



Somewhere to call home



Encouraging supply of private rental for low-income renters

Shelter Brief 37

February 2009

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First published February 2009.
This copy printed 6 March 2009.

Shelter Brief 37
ISSN 1448-7950

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THIS PAPER outlines some current public policy initiatives to address the shortage of private rental housing available to low-income households. It supplements an earlier Shelter Brief, ‘Private rental: can it deliver affordable housing to low-income tenants?’ (June 2006), prepared by Robert Mowbray.

Background

Private providers of rental housing are an extremely important group of providers of low-rent housing in New South Wales. But the supply of low-rent private housing is insufficient for the number of lower-income people who live, or want to live, in that housing tenure type.¹

Academic studies have found there is a serious shortage of stock (dwellings) in the private rental sector available to lower-income earners.² When demand generally for private dwellings to rent is high, lower vacancy rates means that competition for those dwellings that do become free for rent is greater. In this situation, rents might be set higher than they otherwise would. Also, middle-income renters might compete with lower-income renters for the lower-rent dwellings.

Any rent asked for a dwelling in the private rental market is a ‘market rent’. But the rent asked for, or set, by a landlord or their agent will vary by location, type of dwelling, number of bedrooms, and its condition, etc. Within the range set, it is those dwellings at the lower end of the range, the ‘low market-rent’ dwellings, which lower-income households are more likely to seek.

There were 201,000 low market-rent dwellings in Australia in 2001, defined as dwellings rented out for less than \$112 a week.³ There were, at that time, some 212,000 low-income households – defined as those earning less than \$335 a week – in the private rental market. This means there was a shortage of some 11,000 low-rent dwellings affordable for low-income private renters to rent.

However, some of the 201,000 low-rent dwellings were rented by households who could have paid more in rent without having to pay more than 30% of their income in rent (i.e. without being in ‘housing stress’). There were 123,000 dwellings in this situation. So the shortfall in dwellings affordable at low-rents and available in 2001 was 11,000 plus 123,000, a total of 134,000 dwellings.

Across Australia as a whole, a shortage of lower-rent dwellings is more acute in metropolitan areas than in country areas, and in inner suburbs rather than outer suburbs of the larger cities.

A healthy rental market would have a vacancy rate (being the proportion of rental dwellings available for rent) of about 5%. The smaller the rate the ‘tighter’ the market, and the harder it is for prospective tenants to find housing, and the greater incentive there is for landlords to increase rents. Vacancy rates vary across the state. In Sydney, it was 2.3% in September 2008.⁴

The private rental market has some submarkets with dynamics that are distinct from ‘mainstream’ private rental housing. Two of these are caravan park accommodation and boarding and lodging houses.

The number of large caravan parks (defined as having 40 or more powered sites and dwellings) in New South Wales has halved since 2000, when there were 164.⁵

The number of boarding and lodging houses also seems to be in decline. Part of this submarket consists of boarding houses licensed by the Department of Aging, Disability and Home Care because it accommodates people with a disability. This part is fairly stable in size. The other part ('unlicensed') has traditionally been a key source of affordable rental housing for very-low income and transient people, especially in inner suburbs of Sydney. This market has seen two trends, a decline in supply over the last few decades, as inner-city suburbs have 'gentrified', and – more recently – a small movement of low-income earners into it.

The profile of providers of mainstream private rental housing in Australia is largely that of 'mums and dads'.⁶ More than 10% of individual income-taxpayers, over one and a half million Australians, own a rental property. Nearly three-quarters of those only own one, or part of one, property.⁷

The return on the capital put into these properties can take the form of:

- capital gains on the future sale of the property, assuming an appreciation of its value; and /or
- recurrent income from rents.

For investors and rental property businesses to get good returns on the dwellings they buy, they will generally want to rent the dwellings out to maximize rental income. When there was significant investment in private rental housing, in the early 2000s, this was mostly in premium dwellings at the upper segments of the market. The cost of housing in high-demand locations means that it is not possible for private investors to get a sufficient return from low-income tenants; indeed, any rental housing let at submarket rents would need a government subsidy for the provision to be sustainable.⁸

The cheaper (lower-rent) properties tend to be owned by people who are themselves low-moderate income earners.

Concerns about the composition and profile of providers of rental housing have led to a number of research projects and policy proposals to change the nature of the investors by encouraging institutional investors, like superannuation funds and insurance companies, to invest in residential property.⁹ The assumption has been that a more stable investor base would have flow-on effects in terms of growth of supply and possibly also better outcomes for tenants, like greater length (security) of tenure. A key problem for the development of a bespoke rental housing product has been that housing that is developed in the owner-occupied market always generates higher development values than housing that is developed for rental; indeed, the prices of a housing unit are dictated by the owner-occupied market and do not relate to demand from residential property investors.¹⁰ The intense focus by Australians on speculative real estate investment in the 2000s, in a period era of high price inflation for dwellings and easy credit, contributed to the present state of the rental market – one that is characterized by supply shortages, price inflationary pressures, and churn.

The challenges for supply of low-rent private rental that we have in Australia mirror those in comparable Anglophone countries.

In **England**, the government commissioned a report from York University on the contribution and potential of the private rented sector¹¹, whose findings have some resonance with this tenure in Australia. The report's authors argue that that the cottage nature of small-scale landlordism has some consumer benefits, primarily from the uncosted 'sweat equity' of those landlords in managing their properties, which is not priced into rents. Commentators there lament the lack of large-scale institutional investment (in private rental) – though there have been developments of larger-scale private rental developments targeted to university students.¹² But the authors suggested that there were few large landlords operating at a scale for institutional investment to be appropriate. They concluded that the main policy challenge was to help good landlords to expand their portfolios. This help should extend to small and large landlords, since the larger landlords that were there tended to grow through portfolio acquisition rather than new-build. The report was cryptic on concrete suggestions on the form that such help should take. The key suggestion was: 'Changes to the tax system should be framed to encourage landlords to view their letting activity as business rather than investment activity...'. The two specific matters discussed were:¹³

- modification of the way stamp duty was levied on purchase of multiple dwellings; and
- rolling over a liability to pay capital gains tax on the sale of a dwelling where the capital from the sale is reinvested in another rental property.

In the **USA**, a report from Harvard University suggested a number of actions to increase the supply of private rental housing:¹⁴

- elimination of land-use policies that limited development of affordable, higher-density housing in resource-rich suburban communities;
- perfect pooling approaches to acquire several properties with a single financial transaction; and
- designing new types of real estate investment trusts (REITs) to raise capital from private to invest in small apartment projects.

