

# **SEPP 10 Guide**

**GUIDELINES FOR STATE ENVIRONMENTAL PLANNING POLICY NO. 10  
— RETENTION OF LOW COST RENTAL ACCOMMODATION**

**Department of Urban Affairs and Planning**

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— RETENTION OF LOW COST RENTAL ACCOMMODATION**



Department of  
Urban Affairs and Planning

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# Foreword

Andrew Refshauge

Deputy Premier and

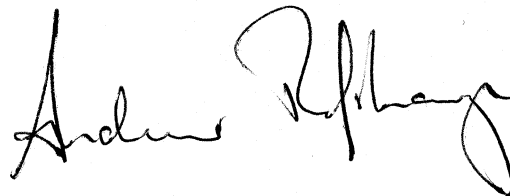
Minister for Urban Affairs and Planning

State Environmental Planning Policy No. 10 (SEPP 10) is about ensuring people on low incomes have affordable places to rent.

In the past decade, housing affordability has become a critical issue in New South Wales as suitable housing stocks continue to decline. With more people living in private rentals and fewer purchasing a home, people on low incomes are finding it harder to compete for the affordable long term accommodation that remains on the private rental market.

SEPP 10 has been amended to give greater protection to existing low-cost rental accommodation. The policy now includes not just the inner city areas of Sydney, Newcastle and Wollongong but all the local government areas in the Greater Metropolitan Region.

The *SEPP 10 Guide* helps councils, owners and developers understand why the policy exists and how development proposals are to be assessed. The process ensures owners are not forced to retain boarding houses that are assessed as non-viable. Where redevelopment is justified, the guide will help councils and owners negotiate how people on low incomes are provided for in the new proposal.



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# Introduction

This guide is in substitution of Department of Planning Circular No. B7 issued 13 June 1989, which no longer has effect.

Please note that SEPP 10 now requires the concurrence of the Director-General of the Department of Urban Affairs and Planning for strata subdivision applications. The assumed concurrence issued by the Department of Housing on 17 September 1992, in relation to strata subdivision involving 15 or less units, no longer has effect.

There is strong growth in demand for affordable private rental housing and this is projected to continue into the foreseeable future. At the same time there has been a substantial decline in the availability of this kind of accommodation. For example, if the loss of boarding house stock continues at the same rate of decline as over the last decade, there will be very little left in ten years time.

State Environmental Planning Policy No. 10 — Retention of Low Cost Rental Accommodation (SEPP 10) is one mechanism to assist in retaining affordable private rental housing. The policy has been amended to make it more effective, consistent, flexible and responsive, and it now covers the whole Greater Metropolitan Region.

This guide has been developed to clarify the intent of SEPP 10, and to provide information on the preparation and assessment of SEPP 10 development applications. It is written primarily for planning authorities, particularly local councils, but is also relevant to property owners, tenants, developers, property insurers, financial institutions, consultants, solicitors and interested members of the community.

The guide covers:

- what is SEPP 10?
- does SEPP 10 apply to this proposal?
- making a development application under SEPP 10
- assessing and determining SEPP 10 applications
- further assistance.

The policy itself is published separately, and can be obtained from the Department's Information Centre, phone (02) 9391 2222.



# 1. About SEPP 10

## 1.1 WHAT IS SEPP 10?

SEPP 10 provides a means to retain low cost rental accommodation through the development approval system. The policy acknowledges that people on low incomes in private rental most often suffer the effects of displacement, and that local government has a critical role to play in looking after the needs of their communities, including ensuring the provision of a variety of housing.

The policy focuses on both physical and social elements. It is concerned with the outcomes of development on individuals and communities. The mandate for the policy comes from the objects of the *Environmental Planning and Assessment Act 1979*, which includes '*promoting the social and economic welfare of the community*'. In addition, section 79C of the Act requires that when determining a development application, a consent authority take into account the likely impacts of development, including '*social and economic impacts in the locality*'.

## 1.2 A BRIEF HISTORY

SEPP 10 was gazetted on 6 July 1984 in response to concern about the rapid decline of affordable private rental accommodation. Initially, the policy controlled the strata subdivision of low cost residential flat buildings.

Difficulties experienced by councils in interpreting and applying the policy led to amendments in July and September 1987. These amendments clarified the circumstances in which the policy applies by establishing rental thresholds for buildings that are subject to the provisions of the policy.



A third amendment was gazetted in January 1988 which extended the policy to cover demolition, alterations and additions or change of use of boarding houses. This amendment also introduced provisions requiring the Director-General of Housing to concur on boarding house applications, and to comment on strata subdivision applications submitted to councils.

Amendment No. 4 was gazetted in January 1989, to allow councils more discretion when assessing development applications relating to boarding houses and low cost residential flat buildings. The amendments introduced requirements that sufficient comparable accommodation be available, and consideration be given to the structural soundness of the building, fire safety, cost of repairs required and the financial viability of continuing to use the building as a boarding house.

### 1.3 WHY IS AN AMENDMENT TO SEPP 10 NEEDED?

There has been a significant decline in the availability of affordable private rental accommodation, coupled with an increased demand for such accommodation. There is also potential for increased tourism generally, and as a result of major events, to have an adverse impact particularly on the availability of boarding house accommodation.

#### **Decline in the stock of low cost rental accommodation**

Over recent decades there has been a substantial decline in affordable private rental accommodation in Sydney, particularly in boarding houses, as highlighted below:

- The *Inner Sydney Boarding House Survey* undertaken by Davidson, Phibbs and Cox (1998) in North Sydney, South Sydney, Leichhardt and Burwood showed that boarding house numbers have declined in recent years by an estimated average of between 7 and 8% annually. If this rate of decline continues, the majority of Sydney's boarding houses will be gone within a decade.
- A study of strata subdivision of residential flat buildings in Waverley in the 1980s showed that about half of the units transfer from rental to owner-occupation after subdivision, thereby eliminating valuable private rental stock altogether. In many instances this number can be much higher, because of the physical appeal

and amenity of the property. Evidence also suggests that after strata subdivision those units retained as private rental accommodation are subject to increased rents.

#### **Who is impacted?**

Several sources provide information on the residents of this type of housing. The majority of boarding house residents surveyed in 1998 in North Sydney, South Sydney, Leichhardt and Burwood are long term residents on low incomes. A significant number are on pensions (30%) or are unemployed (20%), and close to 20% of all residents have some form of disability. Almost 18% are aged over 60 years. Most residents chose to live in a boarding house because of cheaper rents.

Residents of low cost accommodation in the private rental market have few housing alternatives and are amongst the most vulnerable groups in society. While the Department of Housing has some 80,000 dwellings in Sydney, very low-income earners occupy these and much of the accommodation is in large public housing estates in western Sydney. Waiting times for public housing in the inner and middle ring suburbs of Sydney can be long, depending on the type of the dwelling requested, often in the range of five to ten years.

#### **Increased demand**

Housing affordability is a critical issue in Sydney, having the highest house prices and rents in Australia. An increasing number of NSW households are experiencing housing stress as the proportion of their income spent on rent or mortgage payments is increasing. The Ministerial Task Force on Affordable Housing in New South Wales (1998) estimated that during the last decade or so, the proportion of all lower income households (that is, gross household income per annum of less than about \$34,500) who are in housing stress (that is, paying more than 30% of their income on mortgages or rents) has risen from about 15% to more than 20%. The number of lower income households in this position has increased by 100,000 and is now around 250,000 households. In Sydney, in 1994 about three-quarters of private renters paid rents that were at or above 30% of their income, compared to less than half of renters in 1986, and the total number of lower income renters has also increased substantially.



The proportion of people purchasing homes is falling, more people are staying in the private rental market, and for longer periods of time. Consequently, there is increasing competition for available private rental housing. This situation is hardest for those on low incomes at the bottom end of the private rental market, potentially increasing the number of homeless or inadequately housed residents.

### **Impact of increased tourism**

The current long-term trend of the loss of boarding house accommodation in Sydney is likely to accelerate due to a perceived increased demand for tourist accommodation generally and as a result of interest generated by major events. This is likely to lead to further loss of affordable housing stock in the private rental market and consequently an increase in homelessness and increased demand for crisis accommodation. It is also likely that median rents will continue to increase over time, particularly in the inner and middle ring suburbs. Continuing upward movement in house prices and rental levels and associated gentrification is particularly prevalent in inner and middle ring local government areas. Filtering through to the bottom end of the private rental market, this exacerbates the shortage of affordable accommodation.

### **1.4 THE GOVERNMENT RESPONSE**

Amending SEPP 10 to make it a more effective planning instrument is just one part of the NSW Government's response to the housing affordability issue. The Government has also put in place a range of measures to assist in retaining affordable housing in the private rental market, some of which are summarised below and detailed at Section 5.

#### **Land tax exemption**

The Office of State Revenue offers land tax exemption for all boarding houses providing affordable accommodation for permanent residents, and for certain low-cost accommodation within five kilometres of the Sydney GPO.

#### **Financial assistance for essential fire safety upgrading**

The Department of Urban Affairs and Planning offers financial assistance for essential fire safety

upgrading of boarding houses providing affordable accommodation for permanent residents.

#### **Lower level of local government rates**

*The Local Government Act 1993* has been amended to assist in the protection of affordable accommodation. Firstly, the *Local Government (Boarding and Lodging Houses) Amendment Act 1994* changed the rating categorisation of boarding and lodging houses from business to residential to ensure they attracted a lower level of local government rates.

In addition, under section 131A of the Local Government Act, a council that intends to issue an order that would have the effect of making residents homeless must consider whether the residents can arrange satisfactory alternative accommodation in the locality. Further, following the introduction of the Local Government (General) Amendment (Community and Social Plans) Regulation in 1998, councils are required to develop social plans, with particular reference to seven target groups — people with disabilities, children, young people, Aboriginal people, people from culturally and linguistically diverse backgrounds, women, and older people — and to report on these in their management plans and annual reports.

#### **Tenancy advice and information services**

The Department of Fair Trading established six specialist and 13 generalist non-government agencies and a resourcing body to provide tenancy advice and information services under the Tenants Advice and Advocacy Program (ten generalist and two relevant specific services are in the Greater Metropolitan Region).

#### **Community housing sector assistance**

The Office of Community Housing (within the Department of Housing) was established to assist the growth of the community housing sector and in the delivery of housing assistance. The State Government has made a decision to encourage the community housing sector as an alternative provider and/or manager to 'traditional' public housing and of affordable housing.



### 1.5 HOW HAS THE SEPP BEEN AMENDED?

The SEPP has been amended to address aspects of its previous operation which resulted in the policy being less effective than it should have been for a number of reasons.

**Issue:** Debate in the Land and Environment Court, in councils, by solicitors and property owners as to exactly what is meant by 'boarding house' and what residential accommodation is included in the Policy.

**Change:** A number of definitional problems have been addressed in the amendments to the policy. For example, boarding house and other forms of low cost private rental accommodation are more clearly defined. This should reduce ambiguity over the application of the policy.

