

ATTACHMENT 5

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)

The relevant objectives and provisions of the ARH SEPP have been considered in the following assessment table:

Clause	Yes	No	N/A	Comment
Part 1 Preliminary				
1. Name of Policy This Policy is State Environmental Planning Policy (Affordable Rental Housing) 2009.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Commencement (1) Except as provided by subclause (2), this Policy commences on the day on which it is published on the NSW legislation website. (2) Schedules 3.2 [2]–[4], 3.3 [2]–[4], 3.4, 3.11 [2]–[4] and 3.14 commence on the commencement of Schedule 3.1 [6] to the Environmental Planning and Assessment Amendment Act 2008 .	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policy is in force and applicable to the subject DA.
3. Aims of Policy The aims of this Policy are as follows— (a) to provide a consistent planning regime for the provision of affordable rental housing, (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, (c) to facilitate the retention and mitigate the loss of existing affordable rental housing, (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing, (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing, (f) to support local business centres by providing affordable rental housing for workers close to places of work,	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	The proposed development seeks to meet the objectives of the policy by providing affordable housing. The proposal is not antipathetic to the objectives of the policy.

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<p>bathroom, laundry, toilet, pantry, walk in wardrobe, hallway, lobby, clothes drying room or other space of a specialised nature that is not occupied frequently or for extended periods.</p> <p>interim heritage order has the same meaning as in the Heritage Act 1977.</p> <p>Land and Housing Corporation means the New South Wales Land and Housing Corporation constituted by the Housing Act 2001.</p> <p>National Rental Affordability Scheme has the same meaning as in the National Rental Affordability Scheme Act 2008 of the Commonwealth.</p> <p>registered community housing provider has the same meaning as in the Housing Act 2001.</p> <p>site area or site means the area of any land on which development is, or is to be, carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other, but does not include the area of any land on which development is not permitted to be carried out under this Policy.</p> <p>social housing provider means any of the following—</p> <ul style="list-style-type: none"> (a) the Department of Human Services, (b) the Land and Housing Corporation, (c) a registered community housing provider, (d) the Aboriginal Housing Office, (e) a registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998, (f) a local government authority that provides affordable housing, (g) a not-for-profit organisation that is a direct provider of rental housing to tenants. <p>standard instrument means the standard instrument set out at the end of the Standard Instrument (Local Environmental Plans) Order 2006.</p> <p>State Heritage Register means the State Heritage Register under the Heritage Act 1977.</p> <p>supportive accommodation means the use of an existing building (being a residential flat building or boarding house) for the purposes of—</p> <ul style="list-style-type: none"> (a) the long term accommodation, in a separate dwelling or boarding room, of a person (such as former homeless person) who needs support services to be provided in the building, and (b) any services in support of such a person, including but not limited to, medical services, counselling services or 				

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<p>education and training services, and it may include the use of part of the building for the purposes of supervising, or providing administrative services in respect of, such a person.</p> <p>Sydney region means the region having that name declared under section 4 (6) of the Act.</p> <p>Note. The Sydney region means land within the following Local Government Areas— Ashfield, <u>Auburn</u>, Bankstown, Baulkham Hills, Blacktown, Blue Mountains, Botany, Burwood, Canada Bay, Camden, Campbelltown, Canterbury, Fairfield, Gosford, Hawkesbury, Holroyd, Hornsby, Hunters Hill, Hurstville, Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, Liverpool, Manly, Marrickville, Mosman, North Sydney, Parramatta, Penrith, Pittwater, Randwick, Rockdale, Ryde, Strathfield, Sutherland, Sydney, Warringah, Waverley, Willoughby, Wollondilly, Woollahra and Wyong.</p> <p>the Act means the <u>Environmental Planning and Assessment Act 1979</u>.</p> <p>walking distance means the shortest distance between 2 points measured along a route that may be safely walked by a pedestrian using, as far as reasonably practicable, public footpaths and pedestrian crossings.</p> <p>Note. The Act and the <u>Interpretation Act 1987</u> contain definitions and other provisions that affect the interpretation and application of this Policy.</p> <p>(2) A word or expression used in this Policy (other than Schedule 1 or 2) has the same meaning as it has in the standard instrument (as in force immediately before the commencement of the <u>Standard Instrument (Local Environmental Plans) Amendment Order 2011</u>) unless it is otherwise defined in this Policy.</p> <p>(3) Notes and examples included in this Policy do not form part of this Policy.</p>				
<p>5 Interpretation—references to equivalent land use zones</p> <p>(1) A reference in this Policy to a land use zone that is equivalent to a named land use zone is a reference to a land use zone under an environmental planning instrument that is not made as provided by section 3.20 (2) of the Act—</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The proposal is permissible with consent as it is on land zoned B4 Mixed Use as noted in Clause 26.