Another Harvard paper suggested that the first premise of a rational policy toward (smaller unit) private rental was that its preservation '*under continued dispersed private ownership*', is a sound, even essential objective'.¹⁵ It thought that a major shift to corporate or REIT ownership would not materially change the fundamental ownership pattern of this stock in the foreseeable future.

Public policy responses

The amount of dwellings in private rental accessible to low-income households will depend on a number of factors including:

- construction of new dwellings targeted to those consumers
- development of new product types targeted to those consumers
- loss of existing dwellings targeted to those consumers, e.g. through demolition or transfer to another tenure (e.g. owner-occupation)

While new dwellings are more likely to be targeted to higher-income earners, lower-income earners could eventually benefit from filtering. This is the movement of housing stock from higher- to lower-income households as it ages and deteriorates¹⁶; it is the reverse of gentrification, the process in which higher-income households enter well-located locales and drive up property values and rents. Filtering can result in reductions in the prices of, and rents asked for, older (and therefore aged) dwellings.¹⁷ Where this process is associated with lower-income households moving into those dwellings and spending a small proportion of their income on housing, it is called welfare filtering.¹⁸ This ‘natural’ process or working of the market in dwellings is obviously not adequate.

The Commonwealth, state and local governments do have some programs aimed at encouraging or supporting supply of private rental housing. Some of this support is targeted to or intended to benefit low-income renters.

Commonwealth government interventions

The Commonwealth government interventions that impact on rental housing markets are primarily in the area of fiscal policy:

- the taxation system, being the taxes themselves and tax expenditures (foregone revenue); and
- direct expenditures on goods and services, e.g. subsidies to private providers of rental housing (e.g. National Rental Affordability Scheme, Low Emission Assistance Plan for Renters), subsidies to consumers of private rental housing (e.g. Commonwealth rent assistance, Low Emission Assistance Plan for Renters).

The Commonwealth taxation system includes concessions that encourage or assist investment in residential property (rental housing).¹⁹ Those tax concessions are:²⁰

- an ability to claim some costs in providing it against a taxpayer’s income for income-tax assessment purposes²¹. These may comprise:
 - cash deductions (i.e. deductions for running expenses):
 - . expenses relating to repairs and maintenance, cleaning, property agents’ fees, letting fees, lease document expenses, body corporate fees (for non-capital items), local government rates, land tax, public liability insurance, building insurance, security patrol fees, water charges, etc.²²;
 - . interest on loans taken out to purchase a rental dwelling or land on which to build a dwelling for rental, and interests on loans to pay for repairs and renovations; and
 - noncash deductions²³:
 - . costs related to loans taken out to purchase a rental dwelling or land on which to build a dwelling for rental, or loans to pay for repairs and renovations, such as loan application fees and bank valuation fees;
 - . deductions for certain kinds of capital works, such as a new dwelling, adding a room, adding an internal wall, or putting up a fence; this works in a similar way to depreciation but concerns the decreasing value caused by wear and tear of the

- dwelling itself, calculated as 2.5% of the historical construction cost (not including plant and equipment)²⁴; and
- . depreciation on the decreasing value of fixtures and fittings caused by wear and tear.

In 2005-06, individuals with rental properties, overall, had a negative income from renting them; that is, the claimable costs on the properties were greater than the rent income. In 2005-06, 66.5% of individuals with net rental income made a loss from their property.²⁵

- an ability to claim a deduction for the full amount of rental expenses against their rental and other income (e.g. such as salary, wages or business income) where the property is purchased with the assistance of borrowed funds and the net rental income, after deducting other expenses, is less than the interest on borrowings. In 2005-06, 66.5% of individual taxpayers with net rental income were thus ‘negatively geared’.²⁶ Many financial analysts suggest this investment strategy is more suited to top income earners.²⁷ However, most of the taxpayers negatively gearing investment dwellings are low-moderate income earners: 70% of individual taxpayers who reported a negative income from rental properties had overall taxable incomes of less than \$63,001 (2005-06).²⁸

The Australia’s Future Tax System Review Panel was cool to suggestions that tax benefits for private rental housing lead to higher house prices, on the ground that their potential effect depended on the share that investment with those benefits had in the total investment market.²⁹ Some half of investors in rental housing were likely to get a limited tax benefit because of low levels of gearing and low personal tax rates. Moreover, private investors have a minority share (around 22%) in the overall property market, which constrains their ability to influence house prices in the long term.

None of those tax measures targets providers of rental housing for *low-income* renters.

National Rental Affordability Scheme

However, the Commonwealth introduced a new scheme in 2008, the National Rental Affordability Scheme (NRAS), which aims to increase the supply of affordable rental housing. The scheme comprises a Commonwealth subsidy to additional housing that would be rented for at least 10 years at a rent that is no more than 80% of the median market rent in the area where the house is built. To be eligible for a tenancy in these dwellings an applicant for a tenancy who is a single person would not have an annual income over \$39,251 – so, the income eligibility is more liberal than current public, community and Aboriginal housing in New South Wales (\$22,880 for a single person). The new social housing would therefore be available to a broader range of people than public housing currently is (while not precluding very-low-income tenants), producing higher rent revenues and assisting sustainability (profitability) for providers.

The Commonwealth government’s intention is to encourage the production of 50,000 additional dwellings by 2012. The dwellings would be owned by the bodies financing their development, e.g. privately-owned property developers, financial institutions, or nonprofit housing/welfare organizations, not by the government. The dwellings assisted with the subsidy would have to be used for the purpose of the scheme for the duration of the subsidy (i.e. 10 years).

The scheme involves a Commonwealth subsidy of \$6,000 a year for 10 years to each dwelling produced, and a basic state government subsidy of \$2,000 a year for 10 years to each dwelling produced. The Commonwealth subsidy takes the form of a tax credit for private sector participants and a grant for charity participants.

The Commonwealth government guidelines for the scheme allow for the property and tenancy management of the new dwellings to be undertaken by – among others – private businesses (e.g. real estate agents). This means it has potential to directly contribute to a supply of private rental housing let at submarket rents. It could indirectly assist low-income earners access low-rent dwellings by relieving some of the pressure (competition) for the low-rent stock in the market.

