



Affordable Rental Housing SEPP Review	
DATE	March 2011

Affordable Rental Housing SEPP Review

Opening:

The Local Government Association of NSW and Shires Association of NSW (the Associations) are the peak bodies for NSW Local Government.

Together, the Local Government Association and the Shires Association represent all the 152 NSW general-purpose councils, the special-purpose county councils and the regions of the NSW Aboriginal Land Council. The mission of the Associations is to be credible, professional organisations representing Local Government and facilitating the development of an effective community-based system of Local Government in NSW. In pursuit of this mission, the Associations represent the views of councils to NSW and Australian Governments; provide industrial relations and specialist services to councils and promote Local Government to the community.

The Associations thank the Department of Planning for the opportunity to make a submission to the Review of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP).

Executive Summary:

The purpose of the AHSEPP is to deliver more affordable housing to NSW by a number of strategies that target a range of housing types. The AHSEPP applies both to developments by the Housing NSW and the private sector with the assistance of community housing providers.

The AHSEPP introduces planning incentives to encourage infill residential development, (both low rise medium density town houses and high rise flats), to be built in areas where those forms of development would not be approved under councils local planning controls. Private developments are required to allocate a proportion of the new dwellings to social housing for a minimum of 10 years. Other controls allow secondary dwellings, boarding houses and group houses to be approved as complying development.

Housing NSW delivered a record number of projects under the AHSEPP over a 16 month period of time, most of which are low rise medium density town house developments. The majority of these projects have been funded by the Australian Government and delivered under the NSW *Nation Building and Jobs Plan Act 2009* (known as the Nation Building Jobs Plan-NBJP) to address Housing NSW's backlog of social housing projects. The AHSEPP has allowed Housing NSW to fast track the delivery of social housing projects by using the self approval provisions that apply to low rise town house developments. These developments are permissible in traditional single dwelling areas, restricted to areas that are meant to be located near well serviced public transport routes.

Councils and residents objected to the intrusion of many of these projects in low density residential areas. Issues raised repeatedly included inadequate car parking, loss of privacy, density, poor design standards of the developments and a seemingly loose interpretation of proximity to good public transport.

The number of projects that are likely to be self approved under the AHSEPP will be substantially reduced in the next year, as the NBJP expires and Housing NSW returns to its 'business as usual' program of about 65 projects per year. In addition, Housing NSW is also reviewing its parking requirements in recognition of concerns raised by councils.

The Associations have three fundamental objections to the delivery and implementation of the AHSEPP. These are as follows:

- **Lack of consultation with Local Government** - The policy was introduced without formal consultation with Local Government and has imposed a complex layer of planning controls over

local controls that are confusing and counter productive to the aims of the policy. This layer of state wide controls, due to their generality and complexity, has produced ‘scattergun’ outcomes across the sector. This has not harnessed support from councils, communities and has caused unnecessary distrust.

- **Lack of compatibility with local planning instruments and policies** – This has meant that many existing council policies on affordable housing have had to be abandoned. The new standard policy is an uncompromising set of provisions that are delivering unexpected results in some localities and are completely ineffectual in other localities. The AHSEPP applies unevenly and randomly across the sector producing development outcomes out of keeping with the character of local neighbourhoods. In particular, this policy has allowed medium density development in low density single dwelling areas with inadequate car parking, protection of privacy, and poor urban design outcomes.
- **Lack of development contributions** - Development contributions for Housing NSW projects were severely curtailed (under the NBJP) and apply erratically across the sector for other forms of housing permitted under the AHSEPP, such as secondary houses. Yet the permitted developments under the AHSEPP will increase the density of local areas, requiring councils to provide or upgrade roads, drainage, parks and community services. An appropriate levy needs to be established to ensure equity across the sector and that affected councils are not required to fund the infrastructure shortfall arising from the increase number of residents.

The AHSEPP needs to be considered within a wider strategic framework that provides councils with leadership and options to apply to a better range of workable solutions to address housing affordability at a local level.

There may be more effective approaches to increasing the supply of affordable housing, rather than the piecemeal approach targeting small scale applications at the local level, adopted under the AHSEPP. The opportunity to apply a social housing policy when large precincts of land are being up-zoned for residential development or mixed use development is effective. These policies have been successfully applied by councils for many years. In addition, this policy should apply to Part 3A applications on the same rationale.

