

Item 3.3

Urgent Boarding House Reform Needed

File No: S051491

Minute by the Lord Mayor

To Council:

Selwyn Street Boarding House Appeal

In July 2025, in a landmark decision, the City of Sydney was successful in defending the Local Planning Panel's refusal of the developer's plan to convert the longstanding boarding house at 58-60 and 62-64 Selwyn Street, Paddington into luxury homes in the Land and Environment Court of NSW ('the Court').

The Commissioner concluded that the loss of 32 rooms in an older style traditional boarding house was unacceptable given the shortage and decline of this form of accommodation, and would contribute to the cumulative loss of affordable housing options for low income earners in the inner city.

The Court's decision is bittersweet news and has come too late for many in our community, given the last of the residents have already moved out of the boarding house. The successful outcome of this appeal is the result of the tireless commitment and expertise of the City's legal team and planning staff.

I commend the many community members who supported the boarding house residents throughout the court case and continue to do so as the residents settle into their new homes. I also thank those community members and boarding house residents who met with me during the court case and those who welcomed me into their home.

I want to particularly highlight the efforts of Paddington resident, Mike Mannix, and Alex Greenwich, Member for Sydney, who went above and beyond to not only support the boarding house residents but also advocate to the NSW Government and the City of Sydney. The community campaign united the residents of Paddington, and it is devastating that the boarding house residents have now been moved away from that strong sense of community.

Unfortunately, on 13 August 2025, the City was notified that the developer, LFD Homes, is appealing the Court's decision. As a result, a Judge will hear the appeal on a date yet to be determined, where community members can attend, but not participate. The Judge could uphold the Commissioner's decision or request the matter be redetermined by the original Commissioner or another Commissioner.

The future of the boarding house remains uncertain. The original Commissioner's decision means the applicant can continue to operate the property as a boarding house; however, they are not required to. The site could remain empty, be sold or a new Development Application (DA) could be lodged for a similar or an alternative proposal. Following the Commissioner's decision, I updated the Paddington community and will continue to do so as the matter progresses.

Both the City and the NSW Government committed to contributing to purchase the property, if the owner is willing to sell and a Community Housing Provider (CHP) is interested in purchasing and operating the boarding house. At this stage, no CHP has indicated a willingness to purchase the boarding house, and the property is still not for sale. However, our commitment still stands.

City of Sydney Action

For many years the City has advocated for the protection of boarding houses as well as the creation of new diverse housing.

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 CHP in perpetuity and rented to eligible households at affordable rents. We can now be confident that all new boarding houses are genuinely 'affordable'.

In July 2024, following my [Lord Mayoral Minute](#), the City wrote to CHPs encouraging them to apply to our Affordable and Diverse Housing Fund to deliver more housing, including boarding houses. The City is currently reviewing the Affordable and Diverse Housing Fund grants guidelines to ensure grants awarded continue delivering affordable and diverse housing projects as construction costs soar.

Council also resolved to waive inspection and fire safety fees to help boarding house operators with the financial upkeep of their properties. The City has informed all boarding house owners in our area about this opportunity, and we have received 9 waiver requests so far.

Outdated NSW legislation and planning policies

Currently, Councils cannot refuse to accept the lodgement of DAs that propose the conversion of boarding houses to another use. Councils are obligated to assess such DAs under the outdated NSW Affordable Rental Housing State Environmental Planning Policy and the Guidelines for the Retention of Existing Affordable Rental Housing 2009.

The Guidelines note that the reduction in affordable housing is the most fundamental of the criteria in DA assessments of this kind. The Commissioner in the Selwyn Street case noted the boarding house conversion was an obvious example of this.

However, the Guidelines also give priority to the financial viability of maintaining a boarding house above other planning considerations and often just require a levy be paid to compensate for the loss of low-cost rental accommodation. This contribution is paid to the Department of Communities and Justice. The City has commissioned research into increasing the levy on development that results in the loss of existing low-cost rental housing. Staff will report the findings to Council.

The Guidelines are outdated; they do not prevent the loss of low-cost rental housing and do not consider the current housing affordability crisis. They set out limited criteria that planners must consider when assessing DAs such as the impact of supply of affordable housing in the area, arrangements for residents being displaced, building safety and the viability of maintaining its use as a boarding house.

While the criteria must be considered, the Guidelines prioritise the viability of maintaining the boarding use, identifying it as "a crucial part of the assessment", and that it is "unfair and counterproductive to seek the continued operation of a boarding house where that operation could not provide a reasonable return on investment".

If an applicant can prove it is not viable to maintain and operate the boarding house, Councils have little grounds to defend a refusal, even if the application fails on the other criteria. If DAs are refused, they can be challenged in the Land and Environment Court of NSW like what has occurred at Selwyn Street in Paddington.

Advocacy

Currently, boarding house tenants do not have the same rights as tenants covered under the Residential Tenancies Act 2010, such as security of tenure.

The purpose of the Boarding Houses Act 2012 is to outline the rights and responsibilities of boarding house residents.

The former NSW Government's 2020 statutory review of the Boarding Houses Act 2012 made 21 recommendations aimed at strengthening the rights of residents of shared accommodation. As at August 2025, the current NSW Government has not yet implemented any of these recommendations.

I have repeatedly asked the NSW Government to:

- urgently implement the recommendations of the 2020 statutory review of the Boarding Houses Act 2012;
- update the outdated NSW Affordable Rental Housing State Environmental Planning Policy and the Guidelines for the Retention of Existing Affordable Rental Housing 2009 so priority is not given to the viability of a boarding house above all other planning issues;
- significantly increase the levy when a boarding house is converted;
- incentivise boarding house owners to keep and maintain stock with appropriate funding; and
- work with Council to encourage CHPs to use government funding for boarding house opportunities including our Affordable and Diverse Housing Fund.

The NSW Government must urgently make these critical changes to ensure the devastating situation at Selwyn Street does not happen in future.

Recommendation

It is resolved that:

(A) Council note:

- (i) the City of Sydney successfully defended an appeal against the refusal of the boarding house conversion at 58-60 and 62-64 Selwyn Street, Paddington, when the Commissioner refused the Development Application in the Land and Environment Court of NSW on 10 July 2025;
- (ii) the developer lodged an appeal against the Commissioner's decision on 13 August 2025;

- (iii) the Lord Mayor will continue to update the local community about the outcome of the appeal; and
 - (iv) the City has commissioned research into increasing the levy on development that results in the loss of existing low-cost rental housing. The findings will be reported to Council;
- (B) Council commend:
 - (i) the City's legal team and planning staff on the successful court case; and
 - (ii) the Selwyn Street community campaign, led by Mike Mannix with other residents, that strongly advocated on behalf of the Selwyn Street boarding house residents and continue to provide support and friendship to the men who have moved into new homes; and
- (C) the Lord Mayor be requested to write to relevant NSW Government Ministers to call on them to:
 - (i) urgently implement the recommendations of the 2020 statutory review of the Boarding Houses Act 2012;
 - (ii) update the NSW Affordable Rental Housing State Environmental Planning Policy and the Guidelines for the Retention of Existing Affordable Rental Housing 2009 so priority is not given to the viability of a boarding house above all other planning issues;
 - (iii) work with Councils, housing advocacy groups and tenants with experience living in boarding houses to identify further reforms which would protect against the loss of traditional boarding houses, and to increase protection and support for low income boarding house residents at risk of eviction; and
 - (iv) review and update the relevant legislation to extend the same rights of tenants in the Residential Tenancies Act 2010 to boarding house tenants.

THE RT. HON. CLOVER MOORE AO

Lord Mayor of Sydney