

# Building Community Acceptance for Community Housing: Background Report Part 1– Literature Review & Context



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by

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# 1 Background

## 1.1 Objectives of the Study

The **purpose** of the study is to better understand the nature of and reasons for community opposition to affordable housing so that social and affordable housing proponents are able to develop strategies and mechanisms that build support for appropriate developments. The **objectives** of the project are to:

- Enhance the capacity of community housing providers and other affordable housing proponents to complete developments on time and on budget, and deliver positive community outcomes;
- Increase opportunities for community housing providers to engage in major developments, urban renewal and large scale management opportunities through building awareness among key stakeholders of the industry's capability; and
- To improve the acceptability of social and affordable housing in the wider community.

The project does this through the development of a strong evidence base regarding the need and demand for affordable housing across NSW; key barriers to the development of affordable housing including those related to community and institutional opposition to affordable housing at the local level; and the development of 15 case studies of various types of affordable housing developments in high need localities that add to leanings from existing literature.

The development of evidence based training materials and resources to assist affordable housing proponents in gaining community and institutional support for proposed developments and to successfully 'negotiate' the planning system forms the next stage of the project.

## 1.2 Stages of the Study and Reporting

The study is reported in five stages:

This **Summary Report**, which draws together the key findings of the study;

**Part 1: Background Report** which sets out the need and demand for affordable housing across NSW, and key barriers to the development of affordable housing including those related to community and institutional opposition at the local level. Part 1 also provides the criteria for the selection of case study developments, including areas of highest need and significant institutional opposition to affordable housing;

**Part 2:** Reports on the affordable housing context, housing need and effective strategies for the provision of affordable housing in the **Central to Eveleigh Urban Transformation Area**;

**Part 3:** Reports on the affordable housing context, housing need and effective approaches to the provision of affordable housing in the **Parramatta Road Urban Transformation Area**;

**Part 4: Case Study Report** that provides detailed analysis of the primary research conducted on 15 case study developments, including key learnings that will form the basis of training materials.

## 2 Barriers and Resistance to Affordable Housing: A Review of Literature

### 2.1 Overview of Literature

This section provides a summary of selected literature related to community opposition to affordable housing, its nature and rationale. This is followed by a more detailed review of relevant literature. This provides a context for the discussion of more effective strategies to overcome such opