

City of Sydney
Town Hall House
456 Kent Street
Sydney NSW 2000

Telephone +61 2 9265 9333
council@cityofsydney.nsw.gov.au

GPO Box 1591 Sydney NSW 2001
cityofsydney.nsw.gov.au



18 December 2018

Our Ref: X008764
File No: 2018/635749

Director, Housing Policy
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Online draft submission made via: planspolicies.planning.nsw.gov.au

Attention: Andrew Hill
By email: Andrew.Hill@planning.nsw.gov.au

Dear Andrew

**City of Sydney comments on proposed changes to
*State Environmental Planning Policy No 70 – Affordable Housing
(Revised Schemes)* and *State Environmental Planning Policy (Affordable Rental
Housing) 2009***

Thanks you for the opportunity to comment on the NSW Department of Planning and Environment's public exhibition of proposed changes to *State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes)* (SEPP 70) and *State Environmental Planning Policy (Affordable Rental Housing) 2009* (affordable rental housing SEPP).

The City supports the proposal to extend the application of SEPP 70 to all local government areas and ensure a consistent definition of household income applies state-wide. The changes will facilitate the process of establishing affordable rental housing schemes that are specific to the needs of each local government area.

The City supports the intent of the *Draft Guideline for Developing an Affordable Housing Contribution Scheme* (draft guideline) to provide more direction in applying Section 7.32(3)b of the *Environmental Planning and Assessment Act 1979*. Clearer instruction on what should be included in a scheme to satisfy legislative requirements is welcome.

The proposed changes to the affordable rental housing SEPP are also supported by the City. The changes ensure the design of boarding houses in the R2 Low Density Residential zone is more sensitive to the surrounding built form character and assist to manage impacts on neighbouring properties.

The City is concerned however the proposed changes will impact on council's ability to implement innovative approaches to providing affordable housing that are responsive to the individual needs of their local government area. This submission outlines the City's concerns and recommends solutions to matters regarding affordable housing in perpetuity, mechanisms to implement affordable housing schemes and the importance of catering towards the needs of very low to moderate income households.

city of villages

Affordable housing in perpetuity

The City is concerned there is no legislative requirement or advice requiring affordable housing in perpetuity within the SEPPs or the draft guideline.

The City has previously advocated to the State Government that affordable housing resulting from the Region and District Plan targets should be provided in perpetuity. There is concern that affordable housing will instead be provided using the 10 year model that was originally intended to support the Federal Government's National Rental Affordability Scheme (NRAS) and first put forward under the Affordable Housing SEPP.

The 10 year model allows landowners to benefit from an uplift in development capacity, while in return a given number of dwellings are rented to very low and low income earners for a period of 10 years, at which point the dwelling reverts back to a market dwelling. Recent media reports state that across Australia 37,000 homes subsidised under the National Rental Affordability Scheme are at risk of being lost as affordable housing after the original 10-year time frame (The Australian Financial Review, 18 December 2018; page 34). The 10 year model does not address the long term need for affordable housing in Sydney. Specific concerns include:

- the subsidy provided for the affordable housing, being additional development capacity, leaves the system after 10 years when housing reverts to normal market housing. This subsidy which can be provided in perpetuity without affecting viability and is wasted on what is a short term gain;
- the shortage of affordable housing is a long term issue in Sydney. It is highly unlikely there would be a correction of property values that would result in housing being affordable for low income earners. The 10 year model relies on a constant stream of 'density bonuses' being available to grow or maintain supply. This is not sustainable;
- where community housing providers do not own the dwellings, they cannot grow and increase their development capacity;
- where affordable housing dwellings are not owned by registered community housing providers, there are inadequate systems in place to ensure the housing is being used for target income groups; and
- rental rates are generally established at 25 per cent below market rates, rather than at 25 – 30 per cent of the renters' income. In the inner-city, this does not ensure that dwellings are affordable for very low to moderate income earners.

The City's policies and planning controls have been developed with reference to the Principles identified in SEPP 70. Relevant Principles that identify the need for perpetuity include:

'buildings provided for affordable housing are to be managed so as to maintain their continued use for affordable housing';

and

'rental from affordable housing, after deduction of normal landlord's expenses (including management and maintenance costs and all rates and taxes payable in connection with the dwellings), is generally to be used for the purpose of improving or replacing affordable housing or for providing additional affordable housing'.

These Principles cannot be achieved using the 10 year model.

Recommendation 1

- (a) Amend *State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes)* and *State Environmental Planning Policy (Affordable Rental Housing) 2009* to require that all affordable housing is provided in perpetuity.

Circumstances requiring an affordable housing contribution

The City is concerned the changes to SEPP 70 and the draft guideline only allow one mechanism requiring an affordable housing contribution and that it can only be applied to areas that are subject to significant or large scale upzoning. The stated aim is to ensure contributions are only drawn from the increase in land value generated by upzonings. The proposed changes limit the ability to find innovative solutions to meet affordable housing need, particularly in council areas that do not have significant upzoning opportunity.