However, the potential for this scheme to contribute to new supply of submarket-rent, private rental housing is limited in those jurisdictions where state requirements and guidelines militate against private sector providers. For example, in New South Wales, in the case of the basic state subsidy of \$2,000 per dwelling for 10 years (for which any type of housing developer or provider may apply), Housing NSW indicated it would give priority in assessing proposals for incentives to proposals where the property and tenancy management of the new dwellings is done by registered community housing providers, with a preference for ‘growth’ community housing providers.³⁰

Of the 507 incentives offered to NSW applicants, in December 2008, following the round one call (total of NRAS A and NRAS B), only 4% went to applicants where the dwellings were not to be managed by community housing providers.³¹ Of the 220 NRAS B incentives offered, 9% (N=21) went to applicants where the dwellings were not to be managed by community housing providers.³²

State government interventions

Interventions by state governments in rental housing markets that impact on supply take a number of forms:

- Fiscal policy:
 - Taxes, e.g. land tax, stamp duty on house sales;
 - Tax expenditures, e.g. land tax exemptions;
 - Direct expenditures on goods and services, e.g. Boarding House Financial Assistance Program; and
- Regulatory interventions, e.g. fair trading laws, tenancy protection laws, licensing of real estate agents, licensing of boarding houses that accommodate two or more handicapped persons, land use controls.

Land tax exemptions

Land tax is an important ‘own-source’ revenue for the state government. The state government gives a general concession on land tax by not charging it on land valued under \$368,000 (2009 tax year). This is a benefit to investors in residential property.³³ Land tax and the tax threshold apply to the total value of the taxpayer’s land.

The government also gives some targeted concessions that focus on rental housing occupied by low-income households.³⁴ Three of particular note are the exemption from land tax for:

- land used and occupied primarily for low-rent accommodation in inner Sydney (within a 5 km radius from the Sydney General Post Office) – this is worth less than \$1 million a year;
- boarding houses where at least 80% of the accommodation is let to long-term boarders at low rents – this is worth \$6 million a year; and
- residential parks and retirement villages primarily occupied by retired people – this is worth some \$97 million (2008-09).

The current exemption from land tax for land used and occupied primarily for low-cost accommodation is confined to land in inner Sydney (specifically, for land within 5 kilometers of the Sydney general post office). In 2005, Shelter suggested this exemption be extended to inner and middle ring suburbs where land and housing property price were also high. Shelter wrote to the Treasurer, who approves the guidelines for this exemption (under the *Land Tax Management Act 1956*, section 10Q).

Shelter noted that the exemption would currently cover parts of the Sydney, North Sydney, Leichhardt, and Woollahra local government areas. Rent levels in these local government areas were among the highest in the metropolitan area and the state. However, these local government areas shared this characteristic with other local government areas in the inner-ring suburbs generally and some middle-ring suburbs, recording the highest rent levels for new bonds lodged with the Rental Bond Board (data from Department of Housing *Rent and Sales Reports*). In the December quarter 2004 the 14 local government areas with the highest first-quartile rents for a new tenancy for a one-bedroom flat or unit were: Willoughby (middle), Sydney (inner), Manly (middle), North Sydney (inner), Waverley (inner), South Sydney (inner), Canada Bay (middle), Woollahra (inner), Mosman (inner), Randwick (inner), Ku-ring-gai (middle), Warringah (outer), Leichhardt (inner), and Lane Cove (inner). Local government areas in the eastern suburbs, lower north shore, and inner-western suburbs consistently showed the highest rent levels across a range of quarters for which data are tracked by the Department of Housing.

Shelter recommended a modest expansion of the geographic coverage of the exemption by, first, redefining the land by local geographic area, rather than distance from the Sydney GPO; and, second, by naming specific local government areas where highest rents presented the strongest barrier to availability of affordable private rental housing. Shelter suggested that expansion of the scheme to these geographic areas would contribute to meeting demand for affordable private rental housing for low-income households, ‘key workers’ (i.e. blue-collar and low-paid white-collar workers employed in public amenities and services), and creative workers working in businesses vital to Sydney’s global competitiveness (the local government areas align with the suburbs contained in the ‘global arc’ of suburbs and workplaces). The specific local government areas we named were Canada Bay, Ku-ring-gai, Lane Cove, Leichhardt, Manly, Mosman, North Sydney, Randwick, Sydney, Warringah, Waverley, Willoughby, and Woollahra.³⁵

The Treasurer rejected Shelter's recommendation, believing that a threshold on residential investment properties, under which land tax was not charged, would address our concern. The Government had reinstated a tax-free threshold on residential investment properties 'in response to public concerns', during the 2005-06 Budget, to take effect from the 2006 land tax year.³⁶ The threshold was \$330,000 in 2006; it is now (2008 land tax year), with indexation, \$359,000.

There are strong arguments that the more exemptions and concessions there are in a tax system, the more inefficient and complicated it becomes.³⁷ The Independent Pricing and Regulatory Tribunal noted, following a review of the NSW taxation system, that the effect of tax expenditures was to narrow the tax base and thus place an increased burden on those taxpayers still included in that base.³⁸ The amount of money foregone on tax expenditures by the government, at about \$4 billion, is about one-fifth of total own-source revenue³⁹; the government would be collecting 20% more in own-source revenue if it wasn't giving exemptions and concessions on particular taxes. NSW tax expenditures are higher than all other Australian jurisdictions apart from the Northern Territory. The Tribunal's very conservative recommendations on this matter were that: (a) the Budget report tax expenditures as a line item so that ministers explicitly consider their funding during budgetary allocation for the relevant agency; and (b) each tax expenditure should be time-limited, with its continuation subject to a decision by the Parliament.⁴⁰ So, introduction of new tax expenditures is not the best way to promote a reform, because of its impact on the whole tax system.

The current cost of this particular tax exemption (for low-rent housing in inner Sydney) is less than \$1 million a year. It is a very small program. Expansion of coverage to 14 local government areas would change that. One possible 'softener' would be to restrict the eligibility to landowners with a value over a certain threshold (as a way of favoring owners of more than one investment property or of larger, multiunit dwellings) but this would disadvantage existing taxpayers and their customers (within the current 5 kilometer catchment).

Purchaser transfer duty

Before the last state election (2007), the Opposition announced it would give a concession on purchaser transfer duty of \$4,000 to buyers of dwellings for investment purposes where those dwellings were valued up to \$500,000 and were let out to residential tenants for at least a 5-year period.⁴¹ However, the proposal did not explicitly tie the concession to provision of the rental housing at low-market rents, though lower-priced dwellings will generally rent for less than higher-priced dwellings. It has an implementation difficulty in terms of compliance, because the concession is front-ended (the concession being applicable to the initial purchase transaction), whereas the benefit to tenants is ongoing, over 5 years, which would necessitate compliance monitoring – and presumably recoupment of all or part of the subsidy if the owner takes the property out of the rental market. Moreover, it is another reform taking the form of a tax expenditure, with all the deficiencies that tax expenditures have, particularly distortion on the tax system as a whole.

