

Submission  
No 49

## INQUIRY INTO HOMELESSNESS AND LOW-COST RENTAL ACCOMMODATION

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Contact Officer: Teresa Mok - 9399.0542

12 March 2009

The Director  
Standing Committee on Social Issues  
Legislative Council  
Parliament House Macquarie Street  
SYDNEY NSW 2000

Dear Sir,

**RE: INQUIRY INTO HOMELESSNESS AND LOW COST RENTAL ACCOMMODATION**

I write in response to your invitation for submissions to inform the Standing Committee on Social Issues as part of its inquiry into homelessness and low cost rental housing. Randwick City Council would like to address the following terms of reference headings:

**A) Models of low cost rental housing outside mainstream public housing.**

Randwick City Council has been implementing its Affordable Rental Housing Program for nearly two years. This program is one of many initiatives adopted by Council in an effort to increase and encourage the supply of affordable housing in the LGA. The following paragraph describes the main characteristics of Council's affordable rental housing targeting low to moderate income workers.

1. Supply of rental housing units is provided by developers as part of a voluntary planning agreement - DA process. To date, a total of 15 units have been successfully negotiated, with 8 completed units transferred to Council's ownership.
2. Council staff negotiates with developers of larger scale developments (100 dwelling units and over) to dedicate units to Council, typically at rate of 1 per 100 dwellings.
3. All 15 units mentioned above were negotiated before the introduction of the Section 93F in 2007 - voluntary planning agreement provisions under the (EP&A Act 1979). Since the introduction of the voluntary planning agreement (VPA) provisions, Council staff has not increased its affordable rental housing stock. The voluntary planning agreement provisions have unintentionally diluted Council's negotiation capacity.

This issue is discussed under the heading 'Current barriers to growth in low cost rental housing'.

4. Council pays a fee for a preferred community housing organisation (St George Community Housing) to undertake all tenancy and property management operations on its behalf. St George Community Housing was selected by Council as the preferred affordable housing manager through a formal Expression of Interest process. The transfer of landlord responsibilities from Council to St George Community Housing is achieved through a head-leasing arrangement. Council leases the dwellings to St George at a peppercorn rate for 5 years with an option to extend a further 5 years. The tenant enters into a residential tenancy agreement with St George Community Housing.
5. A Deed of Management Agreement sets out the functions and responsibilities of both parties. Under this agreement, St George implements Council's affordable rental housing program in accordance with adopted procedures, a document containing eligibility criteria, rent and tenancy policies.
6. Rent is levied at no greater than 75% of the unit's median market rent. The maximum tenancy duration is 5 years, so that a greater number of people may benefit from the program.

Council believes that this was an effective partnership model; Council negotiates with developers, and a (state accredited) community housing organisation with the necessary skills to provide tenancy and property management services. This model however relies on the goodwill of developers to agree to the dedication of a proportion of units for affordable rental housing purposes. The majority of the developers approached by Council to consider the dedication of 1 percent of total unit yield (prior to the introduction of the VPA provisions) have entered into a Deed of Agreement with Council. As mentioned in point A (1), Council has received ownership of 8 out of a total of 15 units under this methodology.

While the VPA clauses in the EP&A Act, 1979, provide a clearer process for developers and councils to negotiate affordable housing, the Council have not secured any VPAs for the provision of affordable rental housing stock. However unlike the provisions of Section 94A (giving councils the legislative support to impose a 1% levy for the provision of community facilities), Section 93F provides the legislative backing for developers to 'opt out' of VPA arrangements with councils. This issue is discussed in the following terms of reference heading:

#### **D. Current Barriers To Growth In Low Cost Rental Housing**

- An absence of State Government policy position relating to the provision of affordable housing. The current position relies on the private market sector to provide diverse housing types and sizes at lower weekly rents

or purchase prices. While this is achievable in a number of outer fringe suburbs, they are not where the jobs are located. Council LEPs and DCPs can incorporate provisions for achieving housing diversity eg number of bedroom and maximum size of units but not necessarily affordability. Affordable housing needs to be provided in and near town centres and employment hubs, which is often in desirable locations and is therefore less affordable. Unless developers are required by law to provide in-kind or a cash contribution for affordable housing purposes, it is unlikely they will provide it on a voluntary basis. States that have adopted a strong position on supporting affordable housing tended to achieve higher growth rates of affordable housing stock. Two Australian States with state backed housing strategies are Victoria and South Australia.

- In NSW, provisions relating to voluntary planning agreements in the EP&A Act have not been effective in relation to affordable housing because the process is not a straight forward process. Since its gazettal, Randwick City Council has not been successful in negotiating dedication of a proportion of development yield for affordable housing rental purposes.

To date, the only two developers with development proposal large enough to trigger the voluntary negotiation process have refused to agree to the dedication of 1% of dwelling units. One of the developers recanted its offer after development consent was issued. This development application was heard in the Land and Environment Court, which was not exclusively over the developer's refusal to dedicate an affordable housing unit. The Court confirmed the developer's position that Council does not have any recourse to require the dedication of the unit to Council even though it was satisfied that there was sufficient evidence to warrant it. The crunch point was that this agreement was intended to be *voluntary* in nature. The VPA provisions are, from Council's viewpoint, not effective and is one of many barriers to growth in low cost rental housing in high cost locations.

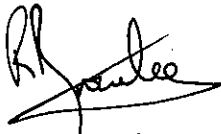
- A more effective and proven method of encouraging growth in affordable or low cost rental housing through the land use planning framework, is to extend the provisions of State Environmental Planning Policy (SEPP) No.70 (Affordable Housing revised schemes) which requires a proportion of dwellings from a development to be dedicated for affordable housing. This model also known as inclusionary zoning has been proven effective (as demonstrated in Ultimo-Pyrmont, Green square and Willoughby Council), and far outweighs voluntary based models (such as voluntary planning agreements and negotiated density bonuses).
- SEPP No.70 should be extended to high housing cost Local Government Areas with endorsed affordable housing strategies and proven track record for delivering and/or encouraging the supply of low cost rental dwellings.

Although Council acknowledges that this method is much resisted by the development and building industry, it is one of the more successful and effective methods to date for increasing the supply of low cost rental housing in high cost areas (conveniently located to and well serviced by town centres), through the land use planning framework.

If left to market forces, the reality is that a developer would not sell dwellings at a lower price if they can sell it for more (or to the highest bidder). Having paid premium prices, landlords or private investors are unlikely to agree to levying rents at a discounted market rate.

Should you require clarification or additional information about the issues raised in this submission, please contact Teresa Mok, Coordinator Community Planning on (02) 9399 0542. Please quote the reference number above on all correspondence.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ray Brownlee', written over a horizontal line.

Ray Brownlee  
**General Manager**