Advocating for the people of Western Sydney

**Western Sydney Regional Organisation of Councils Ltd**
Suite 201, Level 2, 85 Flushcombe Road
PO Box 63, Blacktown, NSW 2148
Tel (02) 9671 4333 Fax (02) 9621 7741
Email info@wsroc.com.au www.wsroc.com.au

# SUBMISSION:

# The Explanation of Intended Effect: Changes to create low- and mid-rise housing

A submission to the NSW Department of Housing, Planning and Infrastructure

Western Sydney Regional Organisation of Councils Limited.

**23 February 2024**

## 1. About WSROC

Formed in 1973, the Western Sydney Regional Organisation of Councils (WSROC), represents local government across Greater Western Sydney.

With a reputation for considered policy analysis and bipartisan advocacy, WSROC brings a collective voice to those issues which are crucial for Western Sydney's growing population. WSROC's primary role is to represent the councils and communities of Greater Western Sydney as well as developing resource sharing and other co-operative projects between Greater Western Sydney councils.

Over the past 50 years WSROC has developed a strong reputation for bi-partisan advocacy, especially in the key areas of economic and social development, job creation, transport and infrastructure, planning, health and the environment, and has proven itself a reliable partner in intergovernmental relations, regional strategic planning, and coordinating joint projects and programs.

Current programs include the Western Sydney Regional Waste and Circular Economy Coordination Program, the Western Sydney Energy Program, and delivery of the Turn Down the Heat Strategy and Action Plan, which takes a collaborative approach to urban heat adaptation and mitigation in the region.

## 2. Introduction

WSROC thanks the Department of Planning, Housing and Infrastructure for the opportunity to provide feedback on the Explanation of Intended Effect for changes to create Low- and Mid-Rise Housing. WSROC supports efforts by the government to increase housing availability and affordability, provided the outcome of those efforts do indeed provide well designed housing that is sustainable (including financially sustainable) for residents throughout the life of the occupation or building life.

Addressing housing issues is a priority for WSROC as it aligns with several strategic priorities of the WSROC Board including:

*1.Supporting vulnerable communities, and*

*2. Increased provision of affordable and social housing.*

Housing policy also touches on a number of other priorities relating to climate resilience of communities and waste service delivery.

Additionally, the provision of housing is a key concern for councils, with housing addressed throughout their own community strategic plans, specific housing strategies and other priority plans, such as homelessness strategies.

There are several matters pertaining to cost-of-living, resilience, urban design and waste management that require further consideration, and these are outlined below. State and local planning instruments work in unison and consistency between them is essential to ensure state policy results in the intended outcomes at the grass roots level.

Some of our member councils, and councils participating in relevant WSROC programs, will make their own submission. This document should be viewed in addition, and complimentary to those submission.

# 3. Feedback for consideration

## 3.1 Consultation with Local Government

The lack of consultation with local government in the lead up to the release of the proposed changes is extremely disappointing. WSROC urges the State Government to work more collaboratively with local councils to deliver a more nuanced and fit for purpose solution to the current housing crisis. We are extremely concerned that the current proposal will result in increased risk to human health and amenity, and ultimately do nothing to address affordability.

Our councils share the Government's concern about the housing crisis and support the need for urgent action. But councils also understand that the causes are complex and will require a nuanced and collaborative response from all levels of government and the private sector. Density can be done well, but unless the process is transparent, evidence based and subject to genuine consultation and collaboration, there is a real risk the current proposal will come at the expense of amenity, landscaping, tree canopy, access to infrastructure and services and ultimately the liveability and safety of our communities.

The current proposal restricts councils from undertaking effective planning and community engagement which will be critical to ensure broad support and to understand local community and infrastructure needs. Underpinning these reforms should be community-confidence that the that essential infrastructure such as open space, schools, hospitals, upgrades to sewer, water and waste services, will be delivered to meet the new population.

We invite the Government to genuinely collaborate with councils to tackle the current housing crisis. Such a collaboration should be transparent, rigorous, evidence-based.

***Recommendations:***

- Collaborate with local government on a revised proposal that builds on councils' strength, knowledge and understanding of the local area and communities. Establish a genuine partnership approach between the NSW Government and local councils to tackle this issue.
- Work with councils and communities to ensure there is additional investment in infrastructure (transport, stormwater, waste services, education and recreation) to match the increase in population.
- Work with councils to ensure local government is appropriately supported and resourced to undertake the work required. Rezoning programs require significant unbudgeted resourcing (financial and human capital).

## 3.2 Resilience

The potential impacts of this policy on community resilience to natural and man-made hazards is a key concern for WSROC's members. We welcome the acknowledgement of flood risk in the

proposed reforms, particularly in relation to the Hawkesbury Nepean Valley. However this should equally apply to other hazards including bushfire and heatwave.

Given the proposed policy is particularly applicable to lower-income households, who are acknowledged to have less capacity to prepare, respond and recover from disasters, resident safety must remain front of mind. We urge that the spatial application of this policy strongly consider the impact of increased residential densities on resilience to disaster and practical measures such as evacuations.

***Recommendation***:

- That the proposed policy strongly integrates considerations for a range of natural and man-made hazards including flood, fire and heat, now and under future climate scenarios.

## 3.3 Car parking provisions for transport-oriented development

WSROC supports transit-oriented development for promoting greater use of public transport and reduced reliance on private cars, however we see several potential drawbacks of applying a blanket approach to car spaces across the city.

**First, not all public transport stops support an equal level of mobility or connectivity.** Applying blanket quotas to car space provision, without assessing the quality of local transport links (e.g. frequency, reliability, and interconnectivity) is likely to result in poorer local amenity and liveability where communities are unable to live without a car in practice. With this in mind, we stress that car space provision should consider more than proximity to public transport. WSROC proposes that assessment methods should also consider:

- Regularity of services: Do services come every 10 minutes or twice per day?
- Connectivity to other services, modes and routes: Is the public transport stop an interchange with many options for travel direction?
- Temporal variations in timetabling**:** Do services run in the evenings? Or at weekends?

**Second, parking around key transit routes is already a major challenge in Western Sydney.** Councils and the NSW Government have long recognised significant shortfall in commuter carparking around train stations. This is particularly true in Western Sydney where many commuters travel significant distances from new growth areas to reach the nearest train station. As such, applying higher residential densities around train stations without the provision of resident parking is likely to exacerbate existing pressures on street parking, causing neighbourhoods to suffer the disadvantages of residential densities many years before the benefits of improved services eventuate.

***Recommendation***:

- That needs-based car parking assessment models should be employed, considering a range of place-based factors in assessing parking requirements including the quality (frequency, connectivity, reliability) and relevance of public transport routes.

## 3.4 Urban heat – simple no and low-cost solutions to cost-of-living

Urban and extreme heat are a significant and growing challenge for communities across Sydney. Heat is Australia's most deadly natural hazard, and those most at risk include people on low incomes who are less able to afford air-conditioning and housing retrofits. Between 2001 – 2018 more than half of Australian heat-related deaths occurred within (mostly residential) buildings[1].

WSROC is a strong advocate for the inclusion of heat mitigation and adaptation measures in all State Environmental Planning Policies (SEPPs), however such matters are especially important to any SEPP that applies to social and affordable housing.

The proposed landscaping non-refusal standards for mid-rise and low-rise housing as well as the proposed reduced site areas, lot widths and setbacks, with more dwellings per land parcel, are particularly problematic when it comes to addressing heat. The increase of hard surfaces, without considering mitigation efforts, will contribute to an increasing urban heat island effect. The existing Apartment Design Guide insufficiently addresses this issue. With the proposed increase in density, the proposed tree canopy requirements are insufficient and do not align with other stated Government priorities and objectives. We note that councils are now integrating urban heat planning controls into their LEP and DCPs, however, without a supporting SEPP, councils' urban heat measures will not be able to be mandated under the current proposal.

Adding to this, it is expected this new policy will lead to an uplift in land value within these vicinities. As such, it is even less likely councils will be able to afford to obtain land to provide canopy and open space for the increased number of residents and to mitigate the increased heat generated.

Density can be done well, provided appropriate measures will be put in place to mitigate for the unintended adverse consequences, like contributing to the urban heat island effect and creating thermally unsafe homes.

Applying low- or no-cost urban heat measures at both the building and landscaping scale, such as (best practice) canopy cover, deep soil requirements, external shading, cool material requirements within a proposed SEPP will be critical to allow quick and consistent roll out across the city, improving human health and safety, improving cost-of-living for households, and assist the drive towards Net Zero without compromising on affordability. Research shows that failing to implement proactive strategies now, will lead to reactive policies (e.g. retrofits) which are estimated to cost 3-4 times more, without properly solving the problem.

***Recommendations***

- That the NSW Government work with local government to review the proposed landscaping non-refusal standards for mid-rise and low-rise housing to include best practice heat mitigation measures, as well as allow councils to set higher standards to address urban and extreme heat and ensure the new development does not result in increased community risk.

[1] Coates et al. (2022). Heatwave fatalities in Australia, 2001 – 2018: An analysis of coronial records.

International Journal of Disaster Risk Reduction, 67, https://doi.org/10.1016/j.ijdrr.2021.102671

- That the NSW Government include specific urban heat mitigation measures in the SEPP in order to minimise contribution to the Urban Heat Island Effect and deliver improved cost of living and safety outcomes for residents. Such measures would include (best practice) canopy targets, greening, deep soil requirements, external shading and cool material specifications. Please refer to WSROC's *Urban Heat Planning Toolkit 2021* and *Cool Suburbs Tool and Science Rationale 2022.*

## 3.5 Affordable housing

We are concerned that the EIE does not propose an affordable housing delivery or contribution requirement. The EIE proposes significant uplift in town centres and station precincts, and surrounds, without capturing any of the uplift value which could be used for the provision of affordable housing. Any affordable housing provided should be in perpetuity and not under short term agreements to make a lasting contribution to this significant challenge.

***Recommendation:***

- Work with local government to ensure the new SEPP includes appropriate affordable housing provisions.

## 3.6 Waste and recycling services

**Mid-Rise Housing Changes**

There is significant concern from councils about proposed changes detailed to mid-rise housing in respect to how councils will be able to provide domestic waste services to residents living in multi-unit dwellings.

Of most concern to councils is the proposed change to the Apartment Design Guide that states that "design of basement and ground floor for mid-rise housing is not required to accommodate large vehicles entering or turning around within the site".

As the proposed changes are to be enacted within station and town centre precincts, it is exactly in these areas where the need for on-site collection of waste is required to maintain safety and amenity.

When coupled with proposed changes to:

- Reduce on site car parking requirements
- specifications on building setbacks, and
- removal of minimum lot sizes and width standards,

the provision of kerbside collection in such circumstances will be difficult or unsafe in most developments and impossible in others.

Most Sydney metropolitan councils have made considerable efforts through planning frameworks to shape new and existing development to onsite collection to reduce safety and amenity concerns that regularly plague councils and waste collection companies. These issues, particularly waste collection and traffic issues, would regularly feature in community complaints, and are resolved

by having onsite collection. The restriction of safe access for heavy rigid vehicles (assumed to be included in 'large vehicles' reference) will remove the ability of councils to provide effective collection services in line with community expectation, which is determined by the development application process. The impacts will have far reaching consequences for residents and users of the local area for an ongoing and indefinite period.

Moving waste collection from both the bins (waste, recycling and organics) and bulky waste (mattresses, furniture, whitegoods and other large items) to the kerbside would require minimum street frontages to enable enough space to present the large number of bins and allocations of bulky waste from mid-rise housing complexes for collection. Collection also requires unimpeded access to the waste from the truck, key to which is preventing parked cars blocking access to the waste. The collective result of these proposed changes is large numbers of bins presented at the kerbside for collection, along with unrestrained bulky waste, in areas where parking is at a premium, and waste collection vehicles and staff are unable to safely collect the waste. These proposed changes come at a time where NSW Government require all councils introduce organic waste (green bins) at all properties, including apartments, increasing the number of bins at every residential property. These proposed changes also contradict the controls detailed in the National Heavy Vehicle Regulator's Waste and Recycling Industry Code of Practice for Load Management (2024) and local governments' chain of responsibility duties.

Is it likely that these collective changes may result in a combination of or all of:

- **Bins to be placed in front of parked cars to enable access for collection**. The most common waste collection vehicle in NSW domestic waste services is a Heavy Rigid Vehicle with side arm collection, operated by the driver from inside the vehicle. Moving bins to kerbside collection in areas of high parking demand (close to transport and centres, and where onsite parking is limited) results in bins placed around parked cars to ensure track access. This regularly results in road verge conflict between residents and car owners, bins moved by vehicle owners into a position where they are unable to be collected, and potential damage to vehicles during bin placement.