There are numerous approaches that can be applied to the planning system to retain and allow for social housing, but getting it right at a local level requires the input from councils and the tailoring of the controls to suit local circumstances.

Further, the AHSEPP is a policy that focuses on small local developments, the domain of Local Government, and ignores the wider planning framework and larger developments (such a Part 3A projects), that can more effectively incorporate affordable housing.

Introduction

The Department of Planning’s Discussion Paper acknowledges that the AHSEPP is a broad brush policy that needs to be amended, based on feedback from the Local Government. The Associations strongly support this review and offer general and specific feedback on its content and implementation in this submission.

This submission will cover the issues raised in the Discussion Paper on *Affordable Rental Housing SEPP Review*, dated December 2010, that generally apply to the Local Government sector.

1. Background

1.1 The Associations Position

Local Government recognises that all residents have a right to housing that is affordable, secure and appropriate to their needs.

Local Government is committed to working cooperatively with their communities, non-government organisations and the State and Federal Governments to ensure that this right is protected. However, the provision of housing options and support services is primarily the responsibility of the state and federal governments.

Local Government acknowledges that the improvement of housing outcomes for its community is reliant on the provision and maintenance of a basic level of infrastructure facilities and services.

The Associations support a policy on housing affordability that is integrated with legitimate and transparent local planning processes and that supports local council policies that are in place to increase the supply of affordable housing. However they oppose several components of the AHSEPP that have negatively impacted on local communities.

The Association's have strongly advocated for a review of the AHSEPP. This review needs to include the consideration of additional assessment provisions relating to consultation, council involvement, car parking requirements, access to public transport residential character, density, site suitability and accessibility, together with the payment of appropriate development contributions, associated with social housing projects permitted under the AHSEPP.

In particular, the Associations have raised concerns regarding the location of social housing projects within low density single dwelling areas, as well as the criteria for determining whether a site is in close proximity to well serviced public transport routes.

The Associations have also supported a review of the provisions relating to boarding houses, that more appropriately consider the scale, and on-site management arrangements associated with these activities.

1.2 The history of the AHSEPP

The Department of Planning introduced the State Environmental Planning Policy (Affordable Rental Housing) 2009 (AHSEPP) in mid 2009. This AHSEPP was implemented without formal consultation with Local Government and was not placed on public exhibition. Councils were required to implement the new provisions at very short notice. As the provisions themselves apply to a wide range of housing typologies and require interpretation in relation to other planning legislation, such as the Infrastructure SEPP and the Codes SEPP, both councils and communities have found the provisions difficult to understand and apply. The way these complex changes were introduced has not been helpful in achieving the aims of the AHSEPP, or engaging with councils, in partnering in this important policy area.

1.3 The aim of the AHSEPP

The overall purpose to the AHSEPP is to promote the delivery of more affordable rental housing across the state. This is to be achieved by applying state wide planning controls to specific forms of housing types to increase the supply of community, social and low income rental accommodation at the local level. These new state planning rules overlay all local planning instruments and local policies that are already in place on affordable housing.

The AHSEPP targets a wide range of housing forms that are likely to provide low cost rental accommodation or require the delivery of a proportion of low cost rental units to be managed by community housing providers. It attempts to both facilitate the fast delivery of social housing by Housing NSW, as well as stimulate the private market to partner with the newly emerging community housing providers, to facilitate the building of new medium density town house developments and residential flat buildings, a proportion of which are to be managed by social housing providers, (effectively 'rent controlled') for low to middle income earners for at least a 10 year period.

The AHSEPP defines social housing as subsidised housing, providing a secure, affordable rental option for people on very low incomes. Social housing includes properties owned or managed by Housing NSW, community housing providers and the Aboriginal Housing Office. The AHSEPP promotes social housing and other forms of housing that are considered to constitute lower cost rental options such as secondary houses and boarding houses.

The AHSEPP more readily permits a wide range of housing forms to improve the supply of social housing or affordable rentals. i.e.:

- Low rise medium density townhouse development for social housing is permitted in single dwelling residential areas at a FSR of 0.75:1 and low parking requirements where:
 - developments are located on sites well serviced by public transport routes (however these controls are very lenient); and
 - 50% of dwellings are allocated for social housing for a 10 year period.
- Housing NSW to fast track the delivery of low scale town house developments for social housing in single dwelling residential areas, using the new self assessment provisions of the AHSEPP. Limited notification processes apply.
- Medium to high density residential flats are permissible for social housing in flat zones:
 - with a FSR bonus of 0.2:1 if 20% of the units are allocated for social housing increasing to 0.5:1 if 50% is allocated for social housing; and
 - where the social housing units are managed by community housing providers for a minimum of 10 years.
- Secondary dwellings (granny flats) to be approved 'as a right' under the complying development provisions, that may add extra floor space to the dwelling but not require the current level of on site car parking to be increased. The provisions also allow external structures such as garages to be converted to a secondary dwellings.
- More lenient provisions apply to new boarding houses which now:
 - are permitted across all residential zones, plus neighbourhood, local and mixed use zones;
 - allow additional floor space incentives apply to boarding houses in residential flat zones.
 - Are not required to provide on site parking in flat areas or minimal car parking (1 per 10 units) in other zones;
 - require councils to approve DA consent where the minimum development standards are met.

Councils have had difficulties understanding how the new planning controls relate to local controls and the complexity of 'reading' the layers of state and local planning controls together.

2.4 The impact of the NBJP projects on local areas

The AHSEPP was quickly adopted by the NBJP as a mechanism to fast tract the delivery of social housing projects across the state. The outcome was the approval of nearly 350 social housing projects by Housing NSW in record time.

The breakdown of projects delivered by Housing NSW under the Stimulus Package is as follows:

- 229 projects, were self approved by Housing NSW for low scale 2 storey developments up to 20 units (3180 units);
- 124 projects , one quarter (25%) were approved by councils (1174 units); and
- 88 projects were approved by the Infrastructure Director General (on advice from the Taskforce) under the NBJP.

Of the above projects, the two top categories of developments were approved in compliance with the provisions of the AHSEPP. The 88 projects approved by the Director General generally went beyond what was permissible under the AHSEPP.

Councils and residents alike have objected too many of these projects: questioning the density, lack of car parking spaces on site, loss of privacy, poor design standards and inadequate provision of development contributions. The Stimulus Plan waived the requirement for Housing NSW to pay any development levies on projects under 20 units.

All projects under the NBJP have been completed, or are near completion, as the program expires in mid 2011. The Associations have been informed that the number of future social housing projects expected to be self assessed by Housing NSW will decrease to approximately 60 to 70 projects per year, under the 'business as usual' plan. Therefore the current impact of the AHSEPP will be substantially reduced.

Nevertheless, many other forms of housing permitted by the AHSEPP are likely to be taken up by the private sector as the AHSEPP is more broadly understood and applied locally.

Therefore the threat to Local Government in the next few years from the AHSEPP, is more likely to be from projects by the private sector (in partnership with community housing providers) where the planning standards are relatively untested. Caution will be required in assessing the likely implications on the sector in relation to these projects.

2. General Concerns

Local Government has a number of overriding concerns with the AHSEPP in principle. These are as follows:

- **Lack of consultation with Local Government** - The policy was introduced without formal consultation with Local Government and has imposed a complex layer of planning controls over local controls that are confusing and counter productive to the aims of the policy. This layer of state wide controls, due to their generality and complexity, has produced 'scattergun' outcomes across the sector. This has not harnessed support from councils, communities and has caused unnecessary distrust.
- **Lack of compatibility with local planning instruments and policies** – This has meant that many existing council policies on affordable housing have had to be abandoned. The new standard policy is an uncompromising set of provisions that are delivering unexpected results in some localities and are completely ineffectual in other localities. The AHSEPP applies unevenly and randomly across the sector producing development outcomes out of keeping with the character of local neighbourhoods. In particular, this policy has allowed medium density development in low density single dwelling areas with inadequate car parking, protection of privacy, and poor urban design outcomes.
- **Lack of development contributions** - Development contributions for Housing NSW projects were severely curtailed (under the NBJP) and apply erratically across the sector for other forms of housing permitted under the AHSEPP, such as secondary houses. Yet the permitted developments under the AHSEPP will increase the density of local areas, requiring councils to provide or upgrade roads, drainage, parks and community services. An appropriate levy needs to be established to ensure equity across the sector and that affected councils are not required to fund the infrastructure shortfall arising from the increase number of residents.