Addressing affordable housing need only in areas that are upzoned discounts the rest of the local government area where no significant upzoning can occur but where there still may be a need for affordable housing. The City is increasingly restricted in the quantity of city-owned land available for upzoning. However, an affordable housing needs study identified that due to development and rising land values and rents, the availability of affordable housing is diminishing in Sydney. The study shows a clear and critical need to provide more affordable housing for very low to moderate income households across the council area.

The Department of Planning and Environment is currently assessing the City's Planning Proposal: Affordable Housing Review, which responds to affordable housing need on sites that experience land value uplift resulting from upzoning or rising land values. Among the proposed changes, the review introduces two new mechanisms:

- standard affordable housing contribution – the City is proposing to expand the operation of current affordable housing schemes in Green Square, Ultimo/Pymont and the Southern Employment Lands to all other land in the council area, where the City is the consent authority; and
- Planning Proposal land affordable housing contribution – this is a supplementary affordable housing contribution required when a site is being upzoned. Developers will contribute 50 per cent of any increase in land value back to council for affordable housing.

The Planning Proposal land contribution requirement will only apply to the new development capacity that is facilitated by a site-specific planning proposal. It does not apply to any existing development capacity and therefore does not replace the standard affordable housing contribution requirement that may apply under Clause 7.13 of Sydney LEP 2012. Amongst a range of benefits, this approach will facilitate the increase of affordable housing at no cost to government.

The City's current and proposed affordable housing schemes are consistent with Section 7.32 of the Act that provides the circumstances under which a local authority may apply an affordable housing contribution.

All of the City's affordable housing schemes are supported by independent economic advice, which concluded there would be no impact on development viability if introduced

over time which allows the market to adjust. The schemes ensure viability is factored into the cost of purchasing the land. This improves certainty and transparency for landowners, developers and the community.

Recommendation 2

- (a) Provide a model clause for insertion into the Standard Instrument that replicates the proposal for 'Planning Proposal' land in the City's *Planning Proposal: Affordable Housing Review*; and
- (b) Amend *State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes)* to allow:
 - i. opportunity for affordable housing contribution schemes to operate across the whole local government area where the local authority can demonstrate the need for affordable housing and associated economic impacts are mitigated.
 - ii. more than one mechanism to require an affordable housing contribution for areas that cannot rely on upzonings alone to meet affordable housing need.

Affordable housing for a mix of very low, low and moderate income households

The City is concerned that amending Principle 3 in SEPP 70 relaxes the requirement to ensure affordable housing is available to a mix of very low, low and moderate income households.

The proposed amendment to Principle 3 states that 'affordable housing can be made available to very low, low and moderate income households or any combination of these households'. This change is due to the Eastern City District Plan identifying that only the most vulnerable households (i.e. the very low to low income households) are eligible for housing secured by the affordable rental housing target.

Pathways are provided for key workers who reside in affordable housing to move through the system as their circumstances improve. These residents typically pay rent based on a maximum 30% of their household income. The shift to renting privately, particularly in inner-Sydney, often results in key workers moving away predominantly due to affordability reasons.

Key workers living in moderate income households play an important role in the community by:

- supporting businesses. If these key workers move out of the area due to high rental costs, it would have a detrimental impact on overall economic performance and productivity, particularly in the inner-city.
- ensuring diverse communities. Research has shown a mix of income households in an area positively contributes to social cohesiveness, sense of place and general well being;
- facilitating the not-for-profit housing sector. The increased revenue received from moderate income households assists to cross-subsidise to the low very and low income households and may also help create more affordable housing supply.

Housing for very low to low income households requires much stronger funding commitments from state and federal governments and should not be solely funded through affordable housing contributions.

Recommendation 3

- (a) Retain Principle 3 of the *State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes)* and clarify in the draft guideline that affordable housing is to be provided to a mix of very low, low and moderate income households.

Rents reflect affordable housing for very low to moderate income households

The City is concerned the affordable rental housing SEPP is delivering very little affordable rental housing for very low to moderate income households.

The affordable rental housing SEPP was created to help the private sector increase the supply and diversity of affordable housing via the delivery of boarding houses, secondary dwellings and infill residential flat building development. Despite the generous floor space incentives provided to developers, which has resulted in significant supply of housing stock, there is concern the rents charged are not affordable for very low to moderate income households.

A report by the UNSW City Future Research Centre has found that the affordable rental housing SEPP has delivered little affordable rental housing for very low and low income households. There is evidence that the aims of the affordable housing SEPP are not being achieved, principally as the housing is at little discount to comparable, and in many cases unaffordable, market products.

The affordable rental housing SEPP should to be reviewed to ensure this market product is available and affordable for very low to moderate income households.

Recommendation 4

- (a) Amend *State Environmental Planning Policy (Affordable Rental Housing) 2009* to ensure it responds more directly to the stated objectives, specifically to facilitate the effective delivery of new affordable rental housing, by;
 - i. requiring a minimum proportion of dwellings in each development, that have benefited from the density bonus in the SEPP, are provided in perpetuity for very low to moderate income households; and
 - ii. ensuring the rents for those dwellings are charged at a maximum 30% of very low, low and moderate income households.

Thank you for considering our comments. If you have any questions please contact me on 9265 9945 or at GJahn@cityofsydney.nsw.gov.au.

Yours sincerely,



Graham Jahn AM
Director

City Planning | Development | Transport