- **An increase in bin collection frequency** resulting from the unavailability of kerbside space to present all bins. For example, a residential development of 40 units may require 20 waste and 20 recycling bins for once weekly servicing, requiring over 40 meters of collection space (property width less any driveway access or collection impediments). Any reduction of bin allocation (likely) due to unavailable kerbside for collection would increase collection frequency

to multiple collections per week, reducing local amenity and increasing resident costs, and greenhouse gas emissions.

- **Reduced traffic flow** from the stopping of waste collection vehicles in the road carriageway to enable the collection of waste at the kerbside. Given the large number of bins (and larger bulky waste allocations) for mid-rise apartment buildings compared to a single unit dwelling, waste collection vehicles would be stopped for considerable time outside a property to collect the designated waste stream. The cumulative effect of multiple mid-rise properties in a single street in vicinity of a station or town centre precinct, and multiple trucks for various waste streams (waste, recycling, organics, bulky waste, bulky recoverables) would severely impact traffic flow. The alternate option to restrict parking outside such properties to enable safe pull over for vehicles is not allowed under current Transport for NSW train station precinct rules for many designated locations, nor acceptable to the community in light of increased demand for on road parking around any transport hub or town centre. Similarly, the NSW Road Rules requires that a driver not leave a vehicle running and be more than 3 metres away from the vehicle, requiring vehicles to be parked as close as possible to waste for collection and further impeding traffic flow.

- **Illegal traffic manoeuvring to collect waste.** Poorly designed waste collection solutions can require the collection of waste to occur using illegal traffic manoeuvres, such as stopping a waste collection truck in No Stopping Zones, or double parking waste collection vehicles in the middle of the traffic carriage way to operate the side loading of bins and/or loading waste into the rear of the vehicle (usually bulky waste). Waste collection vehicles are unable to stop on State and Regional Roads without a dedicated service lane constructed, with onsite collection being the existing solution to collection from state and regional roads.

- **Impacts on driver, resident and pedestrian safety**. The kerbside collection of waste delivers poor safety outcomes. It is prohibited in most LGAs to collect waste at a time prior to commencement of peak travel and commuting times, resulting in daytime collection of waste when pedestrians are common. Road rage and conflict is an unfortunate outcome of poorly designed waste management services, common towards waste collection drivers from other motorists impeded by the slow or restricted movement of traffic or concerned pedestrian traffic. Similarly, the placement of waste from multiple dwellings on the kerbside in built up areas can often result in spillage into the roadway creating obstacles or obstructions, including hazards such as broken glass from bulky waste collections.

Whilst most waste management vehicles have a number of vision safety mitigation features on board, the fact remains that they are operating in busy and tight environments with many blind spots which can affect a driver's ability to see everything around the truck simultaneously. In congested collection environments, the risks are amplified. It is important to note in a recent coronial inquest[2] into a pedestrian death by waste collection vehicle, recommendations were made to work with traffic authorities to review policies and raise these safety awareness and operational risks in suburban streets.

- **Reduced property and neighbourhood amenity**. The regular placement of bins and bulky waste on kerbsides for collection from apartment delivers poor amenity outcomes, with complaints often received by councils about visual amenity, odour, litter and falling of bulky waste into parking or street areas. The placement of bulky waste outside apartments where there is no distinct 'ownership' of the waste (as opposed to single unit dwellings) has shown to increase illegal dumping both on existing waste piles and within the location vicinity. Amenity complaints increase when this waste collection and/or illegally dumped waste is outside shop top housing, especially

[2] *Coroner Ref 2007/414155*

when located outside cafes and on activated street frontages. Scavenging, wind-blown litter into stormwater and mess from animal interference significantly increases from kerbside collection.

- **Reduced resource recovery.** The placement of recycling or organics bins at the kerbside prior to collection reduces visibility of the bins and often leads to the placement of non-recyclable waste into bins by non-residents prior to collection. Inclusion of garbage in recycling has the ability to contamination the whole truck load and will stymie efforts to recover the recyclables for remanufacturing and beneficial reuse.

All of these issues are amplified when combined with commercial waste collection and deliveries for shop top housing, and other heavy vehicle requirements for apartments, including emergency services access (particularly fire services) and resident moving trucks.