The intent of this proposal could be better achieved and targeted, and require no new administrative (including compliance) arrangements, if the concession was given to private sector applicants teamed with private landlords under the National Rental

Affordability Scheme as a supplement to the current \$2,000 basic state subsidy available to successful private sector applicants. However, a dwelling that is not a new dwelling is ineligible for an NRAS subsidy. The 2007 Opposition election promise did not confine the proposed concession to new dwellings, and thus included dwellings moving out of the owner-occupation market into the private rental market – a scenario not accommodated by the NRAS. The proposal would, therefore, probably need its own monitoring and compliance arrangement, such as the Office of State Revenue has with other concessionaries.

Financial assistance to boarding house owners

Housing NSW gives small grants to owners of boarding houses where 80% of the accommodation is let to long-term boarders at low rents, to assist providers to undertake work to meet fire safety standards e.g. sprinkler systems. The works may involve an existing boarding house, extending an existing boarding house (additional bedrooms), or construction of a new boarding house.⁴² The boarding house must meet certain criteria (e.g. length of residence, rent caps, eligibility for exemption from land tax). The grant is also available for *new* boarding houses and extensions to existing ones. Boarding houses that are licensed by the Department of Ageing, Disability and Home Care are eligible. The grant limit is usually \$50,000 per boarding house.

The budgetary allocation to the program, which is part of the Housing NSW budget, is small. In 2008-09 that agency allocated \$200,000 for 20 boarding houses⁴³, which would allow an average of \$10,000 of works each.

Long-term leases

The state government has responsibility for regulation of the terms on which providers and consumers (tenants) trade in the private rental market. Given the large numbers of people in that market who do not want to or are unable to move into either homeownership or social housing, some housing advocates have raised the introduction of long-term leases as an option for greater flexibility and choice for tenants.⁴⁴ An intended effect of the model would be the encouragement of investment in rental housing from investors who are interested in rental properties because of the income stream (and thus, in positive gearing), rather than capital gain windfalls associated with dwelling price inflation. Of course, such an arrangement alone, in isolation, is unlikely to be sufficient motivation for such investment.

The Office of Fair Trading has discussed the introduction of a regulatory arrangement to encourage leases of 10 years or more⁴⁵, but it reported opposition from many landlord and real estate agents since they feared being stuck with unwanted tenancies and with rent levels that could fall behind market trends. (The Office's specific suggestion that a long-term lease should be at least 10 years might not have helped the proposal.) There was no consensus among key lobby groups on this matter following an 2005 options paper (*Residential tenancy law reform: options paper*). And so the Office's 2007 directions paper (*Residential tenancy law reform: a new direction*) simply said the matter should be subject to 'further examination and consultation'.

One of the issues raised in the debate is whether there are any current regulatory barriers to landlords offering long-term leases now. One relevant matter is a requirement of section 53 of the *Real Property Act 1990* that a lease of three or more years (fixed term) has to be registered with the Department of Lands. The effect of

this registration is that a new owner of the dwelling, if it is sold during the period of the lease, must maintain the leasing arrangement; they cannot buy it with vacant possession. The Act's requirement is thus a tenancy protection measure. It also maintains the dwelling in the private rental market for the duration of the lease. The Act does not prevent variation of the lease to change the rent or change the period of the lease (cp. section 55A). Does it therefore discourage landlords from entering leases with fixed terms of three or more years?

In its submission on the 2005 options paper, the Tenants Union of NSW said:⁴⁶

The TU submits that security and dignity in rental housing would be better delivered by tax policies that encourage landlords to enter into long-term fixed term tenancies in return for targeted tax expenditures and other subsidies, rather than by tenancy legislation that allows landlords to offer long-term fixed term agreements in return for a tenant's right to live in premises that are properly maintained and repaired.

The only government-backed scheme that links targeted tax measures with encouragement of 'longer leases' is the National Rental Affordability Scheme.⁴⁷ The scheme does not require longer leases or other rights of tenants beyond those in a state's residential tenancies law, though it encourages them.

Planning for caravans and manufactured home estates

Two state environmental planning policies (SEPPs) are relevant to supply of private rental where caravans and manufactured homes are rented out rather than owner-occupied. *State Environmental Planning Policy 21 – Caravan Parks* is the SEPP that gives the overall framework for approving new caravan parks. Caravan parks may be developed with approval from a council. In considering an application for a new caravan park the council must consider: (a) whether the land concerned is particularly suitable for use as a caravan park for tourists or for long-term residence; (b) whether there is adequate provision for tourist accommodation in the locality of that land, and whether existing or potential tourist accommodation will be displaced by the use of sites for long-term residence; (c) whether there is adequate low-cost housing, or land available for low-cost housing, in that locality; and (d) whether necessary community facilities and services are available within the caravan park to which the development application relates or in the locality (or both), and whether those facilities and services are reasonably accessible to the occupants of the caravan park. In determining the development application, the council must specify the maximum number of sites that are suitable for long-term accommodation (if any).

State Environmental Planning Policy 36 – Manufactured Home Estates is the SEPP that gives the overall framework for approving new manufactured home estates. It applies to all areas of the state outside Sydney and within Sydney to the City of Gosford and the Shire of Wyong. It says that a manufactured home estate may be built on land where a caravan park may be built.

These two SEPPs simply state that caravan parks and manufactured home estates are approvable uses of land. Their major role is to prevent a council from banning any new caravan parks or manufactured home estates on that ground as such. Their secondary role is to protect tourist use of parks from use by long-term residents.

Local government interventions

Local governments may use environmental planning policies to address the supply of low-rent private rental housing in an indirect way, by encouraging or insisting on provision of smaller dwellings which are likely to be let at lower rents (than larger dwellings). There are two such policies in use. The first policy is to require a proportion of smaller-sized dwellings in multi-unit dwellings (flats, master-planned estates, etc.). The second policy is to allow for secondary dwellings to be built on the same block of land as a principal dwelling.

Smaller-sized unit in multi-unit dwellings

The imposition of development controls to require a number of smaller units in new blocks of flats has been used by a few local government councils. Such a policy is typically badged as one promoting ‘housing diversity’ though ‘housing choice’. Leichhardt council requires multi-unit developments of 4 or more units to provide a minimum of 25% (to the nearest whole number of dwellings) bedsitter or 1-bedroom units.⁴⁸ Parramatta council requires multi-unit developments to provide 10-20% 1-bedroom units; developments of less than 10 units are not required to provide these proportions but they must include a range of dwelling sizes.⁴⁹ Blue Mountains council requires multi-unit developments and accessible housing to incorporate a range of dwelling sizes, particularly contributing to the increased provision of 1 and 2-bedroom dwelling stock, and to include a minimum of 33% (to the nearest whole number) of the units with a gross floor area no greater than 100 square meters.⁵⁰ Sydney City council requires residential developments of more than 20 dwellings to provide a maximum of 15% studio apartments and a maximum 30% 1-bedroom apartments.⁵¹ This approach is pretty blunt and does not necessarily produce affordability because one-bedroom or studio units can be very expensive in favored areas (e.g. west Surry Hills, Rushcutters Bay, etc.); moreover, it does not address affordability for larger households, being possibly more suited to sole-person households.