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<p>(a) that the Director-General has determined under clause 1.6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 is a land use zone in which equivalent land uses are permitted to those permitted in that named land use zone, or</p> <p>(b) if no such determination has been made in respect of the particular zone, is a land use zone in which (in the opinion of the relevant authority) equivalent land uses are permitted to those permitted in that named land use zone.</p> <p>(2) An assessment made by a relevant authority under subclause (1) (b) applies only in respect of the particular development that is proposed to be carried out and more than one such assessment may be made in respect of the same land use zone.</p> <p>(2A) Despite subclause (1), in relation to land—</p> <p>(a) to which an environmental planning instrument that is not made as provided by section 3.20 (2) of the Act applies, and</p> <p>(b) to which a draft environmental planning instrument that complies with that section and that has been the subject of community consultation also applies,</p> <p>a reference in this Policy to a lot or land in a land use zone that is equivalent to a named land use zone is a reference to a lot or land specified in such a zone in the last such draft environmental planning instrument that was the subject of such community consultation.</p> <p>(2B) In subclause (2A), <i>community consultation</i> means community consultation under section 57 of the Act or public exhibition under section 66 of the Act (as continued on by clause 12 of the Environmental Planning and Assessment Regulation 2000).</p> <p>(3) In this clause, <i>relevant authority</i> means—</p> <p>(a) the public authority proposing to carry out the development, or on whose behalf the development is proposed</p>				


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to be carried out, or (b) if the development is to be carried out by or on behalf of a person other than a public authority, the consent authority.				
6 Affordable housing Note. The Act defines affordable housing as follows— <i>affordable housing</i> means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument. (1) In this Policy, a household is taken to be a very low income household, low income household or moderate income household if the household— (a) has a gross income that is less than 120 per cent of the median household income for the time being for the Greater Sydney (Greater Capital City Statistical Area) (according to the Australian Bureau of Statistics) and pays no more than 30 per cent of that gross income in rent, or (b) is eligible to occupy rental accommodation under the National Rental Affordability Scheme and pays no more rent than that which would be charged if the household were to occupy rental accommodation under that scheme. (2) In this Policy, residential development is taken to be for the purposes of affordable housing if the development is on land owned by the Land and Housing Corporation.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Noted.
7 Land to which Policy applies This Policy applies to the State.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Noted.
8 Relationship with other environmental planning instruments If there is an inconsistency between this Policy and any other environmental planning instrument, whether made before or after the	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Noted.

Part 2 Permitted or prohibited development				
Division 3 – Boarding houses				
25 Definition				
In this Division— <i>communal living room</i> means a room within a boarding house or on site that is available to all lodgers for recreational purposes, such as a lounge room, dining room, recreation room or games room.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Noted.
26 Land to which Division applies				
This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones— (a) Zone R1 General Residential, (b) Zone R2 Low Density Residential, (c) Zone R3 Medium Density Residential, (d) Zone R4 High Density Residential, (e) Zone B1 Neighbourhood Centre, (f) Zone B2 Local Centre, (g) <u>Zone B4 Mixed Use.</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The land is zoned B4 Mixed Use under the Auburn LEP 2010.
27 Development to which Division applies				
(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed development includes a boarding house component.
(2) Despite subclause (1), clauses 29, 30 and 30A do not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone in the Sydney region unless the land is within an accessible area.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The land is not within an R2 Low Density Residential zone.
(3) Despite subclause (1), clauses 29, 30 and 30A do not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The land is not within an R2 Low Density Residential zone.

