

(ITEM 2/23) REVIEW OF THE BURWOOD DEVELOPMENT CONTROL PLAN SECTION 5.4 - BOARDING HOUSES AND CO-LIVING HOUSING

File No: 22/37042

REPORT BY SENIOR STRATEGIC PLANNER; MANAGER CITY PLANNING

Summary

The *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) came into force at the end of 2021 and included changes to requirements for boarding house developments, as well as the introduction of a number of new housing typologies, including co-living housing.

The changes in the Housing SEPP have necessitated an amendment to Section 5.4 Boarding Houses of the Burwood Development Control Plan (Burwood DCP) for boarding houses, as well as introducing objectives and development controls for co-living housing.

The proposed amendments to the Burwood DCP aim to ensure that the strong objectives and practical controls are available to ensure new developments are of a high quality, consistent with streetscape character and capable to provide appropriate amenity for residents of these developments.

Operational Plan Objective

A.32 Undertake a comprehensive review of the Development Control Plan (DCP) 2013 and prepare a user friendly and interactive DCP

Background

State Environmental Planning Policy (Housing) 2021 (Housing SEPP) was gazetted on 26 November 2021 and aims to provide a mechanism for the delivery of affordable and diverse housing.

The Housing SEPP replaces the *SEPP (Affordable Rental Housing) 2009* (ARH SEPP) and *SEPP (Housing for Seniors and People with a Disability) 2004* (Seniors Living SEPP). The Housing SEPP:

- Brings together those SEPPs which share the theme of housing into a single SEPP
- Streamlines a number of provisions, particularly those relating to boarding houses and seniors housing
- Introduces two new housing types, co-living housing and independent living units (seniors housing)

The Housing SEPP provides requirements for the following types of residential development:

- Boarding houses
- Co-living housing
- Build-to-rent housing
- Seniors housing
- Secondary dwellings (granny flats)

An overview to the changes to the Housing SEPP is included at **Attachment 1**.

Prior to the gazettal of the Housing SEPP, Council, at an Extraordinary Meeting on 9 September 2021 considered a Mayoral Minute (MM25/21) on the topic of boarding houses. In this Mayoral Minute, the Mayor acknowledged the contribution that boarding houses make to the diversity of housing choice within the Burwood LGA, however raised concern with the size and scale of boarding houses that were being proposed, and the negative impacts that these developments might have upon the character and amenity of Burwood's residential areas.

As a result of the Mayoral Minute, Council resolved (in part) the following (111/21):

3. *As part of a future report outline and recommend the process by which acceptable amendments to either LEP or DCP controls in relation to Boarding House controls should be made.*

This report specifically relates to boarding house and co-living housing developments.

Housing SEPP – Boarding House vs Co-Living Developments

Boarding houses

Prior to November 2021, boarding houses under the ARH SEPP were a permitted use in the R2 Low Density Residential zone under Burwood LEP 2012. At this time, a boarding house development in the R2 zone was limited to a maximum of 12 rooms and the application had to be supported by an assessment of the development in the context of the streetscape. There were also provisions which permitted reduced car parking where developments were situated in an accessible area (close to public transport) or were within a 400m walking catchment to a centre.

The key changes between the ARH SEPP and the Housing SEPP, with respect to boarding house development is that:

- the definition of boarding houses has been amended to require that boarding houses must be operated and managed by a registered Community Housing Provider (CHP), which ensures that they are built and remain affordable as the rents are capped; and
- boarding house developments are no longer permitted in the R2 Low Density Residential zone in Burwood LEP 2012.

A boarding house under the Housing SEPP is defined as:

boarding house means a building or place—

(a) *that provides residents with a principal place of residence for at least 3 months, and*
(b) *that contains shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*

(c) *that contains rooms, some or all of which may have private kitchen and bathroom facilities, and*

(d) *used to provide affordable housing, and*

(e) *if not carried out by or on behalf of the Land and Housing Corporation—managed by a registered community housing provider,*

but does not include backpackers' accommodation, co-living housing, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

A boarding house must be used as affordable housing in perpetuity and development consent cannot be granted to subdivide a boarding house. It should be noted that this does not apply to any boarding house that was assessed and approved under the previous ARH SEPP.