Secondary dwellings

A small number of local governments have amended local development controls to allow secondary dwellings ('accessory dwellings', 'granny flats'⁵²) in any residential zones – 15 out of 152 councils.⁵³

The *Standard Instrument (Local Environmental Plans) Order 2006* defines a secondary dwelling as a self-contained dwelling that is: (a) established in conjunction with another dwelling (the principal dwelling); (b) built on the same block of land (not being an individual lot in a strata plan or community title scheme) as the principal dwelling; and (c) located within, or is attached to, or is separate from the principal dwelling.⁵⁴ In other countries, the terms 'secondary suites', 'accessory suites', 'garden suite', and 'accessory dwellings' are used.⁵⁵

Changes to allow secondary dwellings have usually been explicitly motivated by councils' concerns about affordability (e.g. Parramatta, Pittwater), rather than promotion of densification, though the dwellings do contribute to some densification.

Secondary dwellings are likely to have affordability outcomes, delivered through their built form: they are smaller than principal dwellings and have less amenity in some respect than, say, cottages (e.g. no laundry) and so the rent that can be asked for by

the owner (the resident of the principal dwelling) would be less than a self-contained apartment.

Canadian survey data show they are typically rented at the low end of the market, at rents in the range of 15-20% less than comparable units in flats in their neighborhood.⁵⁶ The Canada Housing and Mortgage Corporation reported that secondary dwellings would be viable ‘when there is demand from perspective tenants who are willing to live in close proximity to landlords and/or to other tenants in order to save on rent’. These findings are consistent with the results of a survey of tenants in British Columbia by the Tenants Rights Action Committee, which found a significant difference between rents paid and rents in ‘traditional’ rental units; moreover, nearly 80% of the respondents identified affordability as an important factor for them choosing to live in a secondary suite.⁵⁷ In the USA, state governments on the west coast have promoted them, through legislation, as a means of promoting supply of affordable housing.⁵⁸

Landcom did a study of secondary dwellings in 2003, which found there were 6,400 such units in Sydney in 2001.⁵⁹ Most of the units had one bedroom, but nearly half had 2-3 bedrooms. The average occupancy was 1.8 persons. Nearly half of the households were single-person, with couples with no children 18% and sole-parent families 5%. Just over half of residents were aged between 25 and 54 (i.e. not students or seniors). The median rent levels paid were 33-50% lower than rents paid by similar households in other dwellings. The study estimated that there were 61,000 low-income private renters in housing stress who could benefit from access to secondary dwellings. It also looked at where supply of secondary dwellings might come from, and concluded that there were over 26,000 dwellings in Sydney with potential to have secondary dwellings.

In Canada, the landlord of owner-occupied dwellings with secondary dwellings are typically young households supplementing their incomes to afford their houses, with ‘few’ ‘senior households’ having those dwellings.⁶⁰

The Standard Instrument (Local Environmental Plans) Order does not make such dwellings as a default use (whether as complying or permissible-with-consent) in any zone. It is for this reason that councils have had to deliberately amend their LEPs so that secondary dwellings may be built.⁶¹

Development control plans have been used to address amenity and environmental and social impacts. These controls are broadly similar, differing in extent and nature of detail. Those of Parramatta council give a good idea of what those controls seek to do. The secondary dwelling may be no more than 1 storey and no higher than 4.5 meters.⁶² The secondary dwelling and principal dwelling together may not exceed a maximum floorspace ratio of 0.5:1. The secondary dwelling may not reduce the minimum area required for private open space for the principal dwelling, and may not reduce the minimum required area for deep soil zone at the rear of the site for the principal dwelling. The secondary dwelling is to have self-contained cooking facilities. There is no explicit requirement for a toilet and showering facility.⁶³ The secondary dwelling may not detract from the visual amenity of the development of the site and surrounding locality. If the secondary dwelling is attached to the principal dwelling, it must be integrated with the design, color and materials of that dwelling.

No additional carparking space is required. No ‘section 94’ contributions are required for developments valued less than \$24,500.

The extent and nature of development controls is a key matter, with Canadian experience indicating that requirements for development consent for previously illegal dwellings led to a decline in supply (in response to the cost of compliance) and might also have discouraged new investment in this product.⁶⁴ At the moment, the Standard Instrument (Local Environmental Plans) Order 2006 does indicate one (only) standard for secondary dwellings, namely a cap on total floor area: the total floor area must not be more than 60 square meters or a specified proportion of the total floor area of both dwellings⁶⁵, whichever is the greater.⁶⁶

We do not know how the ‘market’ will respond to this type of dwelling. There might, of course, be many such dwellings now in local government areas where the councils have not approved them. In the USA, on the west coast, the actual number of secondary dwellings approved in established neighborhoods was ‘more like a trickle than a tidal wave’.⁶⁷

The most important change that the state government could take to encourage the development of secondary dwellings would be to make them permissible uses in all or some residential zones, by amending the Standard Instrument (Local Environmental Plans) Order which defines the default or common land uses for each land-use zone. At the moment, the Order does not indicate secondary dwellings as a default, permissible use in any zone. The government could amend the Order by:

- including secondary dwellings as a permissible use in all or some residential zones; the experience with dual occupancies suggests that allowing secondary dwellings in all residential zones could work against densification because of lost opportunities for redevelopment of suitable sites for flats, in which case – if this is a likely outcome – they could be specified as a permissible use in the general residential (Zone R1), low-density residential (Zone R2), large-lot residential (Zone R5), and environmental living (Zone E4) zones, but not medium-density residential (zone R3) or high-density residential (Zone R4) zones.
- indicating that secondary dwellings are permissible with consent or permissible as a complying development (the latter being more facilitative than the former).⁶⁸

In a submission to the Department of Planning on 28 November 2008, Shelter proposed secondary dwellings be allowed in all residential zones and be treated as a complying development. However, there is no strong argument for rigidity on the options of all residential zones versus lower-density residential zones or of permissible with consent versus permissible as complying development.

