

Item 3.4

Action on Secure Affordable Rental Housing

File No: S051491

Minute by the Lord Mayor

To Council:

Although primarily the responsibility of the NSW Government, the City of Sydney uses every lever available to maximise the amount of Affordable Housing in our local area including through planning mechanisms such as developer contributions and planning agreements, selling discounted land to community housing providers, and grants.

As a result, at June 2023 the City has contributed to 1,464 built Affordable Housing units in our area, 565 dwellings in the development pipeline and a further 1,294 that we expect to be built in the future. The City's Affordable Housing levy scheme, which covers all of the Local Government Area, is projected to deliver a further 1,950 affordable dwellings.

As at 30 June 2023, the City has collected almost \$400 million in levies, sold discounted land to the value of \$31.6 million, and provided about \$13 million in grants. Through these grants, the City has funded affordable housing projects such as:

- Hammondcare in Darlinghurst that provides 42 rooms including for older women at risk of homelessness.
- Wesley Mission refuges that provides 44 rooms in Surry Hills and will provide 74 rooms in Glebe.
- Foyer Central in Chippendale that provides 73 rooms for young people at risk.

The City's Affordable and Diverse Housing Fund supports the delivery of all forms of short and long term rental accommodation offered at below market rates, including affordable housing, social housing, crisis housing and boarding houses. Our Affordable Housing contributions program also enables Community Housing Providers to use levies for boarding houses.

Advocacy on boarding houses

For many years, I have advocated to ensure boarding houses are protected from neglect and redevelopment.

As the Member for Bligh, I was concerned about boarding houses increasingly being converted to backpacker accommodation especially during the Bicentenary, and in the lead up to the Sydney Olympics in 2000. I introduced legislative measures that reduced the council rates of boarding house owners', and extended boarding house land tax exemptions to low-income rental properties which encouraged owners to build and operate boarding houses instead of converting or developing them.

I note that the City does charge nominal fees to boarding house operators to help cover the costs of compliance and fire safety inspections and schedules, which is important to keep residents safe. The fees were introduced by the Local Government Act 1993. Waiving those fees would help reduce costs for boarding house owners to keep and maintain their properties.

There are around 4,000 boarding house rooms across the City - but this number is shrinking as the buildings are converted to more profitable housing.

In the City of Sydney, three development applications (DAs) for boarding house conversions have recently been refused, however they are still at risk of being redeveloped after appeal to the NSW Land and Environment Court.

Councils cannot refuse to accept lodgement of such DAs and are obligated to assess them under the outdated NSW Affordable Rental Housing SEPP Guidelines for Retention of Existing Affordable Rental Housing 2009 ('The Guidelines') referenced by the Housing SEPP.

The Guidelines give priority to the financial viability of maintaining a boarding house above other planning considerations and require in some instances a levy be paid to compensate for the loss of low-cost rental accommodation.

Councils' hands are tied. The Guidelines are in desperate need of review.

In 2021, the City's advocacy led to changes by the former NSW Government to ensure planning incentives such as extra height and floor space are only made available to genuinely 'affordable' boarding houses which must be managed by a Community Housing Provider in perpetuity, and rented to eligible households at affordable rents. We can now be confident that all new boarding houses are genuinely 'affordable'.

In October 2023, Council unanimously supported my Lord Mayoral Minute calling on the NSW Government to implement the recommendations of the 2020 statutory review of the Boarding Houses Act 2012 and urgently review the outdated Guidelines.

I wrote to relevant NSW Government Ministers with this request who confirmed they would progress the recommendations of the review, however, no timeframe was provided. A response from the then Acting Minister for Housing noted that the Department of Communities and Justice (now Homes NSW) is holding \$150,722 in compensation levies collected in the City of Sydney for the loss of low-cost rental accommodation.

In July 2024, I wrote to the NSW Minister for Customer Service who is responsible for administering the Boarding Houses Act 2012, calling on him to implement the recommendations in the statutory review as a matter of priority, and to consult with local councils before making any changes.

Dwelling retention controls

The City is currently consulting with the community on changes to planning controls that will ensure that when a residential building is redeveloped, the total number of 'dwellings' within that building does not drop significantly. If adopted, these changes will support housing diversity, the retention of housing and rental affordability in our local government area.