The AHSEPP needs to be considered within a wider strategic framework that provides councils with leadership and options to apply to a better range of workable solutions to address housing affordability at a local level.

There may be more effective approaches to increasing the supply of affordable housing, rather than the piecemeal approach targeting small scale applications at the local level, adopted under the AHSEPP. The opportunity to apply a social housing policy when large precincts of land are being up-zoned for residential development or mixed use development is effective. These policies have been

successfully applied by councils for many years. In addition, this policy should apply to Part 3A applications on the same rationale.

There are numerous approaches that can be applied to the planning system to retain and allow for social housing, but getting it right at a local level requires the input from councils and the tailoring of the controls to suit local circumstances.

Further, the AHSEPP is a policy that focuses on small local developments, the domain of Local Government, and ignores the wider planning framework and larger developments (such as Part 3A projects), that can more effectively incorporate affordable housing.

Review suggestions:

Understanding affordable rental housing and social housing?

Develop a communication program to raise awareness of the nature of affordable rental housing encouraged by AHSEPP and the groups of people it is likely to accommodate.

Ensuring objective decision making

- a) Retain existing threshold capital investment value (CIV) of more than \$5 million for the determination of AHSEPP proposals by JRPPs and the threshold only apply to the 'affordable rental component, but provide clarification on how the CIV of the component is calculated, and /or
- b) Give councils the ability to refer any affordable rental projects they consider appropriate to the JRPP, and
- c) Provide guidance to councils on merit assessment of AHSEPP proposals taking into account local community issues, as well as affordable housing needs.

Should there be local variations to the Affordable Rental Housing SEPP?

- a) *Examine the financial feasibility of additional incentive schemes to those offered by the AHSEPP and the SEPP 70 to allow for different approaches in different areas to assist in the delivery of appropriate affordable rental housing.*
- b) *Examine opportunities to establish affordable housing benchmarks in major developments.*

Comments

The key policy direction of the AHSEPP needs to be fundamentally adjusted to be more strategically focussed, flexible enough to accommodate councils' current policies on housing affordability and to relate to the wider opportunities to provide affordable housing outside the provisions of the AHSEPP. The AHSEPP is intended to replace councils' affordable housing schemes many of which have been very effective in achieving outcomes. For example the Ultimo – Pyrmont and Green Square affordable housing schemes have enabled the City of Sydney to apply a housing affordability levy based on the up zoning of the land, so that 500 social housing units can be provided. Other councils have been successfully implementing similar schemes, albeit on a smaller scale.

The Department needs to look more widely at the opportunities to increase the supply of affordable housing where large scale urban renewal schemes and certain Part 3A projects are being considered and assessed. Mechanisms to allocate land or funds for social housing need to be evaluated in relation to these larger projects. This is reasonable as often these projects can benefit from sizeable increases in land values due to changes in zonings. In addition, these projects can incorporate a small proportion of social housing yet result in significant overall numbers.

In addition, the Associations support the Department of Planning's proposal to examine the financial feasibility of a wider range of incentive schemes and policies, such as applying an affordable housing levy across certain zonings, specific spot or precincts zonings. This would target the policy to where growth is anticipated and support the Department's policy on transport oriented development.

The Associations do not support JRPPs being given any additional powers in the assessment of social housing projects. The retention of the existing CIV threshold at developments up to \$5 million is

supported, and this threshold should be applied to the 'affordable rental' component of the development. Clarity on how the CIV is assessed would assist councils when assessing such projects.

The intention to improve the communications program is generally supported.

Associations recommendations:

- 1. That the policy direction of the AHSEPP be fundamentally reviewed to be more strategically focussed to provide a more overarching policy framework that provides leadership, flexibility and options to councils to partner with Department of Planning to implement a more effective and integrated affordable housing policy at the local level.*
- 2. The AHSEPP be made more flexible to accommodate councils current affordable housing schemes.*
- 3. That the Department of Planning, in association with councils, examine the feasibility of additional incentive schemes, including schemes that would be applicable to urban renewal precincts and Part 3A projects.*
- 4. That a communication program be implemented that delivers information and monitors responses to the implementation of the policy.*

5. Specific Concerns

Local Government has raised many issues with the specific new planning provisions introduced under the AHSEPP and some of the proposed changes suggested in the Discussion Paper. The Associations position on the current and proposed changes will be discussed under the housing types, with a list of recommendations at the end of each sub section. A comprehensive list of recommendations is at Section 7.