28 Development may be carried out with consent	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Consent is sought by the DA.
Development to which this Division applies may be carried out with consent.				
29 Standards that cannot be used to refuse consent				
(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than—				
(a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The proposed development satisfies the maximum FSR under the Auburn LEP plus the bonus allowed under this policy. i.e.: Maximum FSR (ALEP) 0.5:1 SEPP bonus 20% 0.1:1 TOTAL MAXIMUM FSR 0.6:1 The development has a total GFA of 5,630m ² over a site area of 944m ² which results in an FSR of 5.97:1.
(b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus—	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	The proposed development satisfies the maximum FSR under the Auburn LEP plus the bonus allowed under this policy.
(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(2) A consent authority must not refuse				

consent to development to which this Division applies on any of the following grounds—	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Building height is compliant with the maximum prescribed under the Auburn LEP.
(a) building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The landscape treatment of the frontage is in keeping with that required by the Auburn DCP.
(b) landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Communal spaces are provided at the ground floor, level 1, level 5, level 10 and level 11. 3 hours solar access is afforded to those areas provided on level 10 and level 11 at mid-winter.
(c) solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Ground floor open space area – 107sqm Level 1 – communal terrace – 37sqm Level 5 – communal terrace – 37sqm Level 10 – communal terrace – 37sqm Level 11 lounge area – 35sqm
(d) private open space if at least the following private open space areas are provided (other than the front setback area)—	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	21sqm provided.
(i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Amendments to the proposal from the original scheme have improved the amenity that space.
(ii) if accommodation is provided on site for a boarding house manager— one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
(e) parking	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
if—	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(i) in the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
(ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

<p>(b) no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres,</p> <p>(c) no boarding room will be occupied by more than 2 adult lodgers,</p> <p>(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,</p> <p>(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,</p> <p>(f) (Repealed)</p> <p>(g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,</p> <p>(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.</p> <p>(2) Subclause (1) does not apply to development for the purposes of minor alterations or additions to an existing boarding house.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Complies</p>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Condition of consent can be imposed to this effect.</p>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Facilities are provided within each room.</p>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>A manager's room is provided on the ground floor.</p>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The land is a mixed use zone and provides a commercial use to the street front.</p>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>28 of each required. 30 motorbikes and 33 bicycle parking spaces is provided.</p>
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<p>30AA Boarding houses in Zone R2 Low Density Residential</p> <p>A consent authority must not grant development consent to a boarding house on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone unless it is satisfied that the boarding house has no more than 12 boarding rooms.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<p>The land is not within an R2 Low Density Residential zone.</p>
<p>30A Character of local area</p> <p>A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>The local area is considered to be that part of the B4 Mixed Use zone bounded by Kerr Parade, Marion Street, Queen Street and Civic Road as shown below.</p>

				 <p>The local area comprises a number of low rise residential flat buildings, commercial buildings, a church and a school. The local area is transitioning to higher density developments in accordance with the planning controls that apply as evident from the adjoining development. The area is currently subject to a maximum height limit of 38m and maximum floor space ratio (FSR) of 5:1. The emerging character of the area is generally that of mixed use or residential flat buildings approximately 12 storeys in height.</p> <p>The scale of the proposed building is in keeping with that anticipated by the development standards that apply to the land.</p> <p>The physical characteristics of the development do not restrict how other land in the local area may be developed in the future.</p> <p>Overshadowing from the development is reasonable and the proposal has addressed privacy through design measures.</p> <p>The design of the proposed development is considered to be compatible with the character of the local area, noting the emerging character anticipated by the development standards that apply.</p>
Part 4 Miscellaneous				
52 No subdivision of boarding houses A consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Subdivision of the boarding house is not proposed.