In Canada the federal government has a subsidy program for the construction of new secondary dwellings, where the owner of the principal dwelling is eligible for the subsidy if they let the secondary dwelling to an adult person with a disability or to a low-income older person.⁶⁹ The subsidy takes the form of a forgivable loan, which does not have to be repaid so long as the owner is complying with program rules on tenant eligibility and rent caps.⁷⁰

Comment

With over 400,000 NSW households living in private rental tenure, and the particular role that this tenure plays in accommodating the very-low income people who cannot afford homeownership, adequate supply of this housing (at affordable rents) is a key element in any suite of solutions to address housing stress.

A common response to the problems in the private rental market is to advocate for more public housing as the alternative. But there are twice as many low-income people eligible for public housing who are not on the public housing waiting list as there are people who are on the public housing waiting list. A national survey of private renters in receipt of Commonwealth rent assistance who were not on a waiting list for social housing found that an overwhelming majority, 80%, did not consider public housing as a suitable housing solution for them.⁷¹ Nearly a third (31.5%) considered that it would only be a last resort for them; a tenth (13.9%) said they would never consider it; and just over a third (36.5%) said they would consider it only if they could not afford the rent where they were anymore. The reasons given by those renters for preferring to live in private rental were varied. The key point is that from a *consumer choice* perspective, the supply of (and affordability in) private rental housing are challenges that need creative public policy responses.

Notes

¹ In this paper private rental housing refers to dwellings privately owned *and* managed by the owner (landlord) or an agent of the owner operating on a for-profit basis. Privately-owned dwellings headleased and managed by nonprofit housing providers, whether government agencies or community housing providers, are social housing.

² These arguments and the data in the new few paragraphs are from Judith Yates, Maryann Wulff and Margaret Reynolds, 'Changes in the supply of and need for low rent dwellings in the private rental market', Australian Housing and Urban Research Institute, Melbourne, June 2004.

³ This paper refers to data from 2001 because it is census data from that year that was used in a report specifically on the supply of low-rent private rental housing done by Judy Yates and two colleagues (see note 2). Maryann Wulff is undertaking an update study funded by the Australian Housing and Urban Research Institute (see <<http://www.ahuri.edu.au/publications/projects/p50502/>>).

⁴ SQM Research, <www.sqmresearch.com.au/graphs/terms_vacancy.php>, viewed 30 October 2008.

⁵ Andy Marks, *Residents at risk: stories of 'last resort' caravan park residency in NSW*, St Vincent de Paul Society NSW, 2008.

⁶ The Australian Taxation Office distinguishes between investors in rental housing and people running a rental housing business ('Rental properties 2008', Canberra, May 2008, p.4). The difference is made on the scope (size and scale) of and degree of participation in rental property activities, with an investor having a narrower range of activities and less participation in rental property activities. A person in either category could be a landlord, i.e. owner and ultimate controller of the use of the property (even where property and tenancy management is outsourced to an agent, e.g. a real estate agent) and as such an investor might engage in some property and tenancy management activities. The criteria the ATO uses to determine whether an owner of a rental property is carrying out a business are indicated in Taxation ruling TR 97/11 (<http://law.ato.gov.au/atolaw/view.htm?docid=TXR/TR9711/nat/ato/00001>).

⁷ In the 2005-06 tax year, there were 1,490,289 individuals with an interest in real property. Of those, 1,081,067 (72.5%) had an interest in only one property, and 12,442 (0.8%) had an interest in six or more properties (Australian Taxation Office, 'Taxation statistics 2005-06', 2008, p.13).

⁸ In this paper, a submarket rent is a rent set below any level that would be set according to commercial criteria, including loss-leading or loss-generating where generation of a loss is a deliberate investment or business strategy; having no commercial basis, a submarket rent would undermine the sustainability of the dwelling's presence in the rental market. (In England, providers of submarket rental housing are subsidized by government and the submarket rent may be no more than 75% of the median, open market rent in the locality, as a condition for the subsidy.) On this definition, a very low rent that is well below, for example, a median rent for new tenancies in an area and that has been set according to commercial criteria, such as pricing to attract or retain tenants, is a market rent and not a submarket rent.

⁹ The most important of these was Gavin Wood, Richard Watson and Paul Flatau, 'A microsimulation model of the Australian housing market with applications to Commonwealth and state policy initiatives', AHURI Final Report no.33, Australasian Housing and Research Institute, Melbourne, 2003.

¹⁰ Jacqui Daly, 'Overcoming barriers to institutional investment in residential property', GLA Economics Working Paper no.29, Greater London Authority, London, 2008, p.11,9.

¹¹ Julie Rugg and David Rhodes, *The private rented sector: its contribution and potential*, Centre for Housing Policy, University of York, York YKS, 2008.

¹² This phenomenon might be mirrored in Australia: see

<www.campusliving.com.au/clvAustraliaNZ/business/html/villages.php>.

¹³ Rugg and Rhodes, pp.55-57.

¹⁴ Joint Center for Housing Studies of Harvard University, *America's rental housing: the key to a balanced national policy*, Harvard University, Cambridge MA, 2008, pp.22-23.

¹⁵ Alan Mallach, 'Landlords at the margins: exploring the dynamics of the one to four unit rental housing industry', Joint Center for Housing Studies, Harvard University, March 2007, p.58; emphasis in original.

¹⁶ James Sweeney notes that rental housing units comprise a commodity hierarchy within which units deteriorate over time through progressively lower levels until they are demolished either as they pass from the lowest quality level or as their value is reduced to zero ('A commodity hierarchy model of the rental housing market', *Journal of Urban Economics*, vol.1, no.3, July 1974, pp.288-323).

¹⁷ Sweeney's hypothesis seems to have been robust enough to still retain its conceptual use for economists, but his particular formulation has been criticized for, among other things, its assumption that dwellings deteriorate in quality no matter how much money is spent on maintenance, its failure to incorporate land and location, and its assumption that dwellings are differentiated only by quality (Richard Arnott and Ralph Braid, 'A filtering model with steady-state housing', *Regional Science and Urban Economics*, vol.27, no.4-5, August 1997, p.516).

¹⁸ 'Filtering in housing', Canada Mortgage and Housing Corporation, *Filtering in housing*, Research Highlight (Socio-economic series 04-040), Ottawa, 2004, p.1. This report found no welfare filtering effect in the private rental markets in Canadian metropolitan areas; households were spending a larger proportion of their income on rent by living in older dwellings. That is, there was negative or upward filtering, with older dwellings becoming more expensive to rent over time.