**Issue:** The definition of low rental residential flat building relied on 1987 rental levels by local government area as set out in a schedule to the policy. There has been increasing difficulty determining 1987 rental levels for residential flat buildings — it is basically impossible to get rental records back ten years or more — resulting in uncertainty about whether the policy applies.

**Change:** The policy now allows for updating rental levels by referring to median rental levels for size and type of dwelling by local government area as published in the Department of Housing's quarterly *Rent and Sales Report NSW*.

**Issue:** In the policy, the consent authority is required to consider whether 'there is available sufficient comparable accommodation in the locality to satisfy the demand for such accommodation in that locality'. There has been considerable debate about what constitutes 'locality' for the purposes of the SEPP.

**Change:** Locality has now been more clearly defined in the policy and this guide.

**Issue:** Similarly, what is meant by 'comparable accommodation' has been the subject of much debate and has led to a great deal of research and the development of conflicting methodologies on behalf of the proponents, the councils and the concurrence authority.

**Change:** A benchmark has been introduced to assess the availability of comparable accommodation. It is generally accepted that a vacancy rate of 3% represents a reasonable balance between supply and demand of private rental accommodation. If the Sydney vacancy rate is below 3% the test of availability of comparable accommodation is deemed to have failed. If the Sydney vacancy rate exceeds 3% for the quarter immediately preceding the date of lodgement of the development application, then it is open to the applicant to demonstrate that sufficient comparable accommodation is available in the locality. What is meant by sufficient comparable accommodation is more clearly defined in the policy and this guide.

**Issue:** The policy required consideration of 'the extent to which the proposed development will affect the stock of low rental residential accommodation in the council's area.' To date, greater regard has been given to the immediate impact on residents and less attention has been given to the impact of the continued loss of such accommodation and the need for affordable housing within a local government area.

**Change:** Because of the serious decline in affordable accommodation at the same time that demand for such accommodation is increasing, the cumulative impact of the loss of affordable accommodation within a local government area has been given more weight in the policy and this guide.

**Issue:** One of the assessment criteria under the policy is whether a boarding house is financially viable. There has been a very real need for information on how the consent authority is to assess financial viability for boarding houses. Councils advise that they do not have the resources, nor the expertise, to assess the financial viability of boarding houses and there has been little information available to councils or the concurrence authority to assist them in assessing this aspect of the SEPP.

**Change:** The guidelines provide a detailed description of the methodology for assessing financial viability of a boarding house under the



policy. The amended policy also makes this assessment the responsibility of the Director-General of the Department of Urban Affairs and Planning as the concurrence authority.

**Issue:** Alterations and additions to a low rental residential flat building were not subject to the SEPP. Only conversion to strata title was captured by the policy. The original logic behind this was that on strata conversion, the majority of units are converted to owner occupation and those that are returned to the rental market are at considerably increased rents. However, an owner could simply evict the tenants, do a cosmetic upgrade on the building and re-let the building at significantly increased rents — so that the building was no longer regarded as a low rental residential flat building and was no longer subject to the SEPP.

**Change:** The policy has been amended so that alterations and additions to low rental residential flat buildings are now subject to the policy. Development consent is now required for alterations and additions to the fabric of the inside or outside of the building. However, routine building maintenance will not be subject to the Policy.

**Issue:** The policy applied to only 17 local government areas: Canterbury, Drummoyne, Hunters Hill, Lane Cove, Leichhardt, Manly, Marrickville, Mosman, Newcastle, North Sydney, Randwick, South Sydney, Sydney, Waverley, Willoughby, Wollongong, and Woollahra.

**Change:** There are a large number of local government areas with substantial numbers of

boarding houses and residential flat buildings with relatively low or moderate rental levels that were not subject to the policy. Including these in the policy leaves very few local government areas in the Greater Metropolitan Region out of the SEPP. Given the extent of the problem of loss of affordable accommodation and for simplicity and consistency, the whole GMR is subject to the SEPP.

**Issue:** It is no longer appropriate for the Department of Housing to continue as the concurrence authority for SEPP 10, given their core responsibility of public housing provision.

**Change:** The Director-General of the Department of Urban Affairs and Planning will be the concurrence authority for SEPP 10.

While SEPP 10 regulates land owners' use of their property, this guide incorporates a test of the financial viability of retaining a boarding house, ensuring a process of assessment that is transparent, fair and reasonable. Together with the financial assistance available — land tax exemption, financial assistance for fire safety upgrading of boarding houses, and lower local government rates for boarding houses — the costs to property owners have been considered and, where possible, mitigated. In assessing development applications for demolishing or changing the use of existing low rental residential accommodation, only financially viable projects may be required to maintain their current use. Councils are also encouraged to negotiate with property owners to achieve outcomes that retain affordable housing stock while permitting development to proceed, where possible.



# 2. Does SEPP 10 Apply?

There are three main steps to determine whether the policy applies to a particular development:

- is the site in an area where the policy applies?
- is the existing building one to which the policy applies? (that is, is it a 'low rental residential building' within the meaning of the policy?)
- is the proposed development one to which the policy applies?

## 2.1 WHERE THE POLICY APPLIES

The policy applies to all local government areas identified within the Greater Metropolitan Region (GMR), that is:

Auburn	Hornsby	Pittwater
Ashfield	Hunters Hill	Port Stephens
Bankstown	Hurstville	Randwick
Baulkham Hills	Kiama	Rockdale
Blacktown	Kogarah	Ryde
Blue Mountains	Ku-ring-gai	Shellharbour
Botany	Lake Macquarie	South Sydney
Burwood	Lane Cove	Strathfield
Camden	Leichhardt	Sutherland
Campbelltown	Liverpool	Sydney
Canterbury	Maitland	Warringah
Concord	Manly	Waverley
Drummoyne	Marrickville	Willoughby
Fairfield	Mosman	Wollondilly
Gosford	Newcastle	Wollongong
Greater Cessnock	North Sydney	Woollahra
Hawkesbury	Parramatta	Wyong
Holroyd	Penrith	



### 2.2 BUILDINGS TO WHICH THE POLICY APPLIES

SEPP 10 applies to the forms of residential buildings defined in the policy which include:

- boarding-houses
- hostels
- low rental residential flat buildings.

SEPP 10 applies:

- to buildings lawfully used for these purposes, irrespective of the original purpose for which the building was erected or whether or not consent was granted
- whether or not the building previously operated lawfully as a low rental residential building but is now vacant or is being unlawfully used for another purpose.

SEPP 10 *does not* apply to buildings that:

- comprise a dwelling-house
- contain only two dwellings and no other rental accommodation (often referred to in planning instruments as dual occupancy, duplexes, semi-detached cottages, granny flats, Residential Flat Buildings Class A or similar)
- that have been approved under SEPP 5 — Housing for Older People or People with a Disability.
- that have been lawfully approved for subdivision under the Strata Titles Act.

The last of these exemptions excludes from the policy the large number of medium and high density multi-unit housing developments (such as townhouses, villas, cluster homes, and homes for older people or people with a disability under SEPP 5) that have been erected and already strata subdivided. It also excludes buildings that have recently been constructed but are vacant pending lodgement or approval of a strata subdivision application.

In respect to residential flat buildings subject to the policy, reference is made to the median rent levels published in the *Rent and Sales Report NSW* by the Department of Housing:

- For studio, bedsitter and one-bedroom accommodation, reference should be made to the median rent level for the relevant local government area (LGA) for one bedroom units.
- For two-bedroom accommodation, refer to the median rental for that LGA for two bedroom units.
- For accommodation with three or four bedrooms, refer to the three bedroom and four bedroom median rents for all dwellings.

The *Rent and Sales Report NSW* is published quarterly by the Department of Housing. The reports are available free of charge from the Department of Urban Affairs and Planning's website, at <http://www.duap.nsw.gov.au/rent>. Back issues are available for \$10 per copy from the Information Centre of the Department of Urban Affairs and Planning, phone (02) 9391 2222.

If any of the units in the residential flat building were rented at levels equal to or below the median level at any time in the last 24-month period, then SEPP 10 does apply to the building and a development application would be required pursuant to SEPP 10.

Where it is uncertain that this is the case, **work must not be undertaken** on the property until council has confirmed in writing, that it is satisfied that the building does not need to be assessed under SEPP 10. A properly authenticated 24-month record of rental receipts for each unit or flat should be provided to council to establish an exemption from SEPP 10 on this basis. Property owners are required to keep records of rents for taxation purposes and therefore the applicant should readily be able to provide this information.



### **2.3 PROPOSED DEVELOPMENTS TO WHICH THE POLICY APPLIES**

If the site is in any of the previously mentioned local government areas and the building is a boarding house or hostel, SEPP 10 applies to any proposal to:

- demolish the building
- alter or add to the structure or fabric of the inside or outside of the building
- change the use of the building to another use
- strata subdivide the building

If the building is a low rental residential flat building, SEPP 10 applies to any proposal to:

- alter or add to the structure or fabric of the inside or outside of the building
- strata subdivide the building

It applies to any alterations and additions which result in the structure or fabric being upgraded to a higher standard, such as replacing shared kitchenette or bathroom facilities with individual facilities, providing additional on-site carparking, or to any refurbishment intended to raise the standard of accommodation that may enable an increase in rentals.

The policy does not apply to normal maintenance activities needed to prevent the deterioration of the building and/or to ensure the health and safety of residents and to maintain a reasonable standard of accommodation. Such work would be consistent with the policy's aims to retain low rental accommodation. Examples of 'normal' maintenance include repairs, painting, renewal of floor coverings, replacement of light fittings, re-wiring or work carried out to comply with a fire safety order.

Where it is unclear that proposed work would be subject to consideration under the policy, the local council should be consulted. To support any claim that the policy does not apply, written particulars of the work should be provided to the council. Work should not commence until the council has given written notice that development consent is not required.

Council needs to forward a copy of all exemption notices to the Director-General of the Department of Urban Affairs and Planning. This process will enable exemptions to be monitored, and to

identify the need for any future adjustments to the provisions of the policy or these guidelines.

### **2.4 INTEGRATED DEVELOPMENT ASSESSMENT PROCESS**

On 1 July 1998, an amendment to the Environmental Planning and Assessment Act came into effect which introduced reforms to provide for more certain and consistent decisions on development proposals. As part of this, each council is required to prepare a local environmental plan that identifies exempt and complying development for their area. Such plans exempt certain development from requiring a development application, and allow other specified types of development to be considered in accordance with pre-determined standards.

Please note that any development requiring consent under SEPP 10 cannot be specified as exempt or complying development under another environmental planning instrument.