This type of development is now prohibited in the R2 Low Density Residential zone under the Burwood LEP 2012. This was as a result of an amendment made to the ARH SEPP in November 2021. This amendment was in conjunction with an amendment to the Standard Instrument LEP which prohibited boarding houses generally in the R2 – Low Density Residential zone.

The land use was retained in the R2 Low Density Residential Zone only where Council's requested that it be retained. Burwood Council did not "opt in", and as a result the Burwood LEP 2012 was amended to remove "boarding houses" as a permissible use in the R2 zone.

Co-living housing

Co-living housing has been introduced as a new housing type in the Housing SEPP and is supported by a standard definition. Prior to its introduction, co-living housing was effectively being delivered using the boarding house provisions of the ARH SEPP.

Co living housing under the Housing SEPP is defined as:

co-living housing means a building or place that—

- (a) has at least 6 private rooms, some or all of which may have private kitchen and bathroom facilities, and
- (b) provides occupants with a principal place of residence for at least 3 months, and
- (c) has shared facilities, such as a communal living room, bathroom, kitchen or laundry, maintained by a managing agent, who provides management services 24 hours a day, but does not include backpackers' accommodation, a boarding house, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Under the Housing SEPP, co-living housing:

- must provide a primary place of residence for all occupants – it may not be used for short-term tourist and visitor accommodation
- has private room sizes from 12m² for a single person or 16m² for a couple, excluding any space used for private kitchen or bathroom facilities
- may have as few as 6 private rooms but most co-living housing developments will typically have around 30 to 40 private rooms
- must provide indoor and outdoor communal space for residents to relax and socialise
- must provide adequate kitchen, bathroom and laundry facilities for all residents, either as private or shared facilities
- must have a manager, who will be responsible for implementing the plan of management for the property. The manager does not have to be always on site, but must be contactable by phone 24/7.

The Housing SEPP also provides for floor space incentives for co-living housing – the controls allow consideration of up to 10% additional floor space (above Council's controls). Car parking controls are consistent with the previous requirements for boarding houses under the ARH SEPP.

This type of development is prohibited in the R2 Low Density Residential zone under the Burwood LEP 2012, but permitted in all other zones.

Proposed Amendments to Section 5.4 of Burwood DCP

As outlined above, the Housing SEPP now prohibits boarding houses and co-living housing developments in the R2 Low Density Residential zone under the Burwood LEP 2012, however it is acknowledged that Council may still receive applications for alterations and additions to existing boarding house developments.

As a result of the amendments to the SEPP outlined above, a review of the existing provisions under the Section 5.4 of the Burwood DCP has been undertaken. The proposed amendments apply specifically to boarding house and co-living development and aim to:

- remove obsolete provisions to reflect the current legislative requirements;
- introduce robust objectives that are outcome-oriented;
- introduce new provisions that close the gap between controls in the Housing SEPP and strengthen Council's planning framework;
- introduce objectives and controls for co-living housing developments;
- ensure that the DCP provisions align and are not inconsistent with the requirements of the Housing SEPP;

- introduce robust objectives and clear controls to ensure good built form outcomes; and
- update requirements to ensure reference to current standards, Acts etc. are up-to-date.

The amended version of Section 5.4 of the Burwood DCP has been restructured so that it provides a clear and logical transition through the development design process.

A copy of the proposed amended Section 5.4 of Burwood DCP is included at **Attachment 2**.

Table 1 below provides a summary of each of the proposed provisions that sit under each of the key headings within the Chapter. Each of the provisions under these headings is supported by overall objectives:

Table 1: Summary of Proposed Provision Structure – Section 5.4 of Burwood DCP

Proposed Provision Structure	Summary
Site Planning	<p>Includes minimum site area and frontage requirements for boarding house and co-living housing developments.</p> <p>Objectives have been introduced to support the controls.</p> <p>A new provision has been included relating to site isolation. This is to ensure that applicant/ developers consider the amalgamation of sites so as to limit isolation of sites.</p>
Local Streetscape Character	<p>Streetscape character provision are proposed to be introduced to require that the applicant to undertake a detailed site analysis and consider the proposal in the context of the streetscape.</p> <p>This assessment of the character of the local area will be required to be submitted as part of the Development Application documentation. Guidance on the key characteristics required to be considered are included to ensure that designers analyse and take into consideration before providing a design response. A specific provision has also been included to address development in the vicinity of a heritage item or within a conservation area.</p>
Design Excellence	<p>Included to respond to the recommendations made by the Burwood Design Review Panel (BD RP), this provision replicates the existing design excellence provision in Burwood LEP 2012 and ensures that where the LEP provision does not apply to the site, consideration is still given to design excellence, by including objectives and provisions in the DCP.</p>
Built Form Design	<p>This part includes detailed floor to ceiling height controls and numerical setback controls are introduced for boarding house and co-living housing developments that are less than 3 storeys to ensure consistency with existing provisions for other development types. Additional controls have been introduced to strengthen the public domain outcome particularly at the street interface.</p>
Visual Appearance and Articulation	<p>Objectives and controls have been introduced to ensure building articulation across all elevations. In the absence of SEPP 65/ADG requirements, the DCP provides controls that aim to lift the quality of façade design of boarding house and co-living housing developments.</p>
Internal Design	<p>These provisions provide controls which are in addition to the SEPP and include minimum provisions for uses within the individual rooms and common living areas and facilities.</p>

Visual Privacy and Acoustic Amenity	Objectives and controls have been incorporated to mitigate potential negative impacts on visual privacy and acoustic amenity
Landscaping and Open Space	The Housing SEPP has high level controls relating to landscaping and open space. It is proposed to introduce additional objectives and provisions to ensure alignment with the ADG requirements. Landscaping deep soil requirements adapted from the ADG have been introduced and further detailed requirements with regards to location, design and amenity of private and communal open spaces are also included.
Parking	The Housing SEPP is silent on the provision of bicycle and motorcycle parking requirements. Council is committed to ensuring the delivery of active transport and considers it important that provision is made to ensure that facilities are provided for cyclists. It is proposed to introduce numerical rates for bicycle and motorcycle parking consistent with the previous rates under the former ARHSEPP
Operational Management	<p>A template Plan of Management (POM) is proposed to be introduced to ensure consistency across all developments with respect to the operational management of the boarding house and/or co-living housing development. A copy of the draft template Plan of Management is included at Attachment 3.</p> <p>The template of Plan of Management sets out the minimum requirements which would need to be addressed as part of the ongoing management and operation of the premises. The POM must accompany any development application for boarding houses or co-living housing development and will form as part of the development consent once approved.</p>
Fire Safety	Obsolete provisions with regards to BCA have been removed from this section. A new provision has been introduced to require the Emergency Evacuation Plan to be submitted with the Development Application.
Service Facilities	The design of building service facilities has been considered and controls for waste, mailbox, fire hydrant boosters, substations and mechanical ventilation are required to be integrated into the overall design of the development. There are already provisions in the Burwood DCP and this part of the DCP references these provisions.
Signage	Existing provisions have been maintained and relocated to the end of the section.

As part of this review, it is also proposed to amend a number of relevant provisions with regards to car parking rates under Section 3.9 and Section 4.6 to remove outdated provisions and ensure consistency with the car parking requirements under the Housing SEPP, which overrides the DCP provisions.

It is also proposed to update the requirements for the recycling waste generation rates for boarding house/co-living housing from 20L/occupant space/week to 60L/occupant space/week based on feedback received from Council's Manager Waste and Cleansing. These changes are based on operational feedback and to align with the current trend in waste generation from previous boarding house developments.

The summary at **Attachment 4** provides a detailed provision-by-provision analysis of the proposed amendments to the structure and content of Section 5.4 and associated amendments to the

relevant car parking and waste generation controls, and provides reasons for the proposed changes.

Consultation

Referral to Burwood Design Review Panel

The proposed amendments to Section 5.4 were referred to the Burwood Design Review Panel (Burwood DRP) meeting on 25 November 2022.

