

**DA2022/0253 - PPSSCC-362 - ATTACHMENT 6**  
**SEPP Housing Compliance Table**

<b>State Environmental Planning Policy (Housing) 2021</b>			
<b>Relevant Control</b>		<b>Compliance with Requirements</b>	<b>Satisfactory</b>
<b>Chapter 3 Diverse housing</b>			
<b>Part 3 Co-living housing</b>			
67	<p><b>Co-living housing may be carried out on certain land with consent</b></p> <p>Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument.</p>	The land is zoned B4 Mixed Use under the Cumberland Local Environmental Plan 2021, within which shop top housing is permitted with consent.	Yes
<b>68 Non-discretionary development standards—the Act, s 4.15</b>			
68(1)	The object of this section is to identify development standards for particular matters relating to development for the purposes of co-living housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.	Noted	Yes
68(2)	<p>The following are non-discretionary development standards in relation to development for the purposes of co-living housing—</p> <p>(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than—</p> <p>(i) the maximum permissible floor space ratio for residential accommodation on the land, and</p> <p>(ii) an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,</p>	<p><b>Required:</b> 5:1 (LEP) + 0.5:1 (SEPP bonus) = 5.5:1 maximum</p> <p><b>Proposed:</b> 5.1:1</p> <p>The application is accompanied by legal advice from Mills Oakley stating the following:</p> <ul style="list-style-type: none"> <li>The proposed development benefits from the 'bonus' FSR provision contained in cl 68(2)(a)(ii) of the Housing SEPP.</li> <li>The residential component of a shop top housing development is a 'residential flat building' within the meaning the Housing SEPP - being a building (or part of a building) containing 3 or more dwellings and accordingly, satisfies the requirement for the</li> </ul>	Yes

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	<p>bonus in cl 68(2)(a)(ii).</p> <ul style="list-style-type: none"> <li>The proper construction of the definition of <i>shop top housing</i> permits and requires it to be broken into its two component elements (see <i>EPS Constructions Pty Ltd v Holroyd City Council</i> (No 2) [2014] NSWLEC 126.</li> <li>The Land and Environment Court and Court of Appeal have held that when interpreting the provisions of an EPI and especially, those relating to definitions, one is required to read the definition of each term into the relevant provision in order to fully understand it.</li> </ul>	
(b) for co-living housing containing 6 private rooms— (i) a total of at least 30m <sup>2</sup> of communal living area, and (ii) minimum dimensions of 3m for each communal living area,	83 co-living rooms proposed. See control (c) below.	N/A
(c) for co-living housing containing more than 6 private rooms— (i) a total of at least 30m <sup>2</sup> of communal living area plus at least a further 2m <sup>2</sup> for each private room in excess of 6 private rooms, and (ii) minimum dimensions of 3m for each communal living area,	<p><b>Required:</b> 83 co-living rooms proposed = 30 + (2x77) = 184m<sup>2</sup>.</p> <p><b>Proposed:</b> 1 internal communal living area measuring 203m<sup>2</sup> proposed with minimum internal dimensions greater than 5 metres.</p>	Yes
(d) communal open spaces— (i) with a total area of at least 20% of the site area, and (ii) each with minimum dimensions of 3m,	<p><b>Required:</b> 2,441 x 20% = 488.2m<sup>2</sup></p> <p><b>Proposed:</b> 295m<sup>2</sup> on level 1, 97m<sup>2</sup> on level 2 and 97m<sup>2</sup> on level 3 489m<sup>2</sup> total</p>	Yes

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	(e) unless a relevant planning instrument specifies a lower number— (i) for development on land in an accessible area—0.2 parking spaces for each private room, or (ii) otherwise—0.5 parking spaces for each private room,	No car parking rates are prescribed in the LEP. <b>Required:</b> 83 rooms x 0.2 = 16.6 (17) spaces <b>Proposed:</b> 17 spaces	Yes																																																																																	
	(f) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,	The land is zoned B4 Mixed Use.	N/A																																																																																	
	(g) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements for residential flat buildings under a relevant planning instrument.	The land is zoned B4 Mixed Use.	N/A																																																																																	
69 Standards for co-living housing																																																																																				
69(1)	Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that— (a) each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m2 and not less than— (i) for a private room intended to be used by a single occupant—12m2, or (ii) otherwise—16m2, and	Rooms are a range of over 12m <sup>2</sup> or over 16m <sup>2</sup> . Based on the room sizes below, the co-living housing capacity is 137 occupants: <table><tr><th>Room No.</th><th>Size (sqm)</th><th>Capacity</th></tr><tr><td>1</td><td>18</td><td>2</td></tr><tr><td>2</td><td>18</td><td>2</td></tr><tr><td>3</td><td>18</td><td>2</td></tr><tr><td>4</td><td>18</td><td>2</td></tr><tr><td>5</td><td>20</td><td>2</td></tr><tr><td>6</td><td>18</td><td>2</td></tr><tr><td>7</td><td>14</td><td>1</td></tr><tr><td>8</td><td>14</td><td>1</td></tr><tr><td>9</td><td>17</td><td>2</td></tr><tr><td>10</td><td>18</td><td>2</td></tr><tr><td>11</td><td>24</td><td>2</td></tr><tr><td>12</td><td>20</td><td>2</td></tr><tr><td>13</td><td>12</td><td>1</td></tr><tr><td>14</td><td>16</td><td>1</td></tr><tr><td>15</td><td>16</td><td>1</td></tr><tr><td>16</td><td>18</td><td>2</td></tr><tr><td>17</td><td>16</td><td>1</td></tr><tr><td>18</td><td>16</td><td>1</td></tr><tr><td>19</td><td>18</td><td>2</td></tr><tr><td>20</td><td>18</td><td>2</td></tr><tr><td>21</td><td>19</td><td>2</td></tr><tr><td>22</td><td>14</td><td>1</td></tr><tr><td>23</td><td>15</td><td>1</td></tr><tr><td>24</td><td>25</td><td>2</td></tr><tr><td>25</td><td>18</td><td>2</td></tr><tr><td>26</td><td>21</td><td>2</td></tr></table>	Room No.	Size (sqm)	Capacity	1	18	2	2	18	2	3	18	2	4	18	2	5	20	2	6	18	2	7	14	1	8	14	1	9	17	2	10	18	2	11	24	2	12	20	2	13	12	1	14	16	1	15	16	1	16	18	2	17	16	1	18	16	1	19	18	2	20	18	2	21	19	2	22	14	1	23	15	1	24	25	2	25	18	2	26	21	2	Yes
Room No.	Size (sqm)	Capacity																																																																																		
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		27	18	2			
		28	15	1			
		29	14	1			
		30	18	2			
		31	18	2			
		32	18	2			
		33	18	2			
		34	18	2			
		35	14	1			
		36	14	1			
		37	17	2			
		38	18	2			
		39	24	2			
		40	20	2			
		41	12	1			
		42	16	1			
		43	16	1			
		44	18	2			
		45	16	1			
		46	16	1			
		47	18	2			
		48	18	2			
		49	19	2			
		50	14	1			
		51	17	2			
		52	19	2			
		53	18	2			
		54	21	2			
		55	18	2			
		56	15	1			
		57	14	1			
		58	18	2			
		59	18	2			
		60	18	2			
		61	18	2			
		62	18	2			
		63	14	1			
		64	14	1			
		65	17	2			
		66	18	2			
		67	24	2			
		68	20	2			
		69	12	1			
		70	16	1			
		71	16	1			
		72	18	2			
		73	16	1			
		74	16	1			
		75	18	2			
		76	18	2			
		77	18	2			
		78	18	2			
		79	18	2			
		80	19	2			
		81	14	1			
		82	17	2			
		83	19	2			
			Total	137			
		(b) the minimum lot size for the co-living		The land is zoned B4		Yes	

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	housing is not less than— (i) for development on land in Zone R2 Low Density Residential—600m <sup>2</sup> , or (ii) for development on other land—800m <sup>2</sup> , and (iii) (Repealed)	Mixed Use with a site area of 2,441m <sup>2</sup>	
	(c) for development on land in Zone R2 Low Density Residential or an equivalent land use zone, the co-living housing— (i) will not contain more than 12 private rooms, and (ii) will be in an accessible area, and	The land is zoned B4 Mixed Use.	N/A
	(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space, and	The manager's includes an appropriate workspace for the manager.	Yes
	(e) for co-living housing on land in a business zone—no part of the ground floor of the co-living housing that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and	The land is zoned B4 Mixed Use. No part of the ground floor is proposed as co-living housing.	Yes
	(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant, and	Each room contains private bathroom and kitchen facilities. A shared laundry is proposed on each level, close to the stair and lift cores.	Yes
	(g) each private room will be used by no more than 2 occupants, and	Subject to condition.	Yes
	(h) the co-living housing will include adequate bicycle and motorcycle parking spaces.	The development proposes 17 co-living motorbike parking spaces and 90 co-living bicycle parking spaces which is adequate for the 83 room and 137 occupant capacity.	Yes
69(2)	(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether— (a) the front, side and rear setbacks for the co-living housing are not less than—	The land is zoned B4 Mixed Use.	N/A

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	(i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, or (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument, and		
	(b) if the co-living housing has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and	<b>Required:</b> 12 metres habitable to habitable <b>Proposed:</b> North: 9m + 8m road width = 17m South: 4m + 16m road width = 20m East: Nil, build to boundary West: 4m + 20m road width = 24m.	Yes
	(c) at least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least 1 communal living area, and	3 hours achieved.	Yes
	(f) the design of the building will be compatible with— (i) the desirable elements of the character of the local area, or (ii) for precincts undergoing transition—the desired future character of the precinct.	The development is compatible with similar mixed use developments in the precinct and satisfies the key site controls of the DCP.	Yes
69(3)	(3) Subsection (1) does not apply to development for the purposes of minor alterations or additions to existing co-living housing.	The development is for a new co-living housing development.	N/A
<b>70 No subdivision</b>			
70	Development consent must not be granted for the subdivision of co-living housing into separate lots.	Subdivision is not proposed.	N/A