### **2.5 SECTION 149 PLANNING CERTIFICATES**

A section 149 planning certificate is issued by the local council as an official statement of the zoning and planning controls affecting a particular property. These include controls such as SEPP 10. When selling a property, owners are required under the *Conveyancing Act 1919* to obtain a section 149 planning certificate so any prospective purchasers are correctly informed of the controls in force over that land. All councils covered by the new SEPP 10 will need to ensure that this is included on the section 149 planning certificates for all boarding houses, hostels, and residential flat buildings. In accordance with Item 3 of Schedule 4 of the Environmental Planning and Assessment Regulation 1994, the Minister for Urban Affairs and Planning has notified councils in the Greater Metropolitan Region to ensure SEPP 10 is specified on section 149 planning certificates.

### **2.6 WHO TO CONTACT IF YOU HAVE QUESTIONS ABOUT AN APPLICATION**

If you need assistance with the interpretation of the policy or regarding its application, please contact the Department of Urban Affairs and Planning, Housing Markets Branch on (02) 9391 2132.

The local council should also be able to assist with pre-development application information.



# 3. Making a DA

## 3.1 LODGING AN APPLICATION

Where SEPP 10 applies to a development proposal, a development application under the *Environmental Planning and Assessment Act 1979* must be lodged with the council for assessment and approval before any works associated with that proposal can commence. The council should be consulted to determine what forms to use and what plans and information need to be submitted. Assessment of an application under SEPP 10 will require some specific information to be provided, as outlined below.

## 3.2 WHAT INFORMATION DOES THE APPLICANT NEED TO PROVIDE?

Assessment can proceed more quickly when adequate information is provided with the development application. Councils and the Director-General of the Department of Urban Affairs and Planning can defer consideration of an application until any additional information needed to complete an independent assessment of the application is provided by the applicant to council.

The applicant has a responsibility to advise the consent authority of the likely impact of a development in regard to each of the assessment criteria set out in clause 7(4) of SEPP 10, as well as the matters listed in section 79C of the Environmental Planning and Assessment Act. Where an adverse impact is anticipated, any measures to eliminate that impact or reduce its severity must be described in the development application.

The information that should be provided with a SEPP 10 application will depend on the nature of the existing building, the type of development proposed and the housing market conditions prevailing in the local area. For example, with a proposal that maintains or increases the low rental accommodation of a building, the information required will be different from a proposal to demolish the building or convert it to another use.



The specific information needed to address each of the SEPP 10 criteria is set out in Section 4 of these guidelines. However, the following baseline information must be submitted with all applications:

### Existing situation

- ✓ site plan and existing floor plans marked with current uses of all rooms and external areas
- ✓ photographs, internal and external
- ✓ description of how the residential use is operated
- ✓ age and history of the building (if known), including details of any previous uses, approvals or licences
- ✓ structural and maintenance condition, including details of any fire safety or other orders which have been served and details of any work carried out to comply with orders
- ✓ details of existing accommodation, including:
  - number of rooms/units currently available for occupation and those currently occupied
  - latest rent levels for each room/unit
  - number of existing residents
  - duration of each existing tenancy
  - general socio-economic position of resident group (age, disability, employment status, income etc)
  - an estimate of the average length of occupancy and average vacancy rate for the building
- ✓ description of adjoining premises and the surrounding locality

### Proposed situation

- ✓ completed development application form
- ✓ description of proposed development
- ✓ plans and elevations marked with proposed uses of all rooms and external areas
- ✓ purpose of carrying out the proposed development
- ✓ alternative developments which have been considered, and reasons for their rejection
- ✓ details of the likely impact of the development in regard to each of the assessment criteria listed in clause 74 of SEPP 10 and summarised below.

- (a) whether there is likely to be a major reduction in the number of households or units of low rental accommodation on the land to which the application relates
  - (b) whether there is sufficient comparable accommodation in the locality to satisfy the demand for such accommodation in that locality
  - (c) whether the development, if carried out, is likely to cause adverse social and economic effects on the general community
  - (d) whether adequate arrangements have been made to assist the residents (if any) of the building likely to be displaced to find satisfactory alternative accommodation in the locality (a survey such as that included at Appendix A can be used for this purpose)
  - (e) whether the cumulative impact of the loss of low rental residential accommodation in the council's area will result in a significant reduction in the stock of that accommodation. Cumulative impact assessment guidance is provided at Appendix B
  - (f) the structural soundness of the building, the extent to which the building complies with any relevant fire safety requirements and the estimated cost of carrying out work necessary to ensure the structural soundness of the building and the compliance of the building with the fire safety requirements
- ✓ outline of measures proposed to mitigate any likely adverse impacts of the development

Any development application lodged on the basis that the existing boarding house is not financially viable must include additional information as detailed in Appendix C. This information should be available from the applicant's tax records or audited accounts, from the Valuer General, the applicant's insurer, council records and publications by the Department of Urban Affairs and Planning.

# 4. Assessing a DA

## 4.1 THE ASSESSMENT PROCESS

A summary of the assessment process for SEPP 10 applications is illustrated by Figure 1. A detailed explanation of how each of the criteria is assessed is provided in Section 4.2.

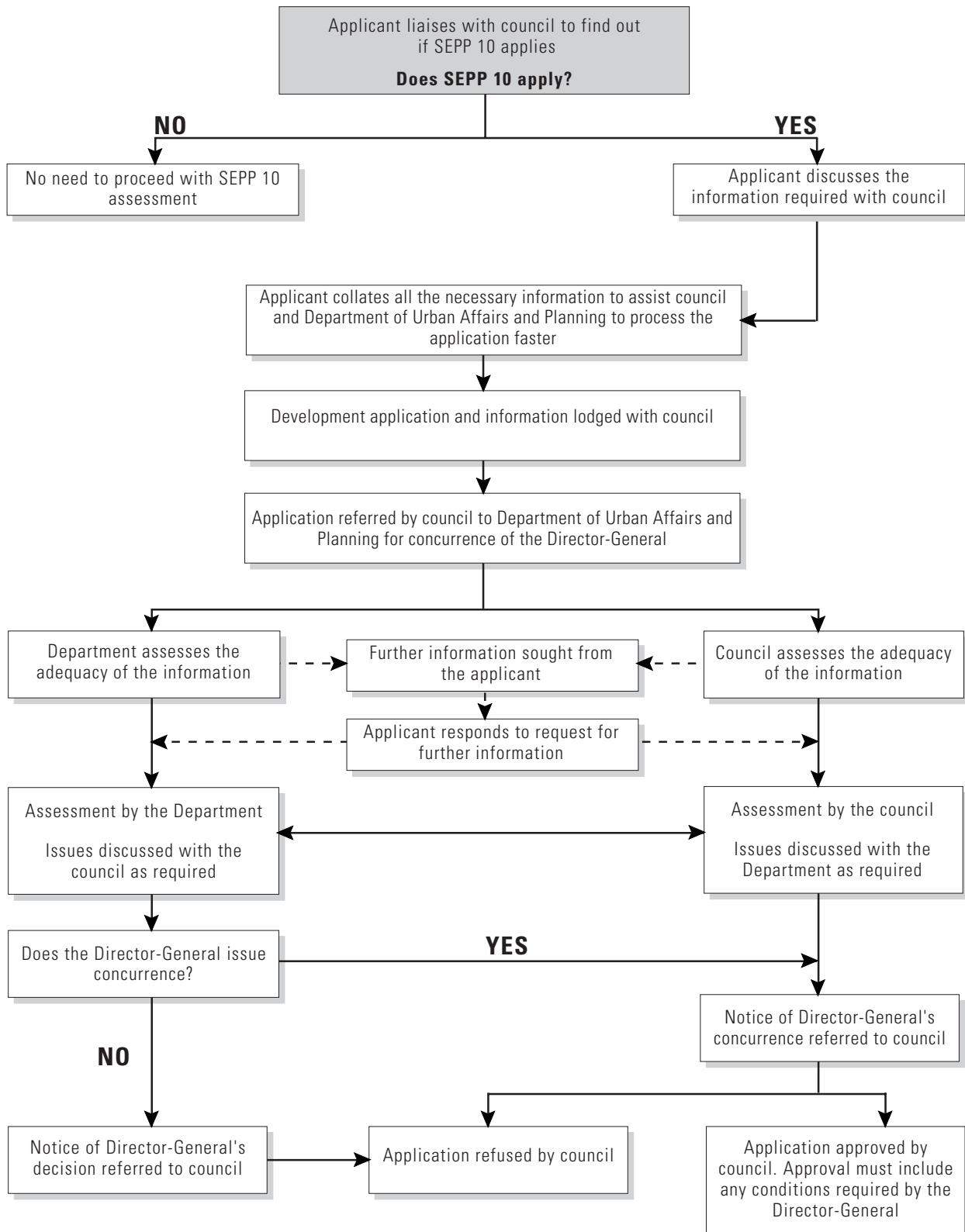
Legislative requirements of the process include:

- pursuant to clause 49A of the Environmental Planning and Assessment Regulation 1994, council must refer a copy of the development application to the Director-General within two days of receiving it, together with any accompanying information.
- if the information submitted is not adequate to properly assess whether to concur, the Department of Urban Affairs and Planning can seek additional information from the council. If this is sought within 21 days, the council must immediately seek the information from the applicant and the normal period allowed for determining the application is extended (clause 50, Environmental Planning and Assessment Regulation 1994).

In addition, councils generally notify adjoining landowners when a development application is received for a property. If the proposal is subject to SEPP 10, council is encouraged to also advise the tenants of the existing building of the proposal. This can often assist in the assessment of the SEPP 10 criteria. Several of the councils where SEPP 10 has applied for some time notify tenants by way of a survey, an example of which is provided at Appendix A.



**FIGURE 1: AN OUTLINE OF THE SEPP 10 ASSESSMENT PROCESS**





## **4.2 ASSESSMENT CRITERIA**

As well as the information outlined in Section 3.2, for each proposal SEPP 10 requires councils and the Department of Urban Affairs and Planning to consider the criteria specified in clause 7(4) and 7(7) of the policy. The main issues relating to each of these criteria are discussed below.

### **Significant reduction in accommodation provided on the site [clause 7(4)(a)]**

This is the most fundamental matter for consideration and its determination will affect how each of the other SEPP 10 matters is assessed. The most obvious example of development that reduces low rental accommodation is the demolition of a low rental building to enable its replacement with a non-residential use.

Less obvious are changes that retain the same or a similar amount of accommodation, but result in some or all of the accommodation no longer being available to the low rental market. These typically involve changes to the standard or type of accommodation, or to the tenure of the building. For example:

- alterations to a boarding-house to provide en-suite facilities may result in rental levels being substantially increased beyond the reach of the 'traditional' resident group
- extensive internal and external refurbishment of a low rental residential flat building may have the intention of enabling significantly higher rents to be charged
- strata subdivision typically results in some 50% of units in a residential flat building being owner-occupied and therefore no longer available for tenants

The extent of loss that constitutes a 'major' reduction must be determined on a case-by-case basis, having regard to the amount of existing low rental accommodation provided on site. In areas that are experiencing a decline in low rental accommodation generally, a site-specific reduction rate which is equal to or exceeds the historical rate of decline for that type of accommodation in that area, could be regarded as 'major'. Any approval to remove that accommodation would contribute to the loss of that type of accommodation and may, in fact, accelerate the rate of decline.

### **Example**

In an area which has experienced a 10% per annum decline in boarding-house accommodation in recent years, a proposal to remove four rooms from a 20-room boarding-house could be regarded as a major reduction, because it represents a 20% reduction of accommodation on site. This is double the historical rate of decline in the area. The development must be assessed against the other SEPP 10 assessment criteria to see if that major reduction is nonetheless justified.

In determining applications that reduce low rental accommodation, either by a direct loss of rooms/units or a change in their rental characteristics, care must be taken not to penalise owners wishing to take reasonable measures to maintain the value and income-generating capacity of their asset or to ensure a safe, healthy and hygienic standard of accommodation for the tenants. While reducing low rental accommodation, such proposals may nonetheless be necessary to secure ongoing low rental accommodation on the site, albeit at a reduced capacity.

Where this appears to be the case, alternative developments are sometimes available which achieve a reasonable investment outcome while maintaining or even increasing the amount of low rental accommodation. Owners should be encouraged to explore such alternatives and it would be desirable for councils to review development controls to prevent 'avoidable reductions' in low rental accommodation.

Further, the locational context must be considered to determine whether the proposed development will result in a loss of low rental accommodation. For example, the building may have inherently poor amenity because of high levels of traffic, the building being overlooked or overshadowed or the building being located amongst incompatible land uses such as a commercial complex. In such cases, it may be unlikely that the units would appeal to prospective owner-occupiers or upper-income renters, even after some cosmetic upgrading occurs. In such circumstances, however, the onus is on the applicant to provide reasonably conclusive evidence that there will not be a detrimental impact.



### Sufficient availability of comparable accommodation in the locality [clause 7(4)(b)]

Assessing whether there is sufficient comparable accommodation remaining in a locality if a particular development proceeds has been one of the most problematic aspects of SEPP 10. Differing interpretations of 'sufficient', 'comparable', 'locality' and different techniques and benchmarks for measuring availability have been used by applicants, councils and the Land and Environment Court. The revised policy removes this uncertainty by defining what is meant by 'comparable accommodation' and 'locality', and by providing a numeric benchmark for assessing availability of comparable accommodation.

The policy has been amended so that the Sydney rental vacancy rate published by the Real Estate Institute of NSW is the benchmark to assess the availability of comparable accommodation. It is generally accepted that a vacancy rate of 3% represents a reasonable balance between supply and demand of private rental accommodation. Under the amended policy, a vacancy rate for Sydney of less than 3% is deemed to indicate that insufficient comparable accommodation is available to mitigate the impact of the development on demand for such accommodation.

If the Sydney vacancy rate is equal to or exceeds 3% in the preceding quarter, then it is open to the applicant to demonstrate that adequate comparable accommodation is available in the locality.

The Sydney vacancy rate will be applied as a benchmark for all the local government areas subject to the policy — that is, for the whole GMR. At this time, vacancy rates for sub regions are not sufficiently accurate to be used as a benchmark. The applicant should be aware there are not separate vacancy rates for different segments of the market, so, whilst the vacancy rate may exceed 3%, this could simply be a reflection of new higher-priced stock entering the private rental market. In reality, the vacancy rate for low cost accommodation may still be very tight.

### What does 'comparable' mean?

'Comparable accommodation' is that which is similar to the existing building in terms of:

- *locality* — it is in the same or neighbouring suburbs
- *accessibility* — if residents of the building occupied the alternative accommodation, they would have access to the same social and support networks and a similar range of services and facilities as they currently use
- *rental level or tariff* — accommodation that rents at more than 5% above the rent of the existing building is not comparable. Where rents or tariffs are comparable, consideration should also be given to the effect of bond requirements, which may not apply to the existing building
- *standard of accommodation* — when vacancy rates are very low, the general standard of advertised accommodation is likely to be reduced. In such conditions, residents whose housing choices are already limited may be forced to accept a significantly reduced quality of accommodation if the development were to proceed. Aspects to be considered include the size of rooms, the number of households using shared facilities, maintenance and fire safety conditions, disability access, and exposure to incompatible uses or adverse conditions such as traffic noise and crime
- *number of bedrooms* — in the case of residential flat buildings, only units with the same number of bedrooms qualify as comparable accommodation. If the subject building contains bedsitter units, dwellings advertised as 'studio apartments' are normally of the same bedroom configuration, and one-bedroom units at a similar rent level are also regarded as comparable. In the case of boarding houses, accommodation appearing in the shared accommodation advertisements generally caters for a different sector of the rental market and is therefore not regarded as comparable.



For the purposes of the policy, reference to 'facilities' means social infrastructure such as hospitals, schools, neighbourhood centres and child care centres as well as physical infrastructure such as retail and commercial centres. A reference to 'services' means social and other services utilised by residents and includes doctors, meals on wheels, tenancy advice, and transport. A reference to 'social and support networks' includes family, friends, church groups and social workers, including aged care and youth workers. If residents are required to move they should be able to maintain existing social and support networks and their connections with their existing community, for example, for their children to continue at the same school, child care centre or playgroup, to continue going to the same doctor, church, club, activities centre, and so on.

### **What does 'available' mean?**

Comparable accommodation must be available at the time of lodgement of the development application. For Sydney metropolitan suburbs, advertisement of the comparable accommodation in the *Sydney Morning Herald* is the most widely accepted indicator of availability. A local newspaper with reasonable coverage of properties to let will be more appropriate in other areas in the Region. While SEPP 10 requires assessment of availability *at the time the DA is lodged*, the applicant must provide a survey of newspaper advertisements spanning at least four weeks, with their development application. This will confirm that current availability is not a temporary or one-off phenomenon and is likely to be sustained for at least the period — normally some weeks or months after the lodgement date — that any displaced residents will be seeking accommodation should the development be approved.

### **How much is 'sufficient'?**

In a competitive rental market, residents of low rental residential buildings generally find it more difficult to access available rental accommodation. Compared to higher income groups, they have reduced mobility through lower rates of car ownership and higher rates of disability and reduced financial capacity to pay bond or key money. Coupled with some industry stigmatisation of low income earners, welfare recipients and people with a disability, these displaced residents can effectively be 'locked out' of the low rental accommodation market.

To determine if there is sufficient alternative accommodation, the amount of comparable stock advertised must be compared to the amount of low rental stock existing in the locality. In areas with a large stock of low rental accommodation, more comparable accommodation will need to be identified by the applicant to establish that low income earners seeking housing in that locality are reasonably competitive in securing accommodation. Clearly, the residents likely to be displaced by a development are not the only people seeking alternative accommodation at any one time. They will be competing for any available rental stock. Therefore there needs to be more accommodation available than the demand generated by the proposed development.

Most recent census data can be used to estimate the total stock of comparable accommodation existing in a chosen locality. The Australian Bureau of Statistics (ABS) can prepare custom tables by postcode, bedroom number and rent level (for a fee). For example, an estimate of the total stock of two bedroom flats for \$180 per week as at the last census can be obtained. The average weekly amount of advertised comparable accommodation can be compared to this figure to produce an approximate vacancy rate for the locality, for stock of this size and rental level. Please note the ABS figures will not include stock built after the last census day. However, in most cases this stock will be rented at above-median levels by virtue of its newness. A rate of below 3% reflects a 'tight' rental market in which low income residents will be at a competitive disadvantage, and indicates that the amount of comparable accommodation available is not sufficient.

Providing evidence of sufficient comparable accommodation is likely to be more problematic for boarding houses as they are much less likely to advertise vacancies. Many owner/managers simply rely on unsolicited enquiries for lodgings to fill any vacancies. The *Inner Sydney Boarding House Report*, June 1998, by Davidson, Phibbs and Cox showed that the majority (68%) of owner/managers of boarding houses surveyed indicated that they had occupancy rates over 90%, with 82.4% having occupancy rates over 80%. Most owner/managers thought demand for boarding house accommodation had increased, and almost one-third received more than five enquiries for lodging per week. Therefore it may



be difficult to rely on advertised vacancies to demonstrate sufficient comparable accommodation. Direct enquiries to local boarding houses are often the best way to gauge the availability of comparable accommodation. Full details of those enquiries need to be submitted with the development application, including date of enquiry, address and phone number of property, number of rooms, number of vacancies, facilities provided and rent level.

In addition to the above quantitative information, qualitative information on conditions in the lower end of the private rental market should be sought. This can be obtained from local real estate agents, tenant advisory services, crisis accommodation providers and from regular publications such as the *Rent and Sales Report NSW* and the *Housing Indicators Report, Around The House* by Shelter NSW and the reports of the Real Estate Institute. Councils are encouraged to subscribe to these publications and talk to local housing providers and housing service operators.

### **Adverse social and economic effects on the general community [clause 7(4)(c)]**

The loss of affordable private rental accommodation can have adverse social and economic impacts on the general community. These are outlined in more detail in Appendix B on cumulative impact assessment, but include less housing choice for existing and potential residents, the displacement of existing residents who can no longer afford to live in the area or who have to trade-off standard of accommodation in order to remain locally and gentrification leading to higher housing costs for existing and intending residents.

### **Adequate arrangements to assist the existing residents to find satisfactory alternative accommodation in the locality [clause 7(4)(d)]**

Where a development is likely to result in displacement of existing residents, arrangements to assist these residents to find satisfactory alternative accommodation in the locality must be identified. These could include:

- the provision of accommodation in other premises in the same ownership/management or by arrangement with other owners/managers
- a written agreement with a local estate agent giving displaced residents first option for

comparable accommodation that comes onto the market

- payment of bond, relocation costs and ex-gratia disruption payments
- extension of period of notice to vacate (the minimum notice to vacate period applying under the *Residential Tenancies Act 1987* is generally 60 days, but a longer minimum period applies in some circumstances).

Such requirements can be enforced as conditions of concurrence and/or development consent. Another option would be a deferred commencement consent under section 80(3) of the *Environmental Planning and Assessment Act 1979*, subject to a condition that consent does not operate until residents are satisfactorily re-housed.

### **Cumulative impact on the stock of low rental accommodation in the council's area [clause 7(4)(e)]**

The difficulty of assessing the impact of losing a particular low rental residential building in terms of the total stock of such accommodation in the subject local government area has been a criticised aspect of SEPP 10. The policy has therefore been amended to ensure that the *cumulative* impact of any proposed loss is taken into account.

Details of how to address this criteria are set out in Appendix B.

### **Structural soundness of the building, fire safety compliance and cost of rectification [clause 7(4)(f)]**

It is important that adequate levels of health, amenity and safety be maintained in low rental housing. Minimum requirements for places of shared accommodation (Class 3 buildings, which include hostels and larger boarding houses) are set out in Schedule 1 of the Local Government (Orders) Regulation 1993. Fire safety orders also provide a good indication of essential works. However, the performance-based provisions of the Building Code of Australia provide considerable flexibility in determining what rectification or upgrading works may be needed to a particular building, particularly in relation to the smaller Class 1B boarding houses. Therefore, owners generally can negotiate a reasonable schedule of works with the council.

In some cases, a building may be currently providing low cost rental housing, but only because its physical condition has deteriorated



substantially over time. In these instances, the habitability, structural sufficiency, constructional integrity and/or fire safety conditions of the premises may have deteriorated to a standard well below minimum acceptable levels, and as a result substantial refurbishment (and major capital reinvestment) may be unavoidable for continued occupation of the building. Such unavoidable refurbishment may have one or both of the following consequences:

- the building may transfer immediately into higher rental brackets well above SEPP 10 affordability levels because of contextual circumstance (that is, a refurbished rental building in a traditional up-market area), and/or
- refurbishment cannot be financed unless accompanied by way of partial or total strata subdivision.

In such 'special' circumstances, applicants must provide conclusive evidence of such contentions. Where it is claimed that substantial refurbishment is unavoidable, consideration and some weight will be given to whether the property's physical condition has come about because of long term neglect and financial 'harvesting' (that is, inadequate periodic repair and maintenance). In such instances, consideration could be given to not only the cost of restoration work, but also the long-term savings in maintenance costs enjoyed by the owner.

Further, work which is clearly of a non-essential or cosmetic nature should not be included when calculating costs. Schedules of work should be prepared and assessed by a suitably accredited building industry professional such as an architect, licensed builder, quantity surveyor or building surveyor. This information is required for consideration of an application that suggests the existing building is not financially viable on the grounds that it is structurally unsound and the work required to bring it up to standard is cost prohibitive.

#### **Financial viability [clause 7(7)]**

A boarding house owner submitting a development application under SEPP 10 may contend that their building is not financially viable. This will be assessed by the Department of Urban Affairs and Planning using the methodology explained in

Appendix C. The assessment of viability examines the operation of the boarding house as a business, regardless of any alternative use being considered for the land such as redevelopment potential. It is the responsibility of the applicant to support any claim that the existing building, that is the boarding house, is *not* financially viable, based on the information required to be provided for this assessment.

Whilst the list of information to be provided seems quite lengthy, much of the information should already be available to the applicant for general account keeping and taxation purposes.

A key objective of the assessment method is consistency across the boarding house sector. For this reason, viability is determined with reference to the property rather than the operator. That is, the financial and taxation arrangements of the boarding house operator are not included in the assessment. The capital costs associated with providing a boarding house are, however, included by making allowance for depreciation.

If a boarding house is assessed as financially non-viable, the Department will then consider whether upgrading the boarding house will make it financially viable. Upgrading a boarding house could increase its viability by decreasing maintenance costs, increasing the number of rooms or increasing rents (within the low rental bracket).

A copy of the financial viability assessment will be provided to the council.

Financial viability assessments may be reviewed, especially when the property is initially assessed as not being viable. There is some scope for negotiation of the variables used in the financial viability assessment, but in the interests of equity and transparency the same methodology will be used case to case.

#### **4.3 DETERMINATION OF APPLICATIONS**

In balancing all the assessment criteria under SEPP 10, council may:

- refuse the application, specifying the reason(s) why
- liaise with the applicant and tenants/lodgers to identify measures that will reduce or eliminate the impact of the development application



and/or

- approve the application and place conditions of consent on the approval

Should concurrence be granted by the Director-General of the Department of Urban Affairs and Planning, any conditions of that concurrence must be included by council as conditions of consent. While council can still refuse a development application that has received the Director-General's concurrence, an approval cannot be granted where concurrence has been refused.

Applicants are encouraged to discuss with the council the circumstances of their property and the possibility of negotiated outcomes or 'trade-off' agreements as early as possible, and preferably before the lodging of a formal SEPP 10 application. In turn, council may call in the assistance of the Department to provide specialist advice.

Negotiated outcomes which provide a real benefit for both residents and property owners are encouraged. However, property owners who 'harvest' their investment by running down the property until the building is in a very poor state of repair and/or has low occupancy levels should not be rewarded with development approval for demolition, change of use or strata subdivision.

### Examples of Negotiated Outcomes

As discussed in Section 4.3, the granting of unconditional consent or issuing outright refusal of SEPP 10 applications are not the only possible outcomes, and in recent years a number of alternative options have emerged. They have most relevance where the cases are clearly marginal. These can include:

- permitting only strata lots consisting of two or more units. Under such a scenario, the retention of units within the rental sector is reasonably maximised and assured because the 'super lots' are more likely to be bought by small rental investors rather than prospective owner occupiers. Furthermore, where this occurs, the number of owner investors is maximised, making it less likely that the building will undergo dramatic cosmetic conversion to force it up market within a short period
- allowing strata subdivision, but in addition creating limited restrictive covenants under which an agreed proportion of a building's units will continue to be rented at 'affordable' levels for an agreed period. Under such agreements, the property owner can realise the financial benefits available through strata subdivision (and certainly in the middle to long term), but do so while providing socially acceptable offsets
- allowing strata subdivision, but in addition creating agreements to protect the tenancies of existing occupants for a designated period and under certain rental conditions.

### 4.4 EXAMPLES OF DETERMINATIONS

Whilst the policy has been amended since the following SEPP 10 determinations were made, they are included to provide councils with an insight into the assessment process and examples of how various applications can be determined.



### **EXAMPLE: DEMOLITION OF A BOARDING HOUSE**

#### **Proposal**

A development application was submitted in early 1998 to demolish a boarding house in the Willoughby local government area and erect a residential flat building containing six units.

#### **History**

The existing building provides 13 lettings, some with limited cooking and food preparation facilities, and has done so for a considerable length of time. The condition of the property was generally run-down and in need of some repairs and upgrading to improve the living conditions for the occupants.

#### **Assessment**

The applicant argued the existing boarding house has major structural problems and that the associated repair costs would be substantial and render the building financially unviable. It was also argued that sufficient alternative comparable accommodation exist in the locality and that the demolition of the boarding house would not have a detrimental social impact.

Council's housing study showed that there is a severe shortage of comparable accommodation locally. It was considered that if the boarding house was demolished, the displaced tenants would find it very difficult to find comparable accommodation.

A detailed financial viability analysis was carried out using the methodology adopted by the Department of Housing which concluded that the building was financially viable as an ongoing boarding house, even after substantial allowances were made for the cost of essential fire safety work, structural repairs and constructional upgrading.

The assessment also showed the building was likely to qualify for a grant under the Boarding House Financial Assistance Program which would cover a large proportion of the costs associated with the necessary fire safety upgrading. This work represented the overwhelming bulk of the total upgrading works required to the building.

#### **Determination**

- Prior to determination of the application, the applicant lodged an appeal with the Land and Environment Court based on deemed refusal.
- The Department of Housing refused to grant concurrence as the proposal did not reasonably satisfy the applicable criteria of SEPP 10.
- Council refused to issue consent for the development application.
- The Land and Environment Court upheld council's refusal on SEPP 10 grounds.

#### **Negotiation**

Soon after the hearing, the property was sold. Following discussion of a range of development options with council and DOH, a fresh DA was lodged for a new building with a mix of boarding rooms and modest studio apartments. The owner agreed to lease the boarding rooms and some of the studio apartments to a local community housing organisation at below-market rents for an initial 5 year period with option to extend a further 5 years. The redevelopment was supported, as it guaranteed that affordable accommodation for low-income people is provided on this site over a significant period. An additional benefit of the development was the adaptation of the ground floor studio apartments for disabled persons. The community housing organisation had found it very difficult to secure well-located and affordable accommodation for low-income clients with restricted mobility.



### **EXAMPLE: CHANGE OF USE**

#### **Proposal**

A development application was submitted in 1995 to change the use of a building from a boarding house to an educational establishment in the Waverley local government area.

#### **History**

The property had been licensed as a boarding house for 33 years (along with the adjoining property) and accommodates socially-disadvantaged and mildly intellectually-handicapped persons. In the past, two development applications have been successfully lodged for alterations and additions. The property was originally licensed for 36 persons and after the additions it increased to 50 persons. The premises were subject to the Department of Community Services licensing requirements. The owner believed it was not economically viable to implement Community Service's additional requirements and the two properties were subsequently listed for sale.

The Department of Housing purchased one of the properties to use for youth accommodation. The existing tenants needed to relocate and, following continuing pressure from council, community organisations and the owner an assessment panel was set up to help find other accommodation. The owner has submitted an application to convert the remaining boarding house to an educational establishment.

#### **Assessment**

The main areas of assessment of the remaining boarding house involved:

- compliance with SEPP 10
- compliance with Waverley's DCP No. 14 — Bicycle and Car Parking
- consideration of general matters for consideration under the *Environmental Planning and Assessment Act 1979*.

#### **Determination**

A deferred commencement consent was granted subject to:

- the concurrence from the Director-General of the Department of Housing
- payment of a section 94 contribution of over \$36,000 to the council's Housing Trust Fund due to the likely loss of rental housing for low- and moderate-income groups by the proposed development.



### **EXAMPLE: SUBDIVISION OF AN EXISTING RESIDENTIAL FLAT BUILDING**

#### **Proposal**

A development application was submitted in early 1998 to strata subdivide a residential flat building containing 18 apartments in the Leichhardt local government area.

#### **History**

The building provided a substantial amount of affordable 'lower end' rental accommodation in an excellent location for middle to lower income earners.

#### **Assessment**

The application was referred to the Director-General of the Department of Housing for comment. The Department of Housing (DOH) recommended refusal on grounds that the application failed to demonstrate evidence of sufficient comparable accommodation. An analysis by DOH indicated a severe shortage of affordable accommodation existed in the locality.

#### **Determination**

DOH suggested strata subdivision in multiple unit allotments, as this would retain most units in the rental market. The applicant suggested an alternative proposal for a legal agreement with council which retained half of the units to be leased at low rental for three years. Council and DOH supported the outcome, which was reflected in appropriate conditions of consent.



# 5. Further Assistance

A range of financial assistance measures are available to mitigate the costs to property owners of retaining affordable housing stock.

## 5.1 TAX RELIEF AND LAND TAX EXEMPTION

The Office of State Revenue offers land tax exemption for boarding houses that provide affordable accommodation for permanent residents state wide, and exemption for low rental accommodation within five kilometres of the central business district of Sydney.

For the 1998 tax year (1 January to 31 December 1997), land that is used as the site of a boarding house will be entitled to exemption from land tax where in general terms during the previous year at least 80% of accommodation was occupied by long-term residents, and where the maximum tariff charged did not exceed prescribed rental levels.

Owners of land providing low cost accommodation (not including licensed premises) within a five kilometre radius of the Sydney GPO will be entitled to claim exemption from land tax or a reduction in the land value of the land, provided that each tenancy was subject to a Residential Tenancy Agreement and the maximum weekly tariff was below prescribed levels.