The Burwood DRP concluded that the proposed draft Section 5.4 was comprehensive and had included objectives and controls for all of the relevant requirements. They also unanimously supported the inclusion of objectives and controls relating to Design Excellence, which as outlined in Table 1 above have been incorporated into the proposed draft.

A copy of the Burwood Design Review Panel Meeting Minutes and Recommendations is included at **Attachment 5** and Council Officer's response to each recommendation is included at **Attachment 6**.

Internal Consultation - City Development

City Development staff were consulted in the preparation of the draft objectives and controls. Further engagement will be undertaken with the City Development team and other relevant staff within Council during the exhibition of the draft amendments to ensure that the objectives and controls deliver quality development.

Public Exhibition

In accordance with the requirements of the Environmental Planning and Assessment Act 1979 (the EP&A Act) and Environmental Planning and Assessment Regulation 2021 (the EP&A Regulation), Should Council endorse the amended Section 5.4 for public exhibition, it is proposed that it be publicly exhibited in accordance with the requirements of the EP&A Act and the Regulation for a minimum 28 days via the Participate Burwood platform

Any submissions received during the exhibition period will be considered as part of the post exhibition report.

In addition, and as part of our ongoing commitment to ensuring our community are engaged on planning matters and that we are seeking their feedback on important matters related to planning and development, we are proposing to host an information session on the proposed amendments to Section 5.4. An invitation will be extended to everyone who has an interest but the session will be designed to provide the industry (namely, developers and designers/architects) an overview of the objectives and controls and Council's expectations with respect to future design outcomes for co-living and boarding house developments.

Planning or Policy Implications

The proposed amendments to Burwood DCP are required to be publicly exhibited for a minimum 28 days in accordance with the *Environmental Planning and Assessment (EP&A) Regulation 2021* and Council's Community Participation Plan. A further report will be presented to Council following the completion of the exhibition period.

Financial Implications

No financial implications other than staff resources.

Conclusion

The current provisions in Section 5.4 Boarding Houses of the Burwood DCP are outdated and do not align with the requirements of the Housing SEPP.

The changes in the Housing SEPP have necessitated an amendment to Section 5.4 Boarding Houses of the Burwood Development Control Plan (Burwood DCP) for boarding houses, as well as introducing objectives and development controls for co-living housing.

The proposed amendments to Section 5.4 of the Burwood DCP aim to ensure that the objectives and controls for co-living housing and boarding house development deliver high quality development, consistent with streetscape character and provide appropriate amenity for residents of these developments.

It is recommended that Council endorse the proposed amendments to Section 5.4 of the Burwood DCP for the purposes of public exhibition. A further report will be presented to Council at the conclusion of the exhibition outlining any submissions received during the exhibition phase.

Recommendation(s)

1. That the draft amendments to:
 - Section 5.4 of the Burwood DCP, as included at Attachment 2;
 - the car parking rates for boarding houses in Section 3.9 and 4.6 of the Burwood DCP, as included at Attachment 4; and
 - the recycling waste generation rates for boarding houses in Section 8.1.6 of the Burwood DCP as included at Attachment 4be endorsed for the purposes of public exhibition and that they be exhibited in accordance with relevant Legislation and Council's Community Participation Plan.
2. That Council authorise the General Manager to allow further editorial or minor changes to draft amendments to Section 5.4 and other relevant sections as outlined in the body of this report of Burwood DCP considered necessary prior to the exhibition commences.
3. That following the exhibition of the proposed amendments outlined in (1) above, a report be brought to Council advising of the exhibition outcomes and making recommendations on the finalisation of the provisions for boarding house and co-living developments.

Attachments

- 1 Attachment 1_Overview of the State Environmental Planning Policy (Housing) 2021
- 2 Attachment 2_Draft BDCP_5.4 Boarding House and Co-Living Housing
- 3 Attachment 3_Template for Plan of Management
- 4 Attachment 4_Table of amendments to Section 5.4 BDCP
- 5 Attachment 5_BDRP Meeting Minutes - Burwood DCP Section 5.4 Boarding House and Co-Living
- 6 Attachment 6_Council's Response to BDRP Recommendations