5.1 Low-rise infill development

Review suggestions: -

The density of low rise infill development in low density residential areas

The Floor Space Ratio (FSR) for low rise infill development is to change from 0.75:1 to 0.5:1 on 30 June 2011 as currently provided for in the AHSEPP. The Department will continue to monitor effectiveness of this control in delivering new dwellings.

The design of low rise infill development

Finalise the Low-rise Housing Guidelines with the inclusion of setback and private open space.

Proximity to public transport criteria

Examine the implications of reducing the leniency of the provisions to allow development near well serviced public transport routes. Also to allow the 10% rule to apply to the definition.

Allow infill development in other zones

To allow small scale infill development in B4 Mixed Use zones and Special Use SPI zones.

Community Housing Providers

a) Examine the legal mechanisms to enforce the 10 year requirement that social housing units be allocated to a community provider for 10 years.

b) Issue guidance on the role of community providers and examine alternative management arrangements

Comment:

Local Government has raised numerous and very specific objections to applications for low-rise infill development for social housing under the AHSEPP. Objections to these projects have been on the basis of :

- density and bulk of the developments in comparison to adjoining single dwellings;

- lack of parking;
- lack of local amenity including lack of privacy;
- poor design outcomes; and
- inadequate payment of appropriate development contributions.

Location

These issues have questioned the location of medium density forms of social housing, in single dwelling density areas, as well as the criteria that the AHSEPP has relied on when determining 'well served' public transport routes.

Some councils have suggested that the areas where social housing is permitted be more clearly articulated or mapped so there is less uncertainty and communities can more easily understand the implications.

Allowing social housing in mixed zones and especially in areas designated for urban renewal is considered reasonable. This needs to be further explored as it may be appropriate in certain areas but not others. The preferable option would be to integrate these changes with the LEP process.

Councils have found that the location criteria is too loosely applied and is allowing the inclusion of areas that are not well serviced by public transport. The Department's suggestion to make the location criteria more stringent, so that off peak and weekend services are taken into account, is strongly supported.

In addition the Discussion paper suggests that, the agreed location criteria be allowed to be extended by the 10% rule (similar to a SEPP 1 Application). This is not supported. This would allow a more lenient interpretation of the criteria, and would undermine the proposed changes, and encourage unnecessary debates on the application of the criteria.

Car parking

Lack of adequate car parking has been a very common objection to the social housing projects by councils.

There are differing controls with 1 space per 2 dwellings for the private sector applications and 1 space per 5 dwellings for the Housing NSW projects.

While it is accepted that car ownership is lower than average for social housing tenants, the standard of one space per 2 units is very low in comparisons to council DCPs for medium density development. This standard should be limited to the units set aside for social housing, while councils' controls should apply to the portion of the development that is for the private market.

Nevertheless, the car parking rates needs to be considered in light of the fact that the privately developed social housing provided under the AHSEPP will only to be set aside for a 10 year period of time, after which they will revert to the private market. On this basis the parking requirements should be more comparable to local community standards of car ownership.

The car parking requirements for the Housing NSW projects will be discussed in the next section.

Density, bulk and design criteria

It is essential that these townhouse developments reflect, as near as possible, the low density built form of surrounding development. The AHSEPP allowed the FSR to extend to 0.75:1 under the NBJP, to facilitate the short term recovery of the economy. It was clearly intended that it would return to 0.5:1 after the emergency provisions were withdrawn. In addition, Housing NSW has indicated that the majority of their developments have met the FRS of 0.5:1. Hence, the Associations see no justification for applying a FSR that is clearly at odds with the scale of single dwelling areas and strongly support the FSR returning to the intended FSR of 0.5:1 in mid 2011.

The development of draft Guidelines is supported in principle but need further feedback from the sector. However, how these guidelines will be interpreted in relation to council DCPs needs further consideration.

Development levies will be discussed in the next section.