Further information about land tax exemption eligibility criteria is available from the Office of State Revenue, phone (02) 9689 6200.



## **5.2 FIRE UPGRADING FINANCIAL ASSISTANCE PROGRAM**

The Department of Urban Affairs and Planning offers financial assistance to owners and operators of boarding houses to undertake essential fire-upgrading work. Many boarding houses have closed in recent years because owners have not been able to meet the cost of essential fire upgrading. This program is intended to improve fire safety for boarding house residents and to help retain this type of accommodation as a long term housing option.

The program offers cash grants based on the cost of essential fire-safety upgrading.

Further information on the Boarding House Financial Assistance Program is available from:

Department of Urban Affairs and Planning  
Housing Markets Branch  
Mail: GPO Box 3927, SYDNEY NSW 2001  
Email: [information@duap.nsw.gov.au](mailto:information@duap.nsw.gov.au)  
Phone: (02) 9391 2132  
Fax: (02) 9391 2373

## **5.3 LOCAL GOVERNMENT ACT AMENDMENT**

The Local Government Act (LG Act) was amended so that section 516 requires boarding houses to be rated residential rather than business/commercial, where the dominant use of the building is residential.

Under section 131A of the LG Act, a council that intends to issue an order that would have the effect of making residents homeless, must consider whether the residents can arrange satisfactory alternative accommodation in the locality. Circular 97/70 outlines the amendment

of the Local Government Act Orders, section 131A and was sent to all councils in November 1997. In addition, the Environmental Planning and Assessment Act includes an equivalent provision to section 131A of the LG Act, under section 121G.

Information about appropriate levels of fire safety for older buildings can also be obtained from the Building Regulatory Advisory Section of the Department of Local Government, phone (02) 9793 0793. For specific advice for a particular building, a consultant would need to be contacted.

## **5.4 ASSISTANCE TO PRIVATE TENANTS**

People on a pension, benefit or a low income, who are in private rental, can obtain rent assistance from the Department of Social Security. The Department of Housing's Rental Assistance Scheme provides financial assistance to people who are homeless or imminently homeless, helping them to meet costs associated with obtaining private rental accommodation such as bond, rent-in-advance and removal expenses. The NSW Government also provides rental subsidies to people with category 3 or 4 HIV/AIDS who are approved for priority housing.

## **5.5 TENANTS ADVICE SERVICES**

There are ten generalist and two specialist tenant advisory services within the Greater Metropolitan Region (GMR).

The role of a generalist service is to provide information, advice, advocacy and community education on tenancy issues as well as casework which includes negotiating with landlords and assisting tenants to prepare cases for hearing before the Residential Tenancies Tribunal.



**Generalist Advisory Services available in the GMR**

**Generalist Advice Services**

**Phone**

Marrickville Legal Centre Tenants Service, Marrickville	(02) 9559 2899
Southern Sydney Tenants Advice and Advocacy Service, Campsie	(02) 9787 4679
Northern Area Tenants Service Inc., Kirribilli	(02) 9964 9654
Eastern Area Tenants Service Inc., Bondi Junction	(02) 9386 9147
Western Sydney Tenants Service, Harris Park	(02) 9891 6377
South West Tenants Advice, Liverpool	(02) 9601 6577
Redfern Legal Centre Tenants Advice Service, Redfern	(02) 9698 5975
Central Coast Tenants Advice and Advocacy Service, Wyong	(02) 4353 5515
Hunter Tenants Advice and Advocacy Service, Newcastle	(02) 4929 6888
Illawarra Legal Centre Tenancy Service, Warrawong	(02) 4274 3475

**Specialist advice and resourcing services available in the GMR**

**Specialist Advice Services**

**Phone**

Tenants Union of NSW Co-op Ltd, Millers Point	(02) 9247 3813
Aboriginal Tenants Advice and Advocacy Program Resourcing Unit, Redfern	(02) 9690 0020



# Appendices

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# A. Sample Resident Survey

## About you and those you live with

1. Name \_\_\_\_\_
2. Address (including unit number) \_\_\_\_\_
3. Phone number/s (work and home) \_\_\_\_\_
4. Number of people occupying your unit: Adults  Children
5. How much does **each person** in your household earn in a week, before tax (including pensions etc). Please tick for each adult occupant.  

Under \$200 per week	<input type="checkbox"/>	\$401–\$500	<input type="checkbox"/>
\$201–\$300	<input type="checkbox"/>	Over \$501	<input type="checkbox"/>
\$301–\$400	<input type="checkbox"/>		
6. a) Where did you live before this address? \_\_\_\_\_  
b) How long did you live there? \_\_\_\_\_

## About the place you live in

7. How long have you been living at this address? \_\_\_\_\_
8. What condition is your dwelling in? (e.g. poor, good, excellent) \_\_\_\_\_
9. No. of bedrooms \_\_\_\_\_
10. What is the current weekly rent? \_\_\_\_\_
11. Period of lease, if any \_\_\_\_\_

## Will you have to move?

12. Will you need to move as a result of the proposed development? \_\_\_\_\_
13. Please state where you intend to find accommodation. First choice \_\_\_\_\_  
Second choice \_\_\_\_\_  
Third choice \_\_\_\_\_

continued overleaf...

14. What type of accommodation would you look for?

- bedsitter
- one bedroom
- two bedrooms
- three or more bedrooms

15. What services, facilities and contacts do you feel are important to have nearby, e.g. family, friends and other social contacts, shops, medical services, leisure opportunities, public transport? \_\_\_\_\_

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16. a) Do you think it will be difficult for you to find accommodation?

- Yes
- No

Why? \_\_\_\_\_

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b) Please indicate any difficulties you would have in moving? \_\_\_\_\_

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17. Do you wish to add any comments? \_\_\_\_\_

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**Thank you for your comments.**

# B. Assessing Cumulative Impact

Local councils are responsible for ensuring that the majority of social and environmental objectives of their community are met by development within the local government area. A cumulative impact assessment is essential to ensure *all* community needs are assessed. This assessment is important for building better communities, improving residents' quality of life and addressing social equity.

This appendix explains how to obtain the information necessary to complete a cumulative impact assessment for the purposes of SEPP 10. Much of the information is written to help councils understand the assessment process and how to access relevant data. The process may appear to be onerous until a database is established. However, the final outcome of cumulative impact assessment may only be a couple of paragraphs in the development assessment report.

## **What is cumulative impact?**

Cumulative impact refers to the accumulation of environmental and social impacts that result from either a number of developments *over time* or a number of developments in a given area. A series of similar developments can potentially affect people's lifestyles, work and leisure environments.

For the purposes of SEPP 10, the concern is with the cumulative effect of the loss of boarding houses, hostels and low rental residential flat buildings.

## **Why is a cumulative social impact assessment so important?**

As pointed out in Section 1.3 of the guidelines, if the loss of affordable housing stock continues at current rates (about 7 to 8% per annum in Sydney for boarding houses), very little will remain in a decade. Coupled with increased pressure on low rental accommodation (due to fewer households entering into home purchase, gentrification of affordable private rental housing and the potential impact of increased tourism), erosion of existing affordable



rental housing stock is likely to increase. Assessing each application to demolish or change the use of low cost accommodation individually without assessing the impact the continued loss of such accommodation would most probably miss the major impact of that kind of development. By considering the cumulative impact for each application that is received by council for a low rental residential building, this rapid decline could be eased and low rental stock retained.

The people most likely to be affected due to a decrease in the supply of affordable accommodation include people:

- on very low incomes
- on pensions or benefits
- who currently reside in low cost accommodation
- who may be discriminated against in the private rental market because of cultural differences or disability
- at risk of homelessness, such as women and families escaping domestic violence.

If local government does not assist in protecting affordable accommodation, it could be expected that more people will be faced with homelessness and there will be a greater reliance on all levels of government support.

### **What are the possible impacts if a cumulative impact assessment is not completed?**

The following provides examples of what types of impacts the loss of affordable accommodation can have over time. The list is by no means exhaustive.

### **STEPS INVOLVED IN ASSESSING CUMULATIVE IMPACT**

The process of assessing the cumulative impact of the loss of affordable housing in a local government area or region involves researching the local housing supply and demand. It is necessary to identify the main issues of concern, and consult with relevant stakeholders such as real estate agents, the Department of Housing, the Property Owners Association, community housing providers, crisis accommodation providers, tenants advice services and members of the community. It is also important to understand existing social conditions and how the community will be affected by new developments. It entails predicting likely impacts, assessing the significance of the impacts, and developing measures to mitigate negative impacts. Overall, an assessment is required of the supply of affordable housing, the demand for this housing, whether there is any mismatch, who is affected, and how the development may impact on the situation.

There are a number of resources within council that can be drawn upon to assist in assessing the cumulative impact of the loss of affordable housing which are highlighted in the varying assessment steps. The fundamental steps involved in the cumulative impact assessment process are based on Cox and Mier's *Social Impact Assessment for Local Government* (NSW Government Social Policy Directorate and Local Government and Shires Association, 1995).

#### **Possible impacts**

- increased competition for affordable rental housing can lead to an increase in rents and less affordable housing
- people on lower incomes can no longer afford to live in the local area and be cut off from local social and support networks. This also changes the social mix and therefore the nature of the community
- residents moving out of the community can lead to a fall in demand for services and facilities, which may mean that these services and facilities are no longer economically viable and may cease to be provided to all residents of the community
- lower income residents may be forced to compromise on their standard of accommodation in order to remain in the local area. This can mean overcrowding, living in substandard accommodation and/or paying more for housing and having less to spend on food and other essentials, with the attendant health and safety risks and costs to the community
- people may become homeless and need to be housed in crisis accommodation, thereby increasing demand for the limited supply of public housing and supported accommodation. It may also increase the demand for support and other services provided by the council and other levels of government
- exclusion and polarisation resulting in dysfunctional communities with high levels of crime and low levels of self esteem.



### Step 1. Identifying the main issues and affected groups

This involves identifying the range of issues to be considered and the scope of the study. It includes consultation with the relevant stakeholders and the community.

In the assessment process it would be helpful to consider the following issues in relation to low cost accommodation and the effects upon them that are likely to arise from the development:

- the **supply** of affordable housing and whether this has changed over time, comparing the situation now with say ten or fifteen years ago
- the current **demand** for affordable housing and trends in demand, including competing demands (for example tourist versus residents)
- resident profile of the local government area, including age, household structure, income, tenure, particularly the profile of private rental accommodation
- neighbourhood characteristics, physical, environmental and social attributes — whether these are changing and, if so, how
- tenant profile of the building in question, for example, income, length of tenancy and age
- availability of, and demand for, community facilities (such as schools and hospitals) and services (such as social workers and meals on wheels).

