developing affordable housing targets. The relevant Draft District Plans all outline that the Greater Sydney Commission's "testing reaffirms that across Greater Sydney targets generally in the range of 5-10% of new residential floor space are viable" for affordable housing.

The SEPP 70 review should include the provision of a standard Affordable Housing Program, which includes maximum rates and mandates the types of developments for which the contribution applies. This will provide certainty across the state for developers and allows Council's to more easily and efficiently implement SEPP 70. The proposed programs identified above include affordable housing contributions that range between 5% and 30%. This is despite the Greater Sydney Commission outlining that targets generally in the range of 5-10% is viable. At a minimum, a Standard Instrument 'model' Affordable Housing Clause should be mandated to best ensure consistency of Affordable Housing delivery within Sydney and NSW.

The GSC has also noted on a number of occasions that delivery of Affordable Housing should be 'grandfathered', so that sites purchased before the Government announced Affordable Housing requirements are not unfairly affected. The Explanatory Note does not appear to outline what transitional provisions will apply for sites purchased before the SEPP is amended. Without applying transitional provisions for sites that were purchased before the new Affordable Housing Programs come into force, the feasibility of many current projects will be severely impacted, and may become unviable. Furthermore applying the policy to existing projects incentivises Councils to delay approvals until such time the relevant Local Environmental Plans are amended to allow the contribution to be charged.

By not protecting existing projects/land owners through providing a grandfathering clause, the policy encourages Councils to delay the assessment of existing projects and will likely impact the financial feasibility of development. The cumulative impact will result in a shortfall of housing and potential increase in housing price in the short to medium term.

Relevant Land Uses

The majority of the existing and proposed Affordable Housing Programs will include the dedication for free of affordable dwellings to Council or the payment of a monetary contribution. The type of dwellings or value of the contribution is generally determined as a percentage of either the overall gross floor area of the development, or a percentage of the overall residential gross floor area.

Many of the proposed Affordable Housing Programs would still apply to seniors housing, boarding houses (including student housing) and serviced apartments. There is no opportunity to carve out individual apartments/rooms for dedication to Council in these developments. This essentially means that when a development does not provide residential apartments the applicant is required to provide a monetary contribution.

Restricting innovative solutions

The requirement to dedicate Affordable Housing units to council for no fee fundamentally affects the feasibility of providing significant numbers of new Affordable Housing dwellings, stifling the effectiveness of the SEPP. Being able to retain ownership of units for an income stream, with management by a registered Community Housing Provider (CHP), makes the delivery of Affordable Housing more feasible for private developers allowing them to deliver greater numbers of the product.

By mandating the dedication of dwellings to Council at no cost, the Affordable Housing Programs developed under the SEPP 70 will likely constrain the delivery of more Affordable Housing in the state. We note that some Council's preference for dedication has evolved from compliance concerns in terms of management by a registered CHP. While we accept that compliance can be an issue in some cases, there are alternate solutions to ensure that the CHP manages the property (e.g. contractual arrangements, covenants on title), while also enabling the landowner to obtain a steady rental income stream to improve the feasibility of these developments.

Conclusion

The above submission welcomes to Government's interest in increasing the delivery of Affordable Housing in Sydney and NSW, while also including a number recommendations to improve the ability for these dwellings to be delivered in a consistent and financially feasible manner. These recommendations include:

- The creation of a Standard Instrument 'model' Affordable Housing Program clause for Councils to adopt into their LEPs;
- Savings and Transitions ('grandfathering') provisions for sites that were purchased before government mandated policy for Affordable Housing was published; and
- The ability for developers to maintain ownership of the Affordable Housing dwellings (with management by a CHP) in lieu of dedication to Council at no cost.

Implementation of these recommendations will assist in the delivery of additional Affordable Housing in the short and medium term above the 'inclusionary zoning' targets. However, we consider wider changes are required across the planning framework in the medium-long term to support the implementation of other proven successful housing models such as 'build to rent' schemes.

Please do not hesitate to contact me on 8667 8668 or kbartlett@mecone.com.au if you would like to discuss this submission further.



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