Associations Recommendations:

1. *That the location criteria limiting social housing to sites well served by public transport needs to be more stringently drafted to take into account off peak and weekend services.*
2. *That the Department of Planning considers ways of redrafting the AHSEPP so that permissible land for social housing can be mapped and easily translated into eplanning formats.*
3. *That infill development for social housing may be suitable in other zones and in particular mixed uses zones.*
4. *That the floor space ratio be reduced from 0.75:1 to 0.5:1, as intended, in mid 2011.*
5. *That the Draft Guidelines be reviewed by councils taking into account density and car parking requirements.*

5.2 Housing NSW social housing

Review Paper suggestions:

Consideration of Local Government views

Housing NSW projects to be notified in accordance with the councils' notification requirements for comparable private sector developments, subject to Housing NSW paying council the standard notification fee of \$830.

Expand the self assessment provisions

Change the threshold for residential development that can be approved by Housing NSW from 20 units to 30 units while retaining the current 8.5 metres height limit.

Car parking in affordable housing projects

No change to the current standard of 1 car space per 5 dwellings for social housing is proposed.

The Department of Planning and Housing NSW will develop a parking guideline which sets out the parameters for determining parking standards for affordable housing taking into consideration bedroom numbers, site location and other factors. Submissions are invited.

Section 94 and social housing

Housing NSW to pay contributions determined in accordance with the relevant council's Contribution Plan unless a Ministerial exemption is in force.

Comment

The majority (337 projects or 61%) of social housing developments, built by Housing NSW, were self assessed under the AHSEPP. Of these nearly 70% comprised low rise infill development.

Consultation

The self assessment provisions in Division 6 of the AHSEPP require that council and the occupiers (not owners) of the adjoining land be notified of the proposal. They are given 21 days to make a submission.

The proposed changes in the Review Paper require that the adjoining owners, not be limited to occupiers, be notified of the proposal and the period of exhibition align with councils local planning controls. These changes are inconsequential, but reasonable and are supported.

More importantly the Associations recommend that Housing NSW improve their communication policy with councils and residents by consulting earlier with councils and advising councils and

residents of the changes that have occurred to the proposed projects, arising from the public notification process.

Self assessment provisions and density

The more substantive change proposed under the Discussion Paper, is to extend the self assessment provisions to apply to developments of up to 30 units, instead of the current 20 units, which would significantly increase consent powers being transferred to Housing NSW.

There is no justification for increasing the size of the development that can be self assessed. Most of the current projects at 20 dwellings drew objections from councils and communities. To further increase the rights of Housing NSW to self approve social housing projects reduces transparency and allows larger more intrusive social housing developments that are even less compatible with surrounding development to be approved outside the commonly used DA process.

The Associations are strongly opposed increasing the current 20 unit limit. The policy direction to allow medium density development 'as a right' in traditional single dwelling areas is questioned and the further expansion of that policy is not supported.

It is suggested that the size and scale of town house developments be limited to 20 units on 'non conforming land' to moderate the impact of such developments on surrounding development, which is in the spirit of the AHSEPP to integrate social housing across communities.

Car Parking

The car parking ratio for social housing by Housing NSW is 1 car space per 5 dwellings.

In response to council and community concerns about the adequacy of car parking in Housing NSW projects, a study was undertaken by Housing NSW to assess current practice. This has resulted in Housing NSW revising their car parking requirements upwardly for most developments. These require progressively more parking; for dwellings with more bedrooms, and as the distance from public transport increases. Yet Housing NSW has indicated that they do not want the standard of 1 car space per 5 dwellings changed.

Hopefully, the study by Housing NSW will lead to an improvement on current practice, especially if the location criteria are revised to restrict permissible sites to those that are clearly well serviced by public transport.

The Department's intention is to develop a parking standard guideline which sets out the parameters for determining the parking standards for affordable housing taking into account bedroom numbers, site location and other factors. This is supported and it is recommended that the Draft Guidelines be widely circulated to councils for feedback.

Development contributions

The application of section 94 contributions has been raised in the Discussion Paper. It is the long established practice of Housing NSW to pay contributions determined in accordance with the relevant council's Contributions Plan unless a Ministerial exemption is in force (as is the case with all Seniors Housing projects). Whilst a different approach was taken in the recent development of projects under the NBJP, Housing NSW proposes to revert to the prior approach in the future. This is supported by the Associations.

This position on contributions applies to projects by Housing NSW and the private/community housing sector and to all size developments.