### Step 2. Collecting information

This involves the collection of data and the identification of historical trends. It is important to understand the existing social conditions within the community before assessing the impact of the proposal. To establish a profile and determine the impact of the development it is useful to look at census information, social plans, safety audits and cultural plans, if they are available.

Council needs to be able to demonstrate that the cumulative social impact of development has been seriously considered. Utilising both qualitative and quantitative information, the council can detail, for example, the decline of low cost housing over the last five or ten years, the increase in rental levels over the same period, the nature of households or groups in housing need. There must be a clear link between the data presented and the assessment of impact.

Council can also look at the demand for affordable housing and how that has changed over time. If data is not available, it is important to talk to local housing and service providers to get a picture of local needs and demand.

#### Sources of information in council

It is useful to know how many boarding houses and low rental residential flat buildings are in the local government area. There are a number of ways to find this information:

- up until July 1993, councils' health and building departments were required to license boarding houses and undertake annual inspections under Ordinance 42 of the Local Government Act. All councils, therefore, should have good records of boarding houses and the number of rooms up until that year.
- under the Local Government Orders Regulation, Class 3 boarding houses (that is, those accommodating not more than 12 persons) and residential flat buildings are subject to annual certification for essential services, for example, the fire safety of the building. As councils place fire safety orders on buildings that are not deemed to meet fire safety standards there should be good records on, at least, larger boarding houses, hostels and also residential flat buildings, which are now covered by SEPP 10. It is possible to check how many boarding houses and hostels have ceased to operate in a local government area by comparing the numbers over time.



Councils are now required to develop community profiles and social plans, and to report on these in their management plans and annual reports. Generally, the community development or community services department of the council does this work. These community profiles and social plans can help in understanding existing social conditions in the community. Council's community services officers could help assess the cumulative social impact of SEPP 10 developments, and may also be able to identify and liaise with key stakeholders, such as local crisis accommodation providers and tenants advice services. Information regarding tenant advice services is provided at Section 5.5.

While a council may not have the resources to undertake a survey of housing stock or a housing needs study of their local government area, there are a number of potential data sources and agencies that can provide quantitative and qualitative information on housing need and the impact of the loss of affordable housing. These include:

- **Rent and Sales Report NSW**

The Department of Housing produces the quarterly *Rent and Sales Report NSW*. This has information on median rent by local government area, for one-, two- and three-bedroom dwellings, one- and two-bedroom flats, and on median sales prices for dwellings, strata and non-strata. Copies of the *Rent Report* going back to 1987 are available from the Department of Urban Affairs and Planning's library as well as the Department of Housing library. Issues from September 1998 onwards are available from DUAP's website, at <http://www.duap.nsw.gov.au/rent>

- **Housing Indicators Report**

The annual Housing Indicators Report provides an economic overview, analysis of housing supply, home purchase and affordability, private rental market and affordability, for Sydney and for NSW. It is available from DUAP's Information Centre at the corner of Bent and Phillip Streets, Sydney, phone (02) 9391 2222.

- The Department also provides population projections by local government area.

### Other sources of information

- **Australian Bureau of Statistics (ABS)** census data, in particular, community profiles. ABS data provides age profile of residents, household structure, income, tenure, and by comparing data over census periods, can indicate how these have changed over time. This helps to get a feel for the community, how it is changing, and likely housing demand.
- **Local service providers and real estate agents**  
Agents may be able to indicate how much lower cost rental accommodation they have on their books and what the demand is like for this accommodation. General housing market information may also be available from the Real Estate Institute of NSW.
- **Regional office of the Department of Housing**, for waiting times and number of people on the list for priority housing and 'wait-turn allocations' for different household types in a local government area. Things to note include: Has the wait time or demand increased? Is there likely to be any additional provision of public and community housing in the local government area to meet some of the demand generated by loss of affordable housing? Do residents have special needs and how readily can they be met?
- **The Department of Ageing and Disability (ADD)** can provide information on boarding houses licensed by them to provide accommodation for people with a psychiatric disability. The local area health service mental health teams may be able to give some idea of how readily residents of boarding houses licensed by ADD or residents with mental health problems can be rehoused.
- **Homeless Persons Information Service** can provide data on homeless people by suburb for the Sydney metropolitan area.
- **Department of Social Security** can provide information on the number of households in receipt of rent assistance and on pensions or benefits.
- **Studies undertaken by councils such as Waverley and North Sydney** may also be helpful.



### **Step 3. Identifying possible future impacts**

Council should consider for each development application:

- Who or which groups will be affected, and how many people?
- In what way?
- How long will the impacts last?
- What level of social change would occur if the development does/does not go ahead?
- How could the developer mitigate or negotiate to reduce the impacts?

#### **Example**

If a council approves the demolition or change of use of 15 or 20 boarding houses over ten years, or the strata conversion of five residential flat buildings in one locality, consider the following:

- What does this mean for the availability of affordable accommodation in the local government area?
- What if affordable accommodation continues to be lost?
- What does it mean for lower income residents of the locality who rely on the private rental market for housing?
- Who in the community benefits and who loses?
- What is the immediate impact and what is likely to be the impact in ten years?

### **Step 4. Assessment**

The impacts identified in step 3 should be assessed. Councils need to weigh-up the likely 'dimensions' of the cumulative impact of development in projecting possible outcomes, such as the overall costs and benefits, the duration, current and future conditions and local policy goals.

- How big a geographic area could be affected? The neighbourhood, suburb, local government area, region?
- When is the impact likely to occur and for how long is it likely to be felt?
- Is the impact major, minor or somewhere in between?

#### **Example**

In 'weighing-up' the level of impact, council may determine that:

- the value of retaining a socially mixed community is greater than the value to developers of optimising development potential on individual sites
- the cost of dislocation to tenants outweighs the impost on property owners (given that they will not be required to continue to operate a property that is genuinely not financially viable)
- the cost of rehousing low income residents or subsidising their rents so they can remain in the locality is greater than the cost to property owners of retaining stock as affordable housing.

**Note:** Where a property is assessed as being genuinely not financially viable, the owner would not be required to continue running it as affordable housing.



### Step 5. Evaluation

This involves considering what measures can be taken to manage and prevent negative social impacts. In assessing a SEPP 10 development application, the primary tools available to mitigate the impact(s) are negotiated agreements using conditions of consent, refusal of the application and section 94 contribution plans.

#### Conditions of consent might require:

- a reasonable length of time for residents to find alternative comparable accommodation
- reduced rent or a rent holiday, while work is undertaken on the building, to assist residents to stay or return to their housing
- a deed of agreement between the applicant and the council stating that assistance will be given to tenants to relocate and removal expenses will be paid
- a deed of agreement stating that the applicant will provide (a) dwelling(s) for a stated period of time at an affordable rent.
- Note that Waverley and North Sydney councils levy development that results in a loss of low cost housing and use the developers' contributions to fund joint ventures with public or community housing providers to replace lost stock (*see* Section 4.4 Examples of Determination, page 22).

Cumulative impact assessment is just one of the assessment criteria under SEPP 10; the others also need to be taken into account before determining the application. However, the evidence of cumulative impact may become a very important part of the assessment of the application.

### Step 6. Monitoring

Whilst there is a specific monitoring role for a council associated with individual development applications, there is also a broader longer-term monitoring role to ensure affordable housing stock is retained in the local government area.

Firstly, the council needs to ensure that the applicant complies with conditions of consent. This is made easier when the conditions are clear and unambiguous.

Secondly, it is desirable that council routinely monitors the cumulative impact of the loss of low rental residential buildings and establishes a database. This database would include information on the social and economic profile of the area, results from resident surveys especially in low cost accommodation, literature research, the number of boarding houses and hostels in the locality, the rental levels, length of stay by occupants, number of rooms in each dwelling and so on.

It is important to observe and record the actual impacts of SEPP 10 developments. This can be achieved through ongoing data collection — keeping a register of SEPP 10 properties and updating this register as the properties are assessed, undertaking specific studies, or monitoring data provided by other agencies. Again, this may be assisted by a multi-departmental approach, particularly with council's planning, building and community services departments working together. This information can then be used in subsequent assessments of the cumulative social impact of development. Once the database is established, updating should not be too difficult. It will also assist council's decision-making and in setting conditions of consent. Again, if accurate data is difficult to access, qualitative information from local housing and service providers is very useful in assessing impact (*see* Step 2).

# C. Assessing Financial Viability

**Note: The Department of Urban Affairs and Planning will undertake the financial viability assessment for boarding houses.**

This appendix explains the method used for assessing the financial viability of boarding houses. This explanation is provided for the purpose of transparency and to allow applicants to assess the likely outcome of their claim.

The assessment of financial viability is based on rental yield. A property will be regarded as viable if annual rental income, less expenses, is greater than 6% of the current investment value of the boarding house. The specific details and assumptions required for calculating viability are provided below.

The Department recognises that returns on boarding houses vary. The 6% threshold is based on case studies in the boarding house sector and analysis of the residential property market more generally. This figure attempts to balance the returns from income and capital gain obtained from boarding houses with those from other sectors of the residential property market. In the private rental market, net yields measured by this method are generally much lower than 6%. Most investors expect, however, that a private rental property will realise greater capital gain than a boarding house when it is sold. A higher yield threshold for boarding houses compensates the investor for lower expectations of capital gain. This yield threshold will be reviewed and adjusted by the Department from time to time.

A key objective of the assessment method is consistency across the boarding house sector. For this reason viability is determined with reference to the property rather than the operator, that is, the financial and taxation arrangements of the boarding house operator are not included in the assessment. The capital costs associated with providing a boarding house are, however, included by making allowance for depreciation.



Financial viability assessments may be reviewed, especially when the property is initially assessed as not being viable. In general, there are two situations which will lead to a review of the initial assessment. The first is when the initial assessment is close to the threshold. The second is when the rental income and expenses are significantly different to recognised benchmark values. There is some scope for negotiation of the values used in the financial viability assessment, particularly with regard to rent levels and upgrading opportunities.

While the method used is relatively simple, discretion will be required when values are estimated in specific cases.

**The General Formula**

The test for financial viability is summarised in the following formula. The formula calculates the rental yield of the boarding house taking into account depreciation and capital upgrading where justified. The principles used by the Department for determining the value of each of the elements are explained in detail in the following sections.

$$\frac{Y - E - d}{V + U} > 6\%$$

where

Y = rental income  
 E = expenses  
 d = annual depreciation  
 V = current investment value  
 U = capital upgrading

If the assessment determines that the property has a yield greater than 6% or that with appropriate upgrading could achieve a yield greater than 6% then the property will be assessed as being financially viable.

It is not possible, however, to provide an explanation of how the details of specific cases will be treated. Differences between the applicant's self-assessment and the Department's assessment will be addressed as they arise.

If a boarding house is assessed as financially non-viable, the Department will then consider whether

upgrading the boarding house will make it financially viable. Upgrading a boarding house could increase its viability by decreasing maintenance costs, increasing the number of rooms or increasing rents (within the low rental bracket).