The lack of detail within this proposal is concerning. It is critical that the Department provide further detail on exactly what is meant by:

- Definition of "large vehicle". The current industry standard adhered to by Councils and commercial waste operators, is the Heavy Rigid Vehicle (HRV) in accordance with Australian Standard 2890.2 (Parking Facilities Part 2: Off-Street Commercial Vehicle Facilities).
- Detail of the waste management plan assessment process referred to, and how this will deliver a good design outcome and the ability for the proposed ongoing waste management method to be integrated with councils existing domestic waste service. It is worth noting that domestic waste services are tendered on average every 10 years, providing the opportunity only once per decade to alter the service provided within the LGA, making it critical residential buildings are developed to integrate with a council's existing waste collection service.
- The ability of councils to provide a waste service to a residential development when ADG changes overwrite the specific requirements specified in councils' DCPs and Design Guidelines that enable this essential household service to be provided. The conflict management process between the Apartment Design Guide changes and the reference to councils' existing DCP and LEP requirements outside non refusal standards continuing to apply is not addressed in the EIE.
- Lack of detail for proposed viable alternate solutions to onsite waste collection.

There are also some wider reaching policy implications of the unforeseen additional density, and potential changes to the existing service provisions that currently balance the needs of residents with service costs, sustainability of service and emission profiles, and whole of life infrastructure costs. These include:

- Shifting increased costs of waste collection infrastructure and service from developer to residents for the life of their occupation. The reduced cost of construction from excluding onsite access for 'large vehicles' for developers is paid for by the residents and community throughout the life of the building through additional waste collection costs, increased strata maintenance and building costs, and lost amenity value and increased street sweeping and litter management.
- The reduced ability to meet resource recovery targets of the NSW Waste and Sustainable Materials Policy and the NSW Circular Economy Policy Statement.
- Increased greenhouse gas emissions from increased servicing requirements and truck movements.
- Increased financial costs to residents from increased servicing, at a time when the NSW Government is placing considerable pressure on councils to increase financial sustainability of council operations and for ratepayers.
- Increased costs from unserviceable properties. Properties will have to pay both a domestic waste charge (as mandated under the Local Government Act) and a private (commercial)

waste collection contract as engaged by the strata committee. In these circumstances, residents are rarely aware of this prior to purchasing the property and have to absorb these additional costs.

- Conflicts with waste service advice for RFBs detailed in the Better Practice Guide for Resource Recovery in Residential Developments, published by the NSW EPA.
- The resultant increase in expected population growth beyond the published Six Cities population forecast, has not been included when councils tender for waste. At this time, NSW is facing a significant waste disposal and processing shortfall, with inadequate capacity of waste disposal locations and processing facilities to accommodate Sydney's waste, and poor strategic planning to plan for and provide for future waste facilities. This increased density is unexpected and exacerbates these existing problems.

***Recommendation:***

- That the changes to the Apartment Design Guide remove the requirement for "design of basement and ground floor for mid-rise housing is not required to accommodate large vehicles entering or turning around within the site" to enable waste collection to occur safely in mid-rise housing and in a manner that maintains local amenity and space conflicts.

**Low Rise Housing Changes**

Caution needs to be provided on cumulative effects of proposed changes to low rise housing detailed in the EIE, and that intended outcomes of the changes are in fact delivered when implemented. The following issues should be considered:

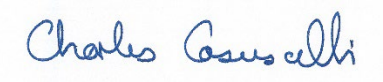
- Reduced site areas and lot widths, with more dwellings per land parcel, can result in inadequate spacing for bins and bulky waste collection. This is amplified by parking requirements and proximity to transport hubs and town centres, resulting in amenity issues detailed above.
- Further detail is required on 'reasonable' side setbacks. Given the EIE notes that intent for low rise dwellings to provide 'sufficient space' for 'a reasonable front and back yard', it is critical that side setbacks allow for the passage of bins (particularly garden and organic waste bins) to be moved between the front and back of the property without the requirement for bins to be manoeuvred through the internal floor space of the dwellings.

***Recommendation:***

- That the changes to the controls for low rise housing consider the practical delivery of household waste services (in house usability, collection mechanism and impacts on local amenity) and cumulative impacts on local amenity and collection in determining the intended changes.

## 4. Contact

Should you have any further questions on this submission, please contact Charles Casuscelli at WSROC on (02) 9671 4333 or at charles@wsroc.com.au.



**Charles Casuscelli RFD**

**CEO**