Unfortunately, DAs for a change of use or the loss of an entire boarding house are subject to the requirements of the Housing SEPP and the Guidelines, which our planning controls cannot lawfully override including our dwelling retention controls, if adopted. The City has investigated options to prevent the loss of boarding houses in our area and concluded that we cannot change our planning controls to override state planning controls or constraints. Again, our hands are tied.

Strengthening renters' rights

Over the last two years, median rents for market housing in our area have gone up by 26.5 per cent - an increase of \$193 per week - bringing the median rent for a unit in the City of Sydney from \$728 per week to \$921 per week.

The biggest rent hikes are typically when a new tenant starts a lease. This incentivises landlords to 'churn' tenants and terminate leases at the end of a fixed term. Research from the Tenants' Union of NSW found nearly 60 per cent of renters in NSW are on fixed term leases, and the majority of 'no-grounds' evictions (71 per cent) are served to households at the end of a fixed term lease.

It has been almost 12 months since the NSW Government's proposed changes to the Residential Tenancies Act 2010 ('the Act') to end 'no grounds' evictions on all leases; extend the notice period to end a fixed term lease from 30 days to 90 days; and limit how often rent could be increased, as well as making it easier for renters to have pets.

The City's submission in August 2023 supported the proposed changes and was later supplemented by a Council resolution following my Lord Mayoral Minute which called on the NSW Government to limit rent increases to a maximum of 110 per cent of the CPI for rent.

In May 2024, spurred by NSW Government inaction, the Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024 was introduced to end 'no grounds' evictions. Disappointingly, neither the NSW Government nor the Opposition supported the bill, but it will be reviewed by a Select Committee, who are due to report back to Parliament by 20 September 2024. I hope both houses can support these urgently needed amendments.

Recommendation

It is resolved that:

(A) Council note:

- (i) it has been four years since the recommendations of the statutory review of the Boarding Houses Act 2012 and the NSW Government has still not implemented them;
- (ii) the City of Sydney uses every lever available to maximise the amount of Affordable Housing, including boarding houses, in our local area through planning mechanisms, selling discounted land to community housing providers, and our Affordable and Diverse Housing Fund; and
- (iii) even though it has been 12 months since the NSW Government proposed changes to the Residential Tenancies Act 2010, there has been no legislative reform to end 'no grounds' evictions nor limit rent increases;

- (B) the Chief Executive Officer be requested to
- (i) waive inspection and compliance fees for registered boarding houses where the operators can demonstrate hardship, subject to legislative requirements;
 - (ii) consider potential fee waivers for compliance and fire safety inspections for all registered boarding houses in the City of Sydney to assist with owners' costs of maintaining and retaining their properties while ensuring the ongoing safety of residents;
 - (iii) investigate increasing the levy on development that will result in the loss of existing low-cost rental accommodation through demolition, alterations, change of use or subdivision and report back via the CEO Update;
- (C) the Lord Mayor be requested to write to:
- (i) all registered boarding house owners in the City of Sydney to advise them of the fee waiver and ask them to work with the City to ensure their buildings are safe and fit for purpose, if a fee waiver is adopted by Council;
 - (ii) the NSW Minister for Planning and Public Spaces to again request he expedite the update of the NSW Affordable Rental Housing SEPP Guidelines for Retention of Existing Affordable Rental Housing 2009 and that he consider the viability test; the amount of levy paid for the loss of low-cost rental accommodation as well as supporting residents into new housing;
 - (iii) the NSW Minister for Housing to return the \$150,722 in levies collected in our local area for the loss of low-cost rental accommodation to the City's Affordable and Diverse Housing Fund to be distributed towards affordable and diverse housing projects in our area;
 - (iv) the NSW Minister for Fair Trading again to ask him to take urgent action on rental reform, including ending no grounds evictions; and
 - (v) Community Housing Providers operating in our area about opportunities to use our Affordable and Diverse Housing Fund and levies to deliver more boarding houses and other low-cost and affordable rental housing; and
- (D) the Lord Mayor be requested to host a roundtable with Community Housing Providers, Metropolitan Councils, Homes NSW, the Tenants' Union of NSW, Newtown Neighbourhood Centre, the NSW Rental Commissioner and peak bodies about protecting and increasing safe and secure affordable rental housing.

COUNCILLOR CLOVER MOORE AO

Lord Mayor