Associations recommendations:

- 1. That the proposed extension of the self assessment provisions that apply to Housing NSW's social housing projects remain at 20 units.***

2. *That the current car parking requirements are too low and need to be upwardly reviewed in line with Housing NSW's study.*
3. *That the development of a parking standard guideline for affordable housing is supported if it is publically circulated for feedback from councils.*
4. *That the proposed changes to notification requirements are supported.*
5. *That Housing NSW improve its consultation process with councils by engaging earlier with the proposed concept and advising council of the changes arising from the consultation process.*
6. *That Housing NSW continues to pay development contributions in accordance with the relevant council's contributions plan. This has been a long standing policy of Housing NSW and recognises that development contributions play a vital role in funding local infrastructure.*

5.3. Secondary dwellings

Review Paper suggestions:

Minimum lot size and complying development

Permit secondary dwellings on sites under 450m².

Car parking

Require replacement car parking in cases where the secondary dwellings displaces existing car parking that had been provided in under the previous DA.

Section 94 development contributions

Provide councils with the option of not charging a section 94 contribution or establishing a standard contribution rate across the State based on the cost of works consistent with the current methodology applied under the Section 94(A) as follows:

\$0- \$100,000- no contribution

\$100,000 - \$200,000- 0.5% contribution;

Over \$200,000 – 1 % contribution

Review the practices of councils in charging for new services under other legislation in relation to the scale of the secondary dwelling proposal.

Comment

The Associations have consistently opposed the extension of the Codes SEPP to lots under 450m², and requested that the Codes SEPP be allowed to be modified to take into account local context. The widening of the provisions of the Codes SEPP to smaller sites has been opposed on grounds that:

- The codes are unable to address the local content;
- The codes are unable to assess the specific amenity issues that generally arise in relation to the development of small lots in built-up areas, on steep sites and in relation to rear lanes; and
- Residents are unable to provide feedback on applications that directly affect their properties.

The Associations consider the appropriate assessment track for small sites, is the DA assessment process that allows a merits assessment. The Associations have consequently supported the development of a standard DCP for such sites.

The Associations oppose the approval of secondary dwellings on small sites 'as a right', and the AHSEPP provisions are too general, allowing forms of secondary dwellings that are poorly designed and often compromise on site parking. The location, design of secondary dwellings and the removal of car parking are key issues that have been raised by councils with the AHSEPP.

The Associations oppose any reduction in on site parking resulting from the approval of a secondary dwelling, which occurs where a garage is converted to a secondary unit. On site replacement parking is considered mandatory.

The location and design of secondary houses needs to be further considered as the AHSEPP has allowed flat roofed garage conversions close to boundary fences that would not be allowed under council controls. Likewise, concerns have been raised by rural councils, to the proposed extension of the AHSEPP to rural zones, where secondary dwellings can be permitted that are separate from the

main structure – permitting in effect dual occupancies and potentially instigating the debate on concessional lots.

Nevertheless, it is recognized that secondary dwellings that are wholly within the envelope of the existing dwelling, or constitute minor ground level extensions, are less likely to impact on neighbouring properties and are more suitable forms of secondary housing for a state wide policy.

The Associations oppose:

- Permitting all forms of secondary dwellings ‘as a right’ on sites as small as 200m² is too low and needs to be raised.
- Allowing detached secondary dwellings ‘as a right’ on sites under 450m² or on rural sites needs to be revised.

Development Contributions

The recommendation to remove the power of Local Government to levy s94 contributions on secondary dwellings is based on the premise that, individually, such dwellings do not significantly increase the demand on local infrastructure. However, the report notes that the cumulative impact of such dwellings may result in additional demand for local services.

The Associations support a standard levy but do not support the proposed exemption from s94 contributions for secondary dwellings valued less than \$100,000 given:

- the majority of secondary dwellings cost less than \$100,000;
- they add to the local population; and
- the additional demand on local services will remain unfunded and accumulate over time.

Associations recommendations

1. *That the proposed expansion of the AHSEPP that allows secondary dwellings to be approved as complying development to sites under 450m² is strongly opposed.*
2. *The retention of all existing on site car parking spaces should be a pre-requisite for secondary dwellings.*
3. *In relation to the proposed review of other charges, the LGSA recommends that Local Government be properly consulted on this issue before any changes are made to current practices.*

5.4 Boarding houses

Review Paper suggestions:

The new generation boarding house concept

That the Department works with the boarding house industry, Housing NSW and other stakeholders, on ways to improve the communities’ perception of new boarding house model encourage by the AHSEPP.