**Rental Income (Y)**

Gross rental income represents the cash income produced by the boarding house. Gross rental income can be obtained from the applicant's Profit and Loss Statement. Otherwise it will be estimated by the following formula:

$$Y = r \times 52 \times (1 - v)$$

where

r = total rent/week  
 v = vacancy rate

An initial assessment of financial non-viability will lead to an evaluation of the level of rental income. The Department will consider:

- whether the rents charged are too low relative to comparable accommodation in the locality
- whether rental income could be increased by better management (that is, by reducing the vacancy rate)
- whether rents could be increased if the property was well maintained.

**Expenses (E)**

For the purpose of calculating the rental yield produced by the boarding house, the Department will deduct expenses incurred in operating the boarding house. Valid expenses include:

- management fees and expenses
- insurance
- utilities
- cleaning
- maintenance and repairs
- council and water rates.

Any expenses charged to tenants are excluded. All available information regarding the value of expenses, such as receipts, must be provided to the Department. Significant variations from normal amounts for each of these expenses may need to be discussed with applicants.



Land tax cannot be claimed as an expense where the property qualifies for exemption under the Office of State Revenue guidelines.

An initial assessment of financial non-viability will lead to a re-evaluation of the level of operating expenses such as:

- whether management fees are reasonable
- whether maintenance costs are too high.

**Depreciation (d)**

Depreciation represents an estimate of the capital costs associated with providing the boarding house for a single year. In some cases, the applicant will have claimed depreciation for taxation purposes. The amount claimed should be included in the Profit and Loss Statement that is required with an application.

If the amount of depreciation claimed for taxation purposes is not included in the Profit and Loss Statement, then depreciation will be calculated at a rate of 2% of replacement value if the boarding house is less than 50 years old.

The method for determining replacement value will vary with the availability of information and the specific circumstances. In most cases, the replacement value of building and capital improvements will be obtained from the applicant's current insurance valuation.

In some cases, an insurance valuation is unavailable or the valuation was determined quite arbitrarily. The reasonableness of the valuation will, therefore, be verified by comparing it with an estimate of the building component of the boarding house's value. This is calculated by deducting the unimproved land value (as determined by the Valuer General's Office) from the sum of the current investment value and capital upgrading. That is:

$$R = V + U - ULV$$

where

R = replacement value  
 V = current investment value  
 U = capital upgrading  
 ULV = unimproved land value

Neither of these methods of estimating the replacement value of the boarding house are entirely satisfactory. Discretion and negotiation may be required.

**Current Investment Value (V)**

Depending on circumstances, there are three methods for determining the current investment value of the boarding house. Of the three described, the first method (a) is the preferred and the others are to be used only when the need arises. The different methods will be used as follows:

Method	When to use
(a)	Property was purchased in or after 1985
(b)	Property was purchased before 1985
(c)	Property has been constructed or rebuilt since being purchased

**(a) Capital value\***

If the boarding house was purchased in or after 1985 the current investment value of the property will be calculated from past capital expenditure less depreciation. The method is summarised by the following formula.

$$V = P \times p - D$$

where

P = purchase price  
 p = price inflator  
 D = accumulated depreciation

\* Estimates for accumulated depreciation in both (a) and (c) will be made according to the same principles as annual depreciation. If accumulated depreciation has been declared for taxation purposes then this amount will be used in the assessment. Otherwise it will be estimated from the property's replacement value with the assumption of 2% per annum flat line rate of depreciation. If the property is older than 50 years then no depreciation will be allowed.



The price inflator is derived from Table 1, which provides an index of the median price of strata properties for each local government area in Sydney. To calculate the price inflator, divide the index for the most recent year by the index for the year in which the property was purchased.

For properties purchased less than two years before the development application, the Department reserves the right to review the price paid by the owner. An alternative method for determining the current investment value will be used when there is evidence that the owner has purchased the property based on its potential value if a development application was successful.

*(b) Independent valuation*

Independent valuations are not used in the first instance because the small market for boarding houses makes it difficult to compare properties and estimate prices for them. However, it is not possible to calculate an index for inflating the price of properties purchased before 1985. In these circumstances, the application must include an independent valuation based on the property continuing as a boarding house. The independent valuation must be done by an accredited land valuer.

*(c) Cost of construction\**

If the boarding house has been constructed or rebuilt since the property was purchased, then the current investment value of the boarding house (V) will be calculated by the following formula.

$$V = C \times i - D + ULV$$

where

*C* = construction costs

*i* = CPI inflator

*D* = accumulated depreciation

*ULV* = unimproved land value

For newly constructed boarding houses, the inflator is based on the Consumer Price Index

(CPI) for Sydney published by the ABS (Cat. 6401.0 — Table 1).

**Capital Upgrading (U)**

Capital upgrading is expenditure on the property that enhances rather than preserves the value of the property. The current value of any upgrade expenditure will be calculated as follows.

$$U = C \times i - D$$

where

*C* = upgrade cost

*i* = CPI inflator

*D* = accumulated depreciation

The method for determining the CPI inflator and accumulated depreciation are the same as those described in method (c) for estimating the current investment value of the property. When capital upgrading has taken place in different years, they should be separated and inflated according to the CPI inflator for the corresponding year.

Not all expenditure will qualify as capital upgrading. The following points summarise how different types of expenditure will be treated.

- Expenditure on construction and structure will normally be accepted providing reasonable evidence is provided.
- Expenditure on repairs, maintenance and fit-out will normally not be accepted.
- Expenditure will not be accepted where it is clearly the result of inadequate regular maintenance and repairs.

The cost of any capital upgrading undertaken since the property was purchased will be inflated according to the CPI for Sydney.

Capital upgrading that has not been done but is agreed to be unavoidable at the time of assessment will be accepted at its current market value.



**TABLE 1. INDEX OF MEDIAN SALE PRICE FOR STRATA PROPERTIES**

	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99
<b>Local Government Areas</b>															
Ashfield	34	35	37	47	75	75	75	76	78	89	100	107	109	139	153
Auburn	34	34	34	45	65	72	72	70	72	86	100	107	117	134	155
Bankstown	39	41	39	47	73	79	81	83	83	91	100	98	103	118	128
Baulkham Hills	36	39	40	46	64	80	79	80	75	87	100	99	102	116	130
Blacktown	35	47	43	53	70	80	81	89	92	96	100	102	105	115	123
Blue Mountains	40	39	33	41	59	77	95	96	92	96	100	105	109	114	127
Botany	33	33	35	51	74	74	73	74	75	88	100	119	146	150	170
Burwood	31	32	38	44	69	66	55	67	64	82	100	97	105	121	125
Camden	59	43	33	50	77	102	83	79	88	94	100	104	107	115	133
Campbelltown	43	44	44	48	69	84	85	83	82	91	100	100	102	106	111
Canterbury	30	30	31	40	65	66	66	66	66	83	100	101	105	117	128
Concord	24	23	23	31	52	52	50	52	48	74	100	96	96	105	119
Drummoyne	32	34	34	49	72	73	72	72	71	85	100	99	120	132	139
Fairfield	32	32	33	38	63	74	69	65	65	83	100	100	102	110	118
Hawkesbury	39	41	42	40	44	81	83	81	81	91	100	105	107	119	130
Holroyd	35	36	38	55	75	79	91	78	87	93	100	102	105	122	138
Hornsby	33	35	35	52	67	70	74	76	78	89	100	98	103	118	134
Hunters Hill	29	25	20	32	39	49	30	44	43	72	100	89	110	126	131
Hurstville	30	30	31	42	59	63	63	65	68	84	100	95	97	117	126
Kogarah	31	32	33	43	61	65	63	66	67	84	100	98	106	118	127
Ku-Ring-Gai	30	35	34	48	57	69	63	66	55	78	100	99	105	120	127
Lane Cove	33	35	37	51	72	73	72	72	74	87	100	99	120	152	171
Leichhardt	30	30	33	42	54	70	58	71	61	80	100	100	122	140	146
Liverpool	32	31	33	38	62	65	64	65	74	87	100	105	110	122	134
Manly	28	29	33	43	59	63	57	60	65	82	100	99	114	133	148
Marrickville	29	27	29	36	56	58	61	60	64	82	100	102	114	137	147
Mosman	21	21	22	36	47	48	45	45	46	73	100	88	108	120	117
North Sydney	33	37	40	56	77	77	70	74	75	88	100	99	115	127	134
Parramatta	34	35	36	46	71	74	72	74	75	88	100	97	102	117	128
Penrith	37	38	38	42	60	69	69	69	73	86	100	101	103	108	117
Pittwater	25	26	28	39	54	66	57	57	55	78	100	103	111	133	143
Randwick	27	28	30	42	58	60	58	60	62	81	100	99	115	126	128
Rockdale	34	36	36	48	72	73	73	76	75	88	100	100	109	126	132
Ryde	29	29	30	44	62	64	61	66	66	83	100	98	102	119	129
South Sydney	50	48	49	50	66	73	66	71	76	88	100	108	121	138	138
Strathfield	21	25	23	32	47	52	53	50	55	78	100	91	98	108	100
Sutherland	32	34	34	44	64	65	65	69	74	87	100	98	104	118	137
Sydney	46	29	39	44	70	64	56	55	61	80	100	84	94	99	98
Warringah	28	29	30	46	58	56	56	57	59	79	100	101	108	131	142
Waverley	25	27	30	44	58	56	54	55	60	80	100	96	120	138	140
Willoughby	27	28	30	45	58	58	61	60	58	79	100	99	104	124	130
Wollondilly	15	22	24	34	69	71	72	74	67	84	100	103	109	113	126
Woollahra	25	25	28	41	51	52	49	51	48	74	100	98	121	149	151
<b>Sub-Statistical Districts</b>															
Gosford-Wyong	53	56	58	75	98	91	79	88	91	94	100	100	105	114	121
Newcastle	76	78	69	65	62	70	127	94	102	102	100	100	104	108	112
Wollongong	35	39	39	46	57	72	72	78	81	86	100	100	106	108	115

Source: Residex Data Services Pty Ltd and Valuer General's Office. Calculations by Housing Data Advisory Service, Department of Urban Affairs and Planning. The advisory service will update these calculations annually and they will be published on the Department of Urban Affairs and Planning's web site.



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**Supported Accommodation Assistance Program  
(SAAP).** 1997. *Annual Report 1996–97.* Australian  
Institute of Health and Welfare. Canberra.  
SAAP is a program funded by the Department of  
Community Services. The annual report provides  
a collection of data on the demand for low cost  
accommodation conducted by the Australian  
Institute of Health and Welfare (AIHW). This  
information relates to people who seek assistance  
from community services for accommodation  
and/or related support. Profiles on client groups,  
demand and needs are available in standard  
annual reports for a nominal cost. Tailored  
analysis can be requested on a fee for service  
basis, for example, analysis by specific location  
and/or specific client groups. The AIHW can be  
contacted by phone on (02) 6244 1206.



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