¹⁹ The major taxes and transfers relating to housing are listed in Australia's Future Tax System Review Panel, *Australia's future tax system: consultation paper* (K Henry, chairperson), Treasury, December 2008, Table 11.1, p.204.

²⁰ The features of the tax system that benefit investment in rental housing were not specifically established to benefit residential investment: they are available for investments in other assets and activities (Australia's Future Tax System Review Panel, p.207).

²¹ The taxpayer/investor may not claim expense deductions for acquiring or disposing of the rental property, including purchase costs, conveyancing costs, advertising, or purchaser transfer duty (Australian Taxation Office, 'Rental properties 2008').

²² These costs are claimable as deductions only if incurred by the taxpayer as part the costs or providing the property for rental; costs incurred from personal use and costs incurred by tenants are not claimable.

²³ The concept of 'non-cash' in relation to this deduction refers to the fact that the investor/taxpayer does not have to pay out money during the particular financial year to be able to claim it: they had already paid out cash when they bought the property.

²⁴ These deductions would generally be spread over 25 or 40 years, and may only be claimed during years that the property is rented or available for rent; they may not be taken into account in working out other types of deductions, such as deductions for decline in value of depreciating assets. I think this category is what people are referring to when they say 'building write-off allowance', 'building allowance' or 'special building write-off'. The 2.5% rate applies to buildings built after 15 September 1987.

²⁵ Australian Taxation Office, 'Taxation statistics 2005-06', p.12.

²⁶ Australian Taxation Office, 'Taxation statistics 2005-06', p.12.

²⁷ 'Treat negative-gearing with care. You make money only when the net capital value of the property of the property increases by *more* than the net negative out-goings. This is fine in a buoyant market, but can be disastrous in a down market.' (eChoice Home Loans, 'The beginner's guide to residential property investing', 2007, online at <www.echoice.com.au>, viewed 18 November 2008)

²⁸ Australian Taxation Office, 'Taxation statistics 2005-06', p.12.

²⁹ Australia's Future Tax System Review Panel, p.214.

³⁰ Housing NSW, 'National Rental Affordability Scheme: NSW program requirements round 1', n.d. (2008), p.11; Housing NSW, 'NSW affordable housing priorities', n.d. (2008).

³¹ Twenty-one incentives were offered to Edgeworth Projects Pty Ltd for dwellings to be constructed in Lake Macquarie (Centre for Affordable Housing, 'National Rental Affordability Scheme', online at <www.housing.nsw.gov.au/Centre+For+Affordable+Housing/NRAS/>, updated 23 December 2008, viewed 24 December 2008). Two other lots of incentives went to two private sector applicants, but they propose to have the dwellings managed by community housing providers.

³² See footnote 31. Two other private sector applicants won incentives (N=133) but the dwellings are to be managed by community housing providers.

³³ Land tax does not apply to the land where the taxpayer has the principal place of residence. It applies to land even where the land does not have a use that generates income for the taxpayer, e.g. weekender, hobby farm, vacant. The value taxed is the unimproved value of the land (i.e. without any improvements, such as dwellings) as valued by the Valuer General.

³⁴ The Australia's Future Tax System Review Panel noted that land tax paid by investors in residential property is likely to be 'shared' with tenants, in the form of higher rents (p.215). If land tax was to be applied to all dwellings, including owner-occupied houses, the prices of houses could come down. For owners of rental dwellings, who do pay land tax (where above the threshold), they can protect their

after-tax return on their investment by passing on part of the cost of the tax to their customers. ‘In this way, a majority of the impact of land tax on investors is likely to be borne by tenants.’

³⁵ These local government areas remain those with the highest rents (in the September quarter 2008), along with Strathfield.

³⁶ The Government abolished the tax-free threshold in 2004 from the 2005 land tax year but a popular campaign forced the reinstatement of such a threshold from the 2006 tax year (i.e. the threshold existed for one year only, 2005). Shelter had supported the abolition of the threshold.

³⁷ The disbenefits of tax expenditures are listed in Michael Vertigan and Nigel Stokes, ‘New South Wales audit of expenditure and assets report’, Sydney, February 2006, p.68, and R F E Warburton and P W Hendy, ‘International comparison of Australia’s taxes’, Commonwealth of Australia, April 2006, p.398.

³⁸ Independent Pricing and Regulatory Tribunal, *Review of state taxation: report to the Treasurer*, October 2008, p.128.

³⁹ Independent Pricing and Regulatory Tribunal, p.129.

⁴⁰ Independent Pricing and Regulatory Tribunal, p.133.

⁴¹ The dwelling value of \$500,000 reflects the dwelling value under the government’s First Home Plus scheme (which provides first homebuyers with an exemption on purchaser transfer duty on dwellings valued up to \$500,000).

⁴² Housing NSW, ‘Boarding House Financial Assistance Program guidelines’, Ashfield, April 2008.

⁴³ Housing NSW, ‘State Budget 2008/09: Housing NSW budget highlights’, June 2008, p.7.

⁴⁴ Judith Yates and Vivienne Milligan, ‘Housing affordability: a 21st century problem’, AHURI, Melbourne, 2007. The proposal is supported by Housing NSW, the NCOSS, and Property Council of Australia.

⁴⁵ NSW Office of Fair Trading, *Residential tenancy law reform: options paper*, 2005; NSW Office of Fair Trading, *Residential tenancy law reform: a new direction*, 2007.

⁴⁶ Tenants Union of NSW, ‘Submission in response to the NSW Office of Fair Trading ‘Residential tenancy law reform options paper’’, August 2005, p.12. The Tenants Union further argued: ‘If the Residential Tenancies Act is amended to make special provisions for tenancy agreements with fixed terms exceeding ten years, we submit that the following safeguards should be incorporated in the Act. ‘First, these long-term fixed term agreements should not be exempt from the Act or the jurisdiction of the Tribunal, but rather should be allowed to contract out of certain provisions of the Act only. In particular, this means that the requirements as to the provision of a written agreement, rent receipts and other documents, and the process relating to the termination of tenancies and recovery of possession, would still apply to long-term fixed term agreements. The Act should also provide for a standard form of agreement for long-term fixed term tenancies, in registrable form, and require that the landlord meet the costs of registration.

‘Second, the provisions of the Act that may be excluded from long-term fixed term agreements should be limited to those relating to repairs and maintenance (including urgent repairs), reasonable security, rent in advance and bonds. In particular, we submit that it is not appropriate to allow contracting out of the rent increase provisions of the Act. Tenants who are locked into a long fixed term should not be exposed to liability for rents that may be increased by undisclosed amounts and that are not subject to review by the Tribunal.