Car parking standards

No change to AHSEPP provisions proposed, subject to consideration of submissions on this issue.

Complying development

Develop new boarding houses or the extension and conversion of existing building to boarding houses under complying development provisions paralleling those for group homes. The provisions could also be developed to provides for the alteration and addition to existing boarding houses.

Design Guidelines

Develop a Low Rise Affordable Housing Draft Guidelines.

Compliance Issues

Encourage councils to continue to monitor existing boarding houses in their area and to investigate potentially illegal house developments.

Comment

The difficulty with the AHSEPP is that it has expanded the definition of what constitutes a boarding house. This blurs the distinction between what is a serviced apartment (requiring car parking and other more stringent planning controls) and what is a boarding house.

Councils have also raised concerns over the density (number of rooms permitted), scale and lack of on-site management facilities for such proposals.

The Associations support the development of guidelines and also the application of such guidelines at a local level. Given that the planning provisions for boarding houses are generous and that applications that technically comply with the development standards cannot be refused by councils, it is important to clarify how the guidelines will be applied by councils.

The Associations oppose the further expansion of the complying provisions that may apply to alterations and additions of existing boarding houses until these existing provisions can be more comprehensively evaluated, given the small number of applications to date.

Improving communication on what types of housing constitutes a boarding house would assist the sector. This should cover the student housing provided under the Infrastructure SEPP as well.

Associations recommendations:

- 1. A review of the provisions relating to boarding houses is supported that more appropriately considers the scale, and on-site management arrangements, associated with new generation (boarding house) activities.*

6. Summary of recommendations on changes to the AHSEPP

General Concerns

- 1. That the policy direction of the AHSEPP be fundamentally reviewed to be more strategically focussed to provide a more overarching policy framework that provides leadership, flexibility and options to councils to partner with Department of Planning to implement a more effective and integrated affordable housing policy at the local level.*
- 2. The AHSEPP be made more flexible to accommodate councils current affordable housing schemes.*
- 3. That the Department of Planning, in association with councils, examine the feasibility of additional incentive schemes, including schemes that would be applicable to urban renewal precincts and Part 3A projects.*
- 4. That a communication program be implemented that delivers information and monitors responses to the implementation of the policy.*

Specific Concerns

Low Rise Infill development – social housing

- 5. That the location criteria limiting social housing to sites well served by public transport needs to be more stringently drafted to take into account off peak and weekend services.*
- 6. That the Department of Planning considers ways of redrafting the AHSEPP so that permissible land for social housing can be mapped and easily translated into eplanning formats.*
- 7. That infill development for social housing may be suitable in other zones and in particular mixed uses zones.*
- 8. That the floor space ratio be reduced from 0.75:1 to 0.5:1, as intended, in mid 2011.*
- 9. That the Draft Guidelines be reviewed by councils taking into account density and car parking requirements.*

Housing NSW - social housing

- 10. That the proposed extension of the self assessment provisions that apply to Housing NSW's social housing projects remain at 20 units.*
- 11. That the current car parking requirements are too low and need to be upwardly reviewed in line with Housing NSW's study.*
- 12. That the development of a parking standard guideline for affordable housing is supported if it is publically circulated for feedback from councils.*
- 13. That the proposed changes to notification requirements are supported.*
- 14. That Housing NSW improve its consultation process with councils by engaging earlier with the proposed concept and advising council of the changes arising from the consultation process.*
- 15. That Housing NSW continues to pay development contributions in accordance with the relevant council's contributions plan. This has been a long standing policy of Housing NSW and recognises that development contributions play a vital role in funding local infrastructure*

Secondary Dwellings

- 16. That the proposed expansion of the AHSEPP that allows secondary dwellings to be approved as complying development to sites under 450m² is strongly opposed.*
- 17. The retention of all existing on site car parking spaces should be a pre-requisite for secondary dwellings.*
- 18. In relation to the proposed review of other charges, the LGSA recommends that Local Government be properly consulted on this issue before any changes are made to current practices.*

Boarding Houses

- 19. A review of the provisions relating to boarding houses is supported, that more appropriately considers the scale, and on-site management arrangements, associated with these new generation (boarding house) activities.*