
Planning Matters - 12 December 2017

ITEM 5.1 Planning Controls for Boarding Houses

AUTHOR Planning

PURPOSE AND BACKGROUND

To seek Council's approval to prepare a planning proposal and associated Development Control Plan amendments to align the planning controls for boarding houses in the City of Canterbury-Bankstown.

ISSUE

There is a need to align controls for boarding houses that currently apply in the former Bankstown and Canterbury Councils to create consistency for this form of development.

There has been significant growth in the number of boarding house room approvals since 2009 since the introduction of the Affordable Rental Housing State Environmental Planning Policy (SEPP) by the NSW Government. In particular in the former Canterbury Council, which relies upon the controls in the SEPP without any additional controls in its planning instruments, there have been poor development outcomes with this form of housing.

RECOMMENDATION That -

1. Council resolve to prepare a planning proposal to align the planning controls of the former Canterbury Council with those of the former Bankstown Council in relation to boarding houses.
2. Controls be introduced into the Canterbury Development Control Plan 2012 for boarding houses that generally accord with those in the Bankstown Development Control Plan 2015.
3. The planning proposal be submitted to the Greater Sydney Commission for a Gateway Determination once prepared.
4. A further report be prepared to Council after the response from the Greater Sydney Commission is received.

ATTACHMENTS [Click here for attachment](#)

- A. Examples of boarding house approvals under ARH SEPP

POLICY IMPACT

The proposed changes would result in an alignment of boarding house controls between the two former Councils.

FINANCIAL IMPACT

There is no financial impact.

COMMUNITY IMPACT

The amendments to boarding house controls proposed would result in a positive community impact. This would occur through better amenity outcomes for both future residents of boarding houses, and for existing development within close proximity to boarding houses.

DETAILED INFORMATION

Background

Boarding houses are intended to provide low cost housing for a diversity of residents including younger persons, couples, students and key workers.

In 2009 the NSW Government introduced a State Policy to make planning controls for boarding houses and other affordable housing types more flexible. This is known as the Affordable Rental Housing State Environmental Planning Policy (SEPP).

Following the introduction of this SEPP the number of approvals for boarding house has increased significantly in Canterbury-Bankstown, with nearly 700 rooms approved since 2009.

The former Canterbury Council has no specific controls for boarding house development, and relies on controls contained within the SEPP. The former Bankstown Council has more specific controls for this form of development in both the Bankstown Local Environmental Plan (LEP) 2015 and Bankstown Development Control Plan (DCP) 2015.

Sole reliance on the controls in the SEPP present limitations for Council to achieve appropriate development form, which has resulted in significant issues with boarding house development in the former Canterbury. In particular, boarding houses are not subject to the provisions of the Apartment Design Guide, which has often resulted in very poor development outcomes.

Given the current non-alignment and disparity of controls and the issues with boarding house development in the former Canterbury, it is appropriate to now align the current controls to create consistency for this form of development across both LEP's of Canterbury Bankstown Council.

Planning framework for boarding houses

The planning policies and controls that apply to boarding houses in Canterbury-Bankstown are:

- Affordable Rental Housing SEPP 2009
- Canterbury LEP 2012
- Bankstown LEP 2015
- Bankstown DCP 2015

Boarding houses are buildings that:

- Are wholly or partly let in lodgings.
- Provide lodgers with a principal place of residence for three months or more.
- May have shared facilities, such as a communal living room, bathroom, kitchen or laundry.
- Have rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers.

Affordable Rental Housing SEPP 2009

The SEPP is the principal legislation that permits boarding houses. It firstly allows boarding houses in most residential zones, including all of the residential zoned areas within Canterbury-Bankstown Council. It also permits this form of development in some business zones.

The SEPP provides a number of development standards of which (when complied with), cannot be used to refuse consent. Many of these override Council's own controls in favour of less restrictive controls. These standards are:

Standard	Description
Floor Space Ratio (FSR)	<ul style="list-style-type: none">• The maximum FSR for residential accommodation in LEP.• If in a zone in which residential flat buildings are permitted :<ul style="list-style-type: none">— The existing maximum FSR plus<ul style="list-style-type: none">- 0.5:1, if maximum FSR is 2.5:1 or less, or- 20% of the maximum FSR is greater than 2.5:1.
Building Height	<ul style="list-style-type: none">• The maximum building height in LEP.
Landscaped area	<ul style="list-style-type: none">• Landscape Treatment – in front setback area being compatible with the streetscape
Solar access	<ul style="list-style-type: none">• Communal Living Room – receives at least 3 hours direct sunlight between 9am and 3pm
Private open space	<ul style="list-style-type: none">• One area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers.• 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
Parking	<ul style="list-style-type: none">• 0.2 parking spaces for each boarding room if in an accessible area.• 0.4 parking spaces for each boarding room if not in an accessible area.• Not more than one space for each person employed in connection with the development.
Accommodation size	Gross Floor Area of Boarding Room – being at least 12m ² if to be used by single lodger, or at least 16m ² in any other case

The SEPP also outlines a range of minimum development standards for boarding houses that must be complied with, such as size of boarding rooms, maximum occupancy rates for boarding rooms, adequate bathroom and kitchen facilities, requirement for a boarding house manager and parking requirements. In addition to development standards, the SEPP also requires consideration of the impact of proposals on local character.

The SEPP encourages both the traditional form of boarding houses, being those with shared facilities as well as new generation boarding houses which consist of self-contained rooms.

Canterbury LEP 2012 and Bankstown LEP 2015

Consistent with the SEPP, boarding houses are also permitted with consent in the following zones in both LEPs: R2 Low Density Residential, R3 Medium Density Residential, R4 High Density Residential, B1 Neighbourhood Centre, and B2 Local Centre. They are also permitted in the B4 Mixed Use zones in Bankstown LEP 2015. In both LEPs this permissibility is mandated in these zones under the NSW Standard Instrument template.

Bankstown LEP 2015 includes a provision requiring a minimum lot size and width for boarding houses in the residential zones. These provisions are set out under Clause 4.1B *'Minimum lot sizes and special provisions for certain dwellings'*. This clause is a local provision which is specific to the former Bankstown LGA. It has been included by Council to assist with amenity impacts and retention of character in low density residential areas.

These controls are as follows:

4.1B Minimum lot sizes and special provisions for certain dwellings

- (b) *The width of the lot at the front building line is equal to or greater than the width specified for that purpose and shown opposite in Column 4 of the table.*

Column 1	Column 2	Column 3	Column 4
Multi dwelling housing and boarding houses	Zone R2 Low Density Residential	1,200 square metres	20 metres
Multi dwelling housing and boarding houses	Zone R3 Medium Density Residential	1,000 square metres	20 metres
Multi dwelling housing and boarding houses	Zone R4 High Density Residential	1,000 square metres	20 metres
Multi dwelling housing and boarding houses	Zone B6 Enterprise Corridor	5,000 square metres	n/a

The benefit of this provision is it restricts boarding houses, particularly in residential zones, to sites that have sufficient width and area to accommodate this form of development. In the former Canterbury, which does not benefit from this provision, boarding houses are frequently proposed on much smaller sites including a site of 10m wide. Critically, the SEPP does not provide minimum site width or area standards.

Canterbury LEP 2012 has no additional LEP provisions in relation to boarding houses. It is worth noting that the former Council did prepare a planning proposal to include a local provision to restrict the permissibility of boarding houses in the R2 zone and to limit the capacity in the R2 and R3 zones. This proposal was not supported by the Department of Planning as it was not consistent with the SEPP. The former Canterbury also prepared draft controls for boarding houses, aimed to manage the potential impacts of boarding houses in residential zones. These controls were considered but not adopted by the former Canterbury Council.

Canterbury DCP 2012 and Bankstown DCP 2015

The Bankstown DCP contains a specific section of controls for boarding houses relating to residential and visual impacts associated with boarding houses, internal amenity for occupants, and open space and sunlight access.

There are no specific boarding house controls in Canterbury DCP 2012.

These controls again help ensure that a range of amenity issues arising from boarding house development not covered in the SEPP are considered in assessing applications.

It is important to note that Councils cannot amend and/or override a State Government planning policy that would be inconsistent with the SEPP. However where controls are not identified in the SEPP they can be included in the LEP and DCP.

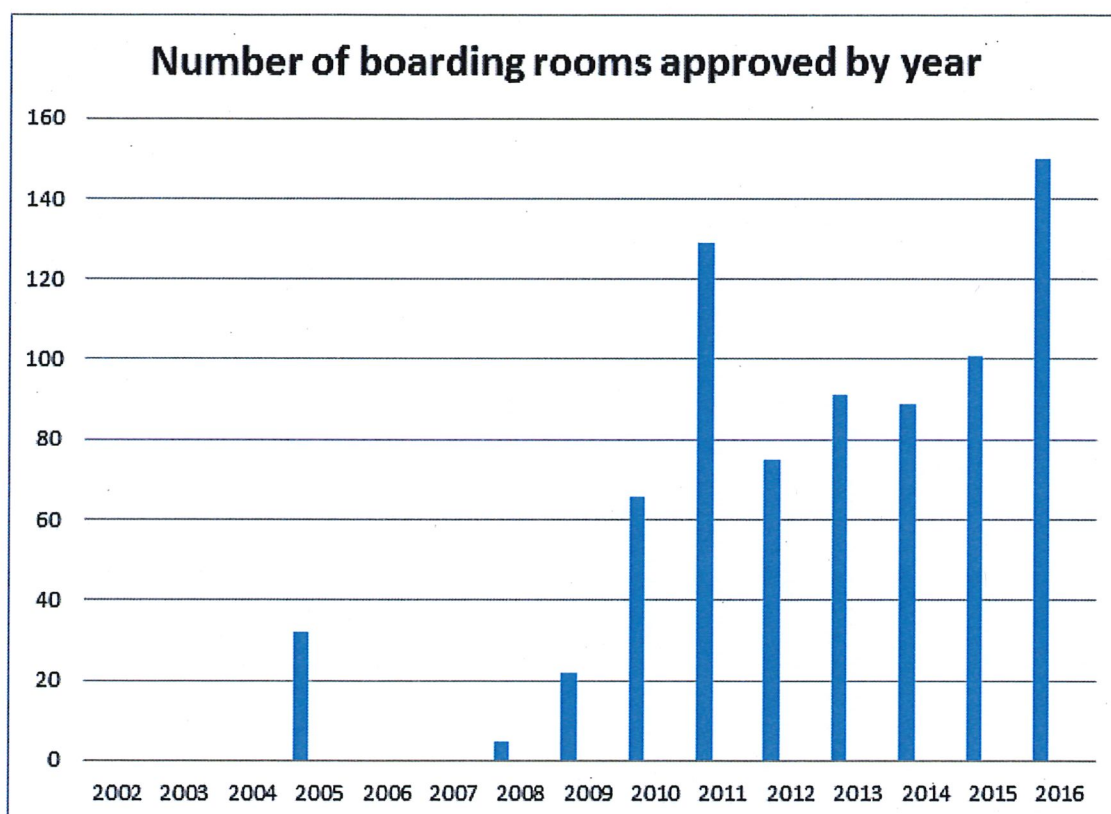
Trends in Boarding House Applications

Following the introduction of SEPP the number of approvals for boarding house rooms has increased significantly in Canterbury-Bankstown.

In the period 2000-2009 before the introduction of the SEPP, there were twelve boarding houses approved in Canterbury-Bankstown with a total of 58 rooms.

Post introduction of the SEPP, from 2010 to 2017, the number of boarding houses approved in Canterbury-Bankstown increased to 35, with a total of 696 rooms.

The trend is illustrated in the graph below:



These figures not only show a numerical increase, but that the size of boarding houses has increased. The number of rooms per boarding house has increase on average from 4.8 to 19.8. Obviously this means boarding houses are now buildings of a more significant scale to accommodate this number of rooms.

Key issues with Boarding House development

Outlined below is a summary of the key issues arising from boarding house development particularly in the former Canterbury Council area which relies upon the ARHSEPP for development controls.

- Lack of minimum frontage and area requirements

As mentioned earlier in this report, the SEPP has no requirements for site frontage or area. In the former Canterbury, this has led to numerous applications on sites with

frontages twelve metres or less. This compares with controls for similar forms of development such as residential flat buildings and multi dwelling housings which require a 20 metre frontage.

Sites of a narrow frontage result in very limited design options available to provide adequate landscaping, solar access, and ventilation. The building form also becomes quite narrow and compressed. Overall the result is poor design and amenity outcomes.

The specific Bankstown LEP frontage and area controls for boarding houses are consistent with those for more intense development forms and will result in much better design outcomes.

- Lack of minimum side and rear setback requirements

The SEPP has no requirements for minimum side and rear setbacks. In the former Canterbury, this has resulted in two and three storey buildings being located close to neighbouring boundaries. The resultant outcome has been a loss of privacy, overshadowing and adverse impact on neighbouring properties.

The Bankstown DCP has minimum setback controls to deal with this issue.

- Visual privacy controls

The SEPP also does not have specific visual privacy controls. This can result in overlooking between habitable rooms if the SEPP is the only means of providing control in this area, with resultant adverse amenity impacts.

The Bankstown DCP has controls in this regard which should be also applicable to the former Canterbury to provide an acceptable level of amenity.

- Solar access

The SEPP only has solar access controls for the communal room. However most proposals are for 'new generation' boarding houses, meaning rooms are generally self-contained.

The resultant outcomes can be lack of solar access to rooms when relying on the SEPP controls. Again the Bankstown DCP contains controls in this area which should be applied to the former Canterbury. These controls also relate to ensuring adequate solar access to adjoining properties.

- Isolation of adjoining allotments

Allowing boarding house development on narrow lots can result in the isolation of adjoining land, restricting or preventing its ability to be developed for other purposes. This is particularly an issue in the R4 High Density Residential zone. The outcome can be a single dwelling house surrounded by much higher development resulting in very poor amenity. The Bankstown DCP has controls to prevent this situation occurring.

- Appeals in Land and Environment Court

Over the past year, Council has refused a substantial number of boarding houses or requested applicants make significant design changes to reduce the building height and number of rooms proposed by boarding houses to 'fit in' with the character of the street.

However because the SEPP and Canterbury Development Control Plan 2012 do not have any building controls, many boarding houses have been appealed by the developer to the Land and Environment Court. The lack of controls appears to encourage developers to challenge any application that is refused (and also where Council requests significant design changes), with some developers achieving success over the past year as shown in the examples attached to this report.

As a result, Council has invested significant resources and funds to defend numerous appeals. Currently, the Council is defending seven boarding house appeals in the Court.

An attachment to this report contains recent examples of boarding house development that illustrate the issues that are occurring with reliance on the SEPP controls only.

Next Steps

To address the issues with boarding house developments in the former Canterbury area it is proposed to develop a set of aligned and consistent controls for boarding houses for the Canterbury Bankstown LGA. It is recommended a planning proposal be prepared and associated DCP amendments be made to include boarding house provisions in the CLEP 2012 and CDCP 2012 so that they generally align with those in the Bankstown LEP 2015. This will result in a significant improvement to the design and amenity consideration for this type of development.

If Council resolves to proceed it is proposed that the next time this matter would be reported to Council when a response from the Greater Sydney Commission is received.

CANTERBURY BANKSTOWN
MINUTES OF THE
ORDINARY MEETING OF COUNCIL
HELD IN COUNCIL CHAMBERS
ON 12 DECEMBER 2017

ITEM 4.3 **BANKSTOWN POETRY SLAM - GRAND SLAMMERS 2017**
(76) **CLR. ASFOUR**

RESOLVED that Council support the request from the Bankstown Poetry Slam and donate \$1,500 to assist in covering the costs of staging the Grand Slammers 2017 and the funds be made available from Council's Community Grants and Sponsorship budget.

- CARRIED

SECTION 5: **PLANNING MATTERS**

ITEM 5.1 **PLANNING CONTROLS FOR BOARDING HOUSES**
(77) **CLR. EISLER:/CLR. TUNTEVSKI**

RESOLVED that

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2. Controls be introduced into the Canterbury Development Control Plan 2012 for boarding houses that generally accord with those in the Bankstown Development Control Plan 2015.
3. The planning proposal be submitted to the Greater Sydney Commission for a Gateway Determination once prepared.
4. A further report be prepared to Council after the response from the Greater Sydney Commission is received.

- CARRIED

For:- Ctrs Asfour, Downey, Eisler, El-Hayek, Harika, Huda, Ishac, Kuskoff, Madirazza, Raffan, Saleh, Tuntevski, Waud, Zakhia and Zaman

Against:- Nil