Submission

No 14

INTERNATIONAL STUDENT ACCOMMODATION IN NEW SOUTH WALES

Organisation: Willoughby City Council

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Date Received: 6/10/2011

WILLOUGHBY CITY COUNCIL
City of Diversity

The Office of the General Manager

6 October 2011

The Hon Bruce Notley-Smith MP
Chair
Social Policy Committee
Legislative Assembly
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Notley-Smith

Re: Inquiry into International Student Accommodation in NSW

I refer to your invitation dated 26 September 2011 to the Mayor of the City of Willoughby, Councillor Pat Reilly, to make a submission on the Inquiry into International Student Accommodation in New South Wales.

Willoughby City Council welcomes the decision to investigate this issue. Further, Willoughby City Council considers that it should be an investigation into student accommodation generally whether or not it is international, inter-state or country students requiring accommodation.

Willoughby City Council is aware of concerns within its community of overcrowding in residential accommodation. In this Council's case it is mainly in apartments in residential flat buildings located in and around its major centres of Chatswood, Artarmon and St Leonards. The Willoughby City area is well located and well provided with public transport services linking the area to the major tertiary institutions of Sydney. In addition within its area is the Nursing Faculty of UTS at Royal North Shore Hospital, the College of Law and the Gore Hill campus of TAFE.

Council is largely powerless to take any action to rectify cases of overcrowding when they are reported unless illegal building works have occurred, for example, construction of walls within living areas of apartments to increase the number of sleeping cubicles in an apartment.

While there are sleeping room standards under the *Public Health (General) Regulation 2002*, Clause 22, that establish a minimum of 5.5m^2 per person in the case of long term sleeping accommodation or 2m^2 per person for less than 28 days, the provisions do not apply to private domestic premises. A residential apartment in a residential flat building or a suburban dwelling houses are "private domestic premises" that are excluded by Clause 22. There is nothing in the *Building Code of Australia* that provides an alternative standard.

There is a legal argument that once private domestic premises are rented on a per bed basis the premises are no longer a private domestic premises and the use becomes a boarding house. The question still arises as to whether the premises are being let in lodgings to satisfy the definition of a boarding house under the provisions of the *Environmental Planning and*

Assessment Act 1979 and its Regulations. If a Council seeks to take legal action, the onus is on the Council to prove that the premises are no longer used as private domestic premises. This is costly, resource intensive and difficult especially if there are limited accounting records of payments.

Willoughby City Council sought to introduce a clause into its Draft Local Environmental Plan that established a minimum of 5.5m^2 per person as an amenity provision for all residential sleeping accommodation in its area to overcome the situation. It was a proposed Local Provision under its draft Standard Template Local Environmental Plan. The Department of Planning, even though it was proposed as a local provision, refused to allow Council to have such a provision and removed it from the draft LEP. The reason given is that it was a provision not consistent with the Standard Template for Local Environmental Plans (LEP). Council disputes the reason but is powerless to do anything about it. A number of local provisions that Council sought to have in its LEP to meet the issues and needs of the Willoughby area have experienced the same fate.

The consequences of the situation for students have been well publicised. These include poor living standards for students, poor study facilities, lack of support services (except perhaps from other students living in the dwelling) and potential for financial abuse of the students.

The consequence for the owner of the dwelling/apartment who may or may not know of the situation is the damage to the property due to overcrowding and overuse. The dwelling bathroom and kitchen facilities are rarely designed to provide for the number of users. The owner may in good faith have leased the premises under the *Residential Tenancies Act 2010* to a tenant who may or may not be a resident of the dwelling.

The consequence for an Owners Corporation and other residents in a residential flat building is the burden of the additional and likely unknown population that has access into a building through its security system and additional demand for use of the common or shared facilities of the building.

The consequence for the community is the additional demand on the infrastructure services of an area – utilities (water, sewerage, electricity, gas), waste collection and other community services such as libraries that may not meet demand as they have been designed to meet the needs of a lower expected population for an area.

In summary, in relation to the Committee's Terms of Reference, Willoughby City Council submits as follows:

1. The Bill is primarily aimed at regulating and constraining illegal boarding houses or shared accommodation. Council submits that the Bill may have unforeseen consequences applying to all low income renters not just students. Council submits that the Bill needs to be more focussed on the issue in question about students. The Bill should then be supported by supplementary Regulations (an amendment to the SEPP Affordable Rental Housing 2009) requiring consent for student accommodation and prescribing standards for:

a) Number of occupants per unit and minimum space requirements;
b) Reduced parking requirements if located near public transport;
c) Provision of an on-site Manager;
d) Provision for common areas for shared use.

2. The key factors affecting supply of student accommodation is the availability of lower cost rental accommodation close to public transport or close to education centres.

3. The Council's experience is that the current standards are inadequate and require revision in order to better manage the occupancy of residential premises for student accommodation.

4. The provisions of Clause 22 of the Public Health (General) Regulation 2002 should be amended to apply to private domestic premises. Enforcement of the Regulation should be by a unit of the Department of Health. The requirements noted under Point 1 a) to d) should be incorporated into the SEPP (Affordable Rental Housing) 2009.

5. Council's experience is that residential units in and around the Chatswood, Artarmon and St Leonards centres are often occupied as multiple–student accommodation. No comprehensive data is available other than complaints from Owners Corporations or other residents.

6. The proposed regime in the Bill is comparable to the procedures applying to the enforcement of illegal brothels in NSW by Councils. This process has been found to be costly and resource intensive with little effective control of the use relocating. Suggested improvements would include the authority to issue the penalty under proposed Section 126A to the owners of the premises not the occupants and the owner should be liable for all Council expenses (legal and administrative) in enforcing the legislation.

Thank you for the opportunity to make a submission on the Inquiry.

Yours faithfully

Nick Tobin
GENERAL MANAGER