‘Third, where parties propose to enter into a long-term fixed term agreement that contracts out of provisions of the Act, the parties must make a joint application to the Tribunal for its certification of the agreement. This would allow for independent review of the proposed agreement and may expose instances of coercion or unconscionable dealings between the parties. A similar provision exists in the Australian Capital Territory’s Residential Tenancies Act in relation to contracting out. We submit that where an agreement is not certified, any terms that are inconsistent with the Act should be void, and the agreement deemed to be in the usual standard form.’ (p.13)

⁴⁷ Department of Families Housing Community Services and Indigenous Affairs, ‘National Rental Affordability Scheme: draft guidelines’, July 2008, p.24 (being the guidelines for first round applications); Department of Families Housing Community Services and Indigenous Affairs, ‘National Rental Affordability Scheme: guidelines’, December 2008, p.25 (being the guidelines for second round applications).

⁴⁸ Leichhardt Local Environmental Plan 2000, section 19(6).

⁴⁹ Parramatta Development Control Plan 2005, section 4.4.3.

⁵⁰ Blue Mountains Local Environmental Plan 2005, section 110.

⁵¹ Central Sydney Development Control Plan 1996. Note Sydney City is seeking to cap the proportion of smaller-sized dwellings; the DCP sets minimum proportions for 2-bedroom and 3+-bedroom apartments.

⁵² The Standard Instrument (Local Environmental Plans) Order 2006 uses the term ‘secondary dwelling’, thus making that term the official term in NSW town-planning law. It supersedes ‘granny flats’, which is a subtype of secondary dwelling. The differences are not ‘academic’: Warringah council, which allows granny flats (understood as secondary dwellings attached to the principal dwelling) in some zones, is opposing a Department of Planning proposal that their comprehensive LEP allow secondary dwellings on the ground that unattached secondary dwellings would have a negative impact on urban design, residential amenity and privacy.

⁵³ Those are Bathurst Regional (by nonexclusion), Bega Valley, Blue Mountains, Camden ('two-dwelling development'), Fairfield, Kogarah ('extended family unit'), Kuringgai ('family flat'), Liverpool, Mid-western Region, Parramatta, Pittwater, Richmond River, Rockdale, Warringah, Wollondilly (by nonexclusion), and Wollongong. Some of their instruments refer to secondary dwellings, some to granny flats, and some use other terms indicating the same type of dwelling (e.g. 'extended family unit' for granny flat in Kogarah, 'family flat' for granny flat in Ku-ring-gai).

⁵⁴ Three things to note about the definition.

(1) Some councils (e.g. Warringah) use the term granny flat to refer only to that type of secondary dwelling which is an integral design component of the principal dwelling and do not regard a detached dwelling separate from the principal dwelling as a granny flat.

(2) Some councils treat secondary dwellings as a type of dual occupancy. However, others (e.g. Parramatta) distinguish a secondary dwelling arrangement from a dual occupancy in two respects: (i) The two dwellings that are part of a dual occupancy are more likely to be closer in size, form, amenity, etc.. (ii) Each dwelling in a dual occupancy would have its own private landscape and recreation areas. In both cases, the title to the dwellings and land are held by one person (entity).

(3) The distinctions referred to here are those used in town-planning law; other areas of public policy, e.g. social security law, use different definitions.

⁵⁵ In some countries, e.g. some US jurisdictions, there are restrictions on rental of secondary dwellings and they may only be used by guests and relatives ('mother-in-law suites', 'in-law suites').

⁵⁶ Canada Mortgage and Housing Corporation, *Accessory apartments: characteristics, issues and opportunities*, Research and Development Highlights Socio-economic series no. 3, Canada Mortgage and Housing Corporation, Ottawa, October 1991.

⁵⁷ Tenants Rights Action Coalition, 'Secondary suites: a tenant survey', n.d., online at <www.tenants.bc.ca/othpubs/benefit.html>, viewed 15 October 2008.

⁵⁸ Transportation and Land Use Coalition, 'Accessory dwelling units', 2004, online at <www.transcoalition.org>, viewed 17 October 2008.

⁵⁹ Landcom, 'Accessory dwelling units: playing a significant role in market based affordable housing', summary, May 2006, <[www.landcom.com.au/downloads/File/ADU%20Study%20Summary%20\(public%20doc\)%202006.pdf](http://www.landcom.com.au/downloads/File/ADU%20Study%20Summary%20(public%20doc)%202006.pdf)>, viewed 1 December 2008. The information in the rest of this paragraph is from this summary report.

⁶⁰ Canada Mortgage and Housing Corporation, *Accessory apartments: characteristics, issues and opportunities*, Research and Development Highlights Socio-economic series no. 3, Canada Mortgage and Housing Corporation, Ottawa, October 1991.

⁶¹ The Parramatta and Fairfield provisions predate the Order.

⁶² The Parramatta Development Control Plan 2005 uses the term 'granny flat'.

⁶³ The Fairfield City Wide DCP definition of a granny flat includes provision of a bathroom.

⁶⁴ Canada Mortgage and Housing Corporation, *Accessory apartments: characteristics, issues and opportunities*, Research and Development Highlights Socio-economic series no. 3, Canada Mortgage and Housing Corporation, Ottawa, October 1991.

⁶⁵ The Canada Bay LEP 2008 indicates 40%; the Pittwater LEP 1993 and Liverpool LEP 2008 indicate 20%.

⁶⁶ Standard Instrument (Local Environmental Plans) Order 2006, section 5.4(9).

⁶⁷ Transportation and Land Use Coalition, 'Accessory dwelling units', 2004, online at <www.transcoalition.org>, viewed 17 October 2008.

⁶⁸ A 'complying development' is a subcategory of permissible development. A development is permissible if it is allowed by the zoning. The state government or the council may further indicate that

some of those developments, where they meet the land-use, development and building standards, do not need formal council to proceed so long as they are certified as complying with those controls.

⁶⁹ Canada Housing and Mortgage Corporation, ‘Residential Rehabilitation Assistance Program (RRAP) – secondary/garden suite’, online at <www.cmhc-schl.gc.ca/en/co/prfinas/prfinas_002.cfm>, viewed 14 November 2008.

⁷⁰ The loan lasts for between 8 to 15 years, depending on the value of the works. If the owner sells the dwellings and the new owner does not want to take on the loan and arrangement, the seller will pay the balance of the loan, plus interest, to the Canada Housing and Mortgage Corporation.

⁷¹ Terry Burke, Caroline Neske and Liss Ralston, ‘Entering rental housing’, AHURI Final Report no. 59, May, Australian Housing and Urban Research Institute, Melbourne, 2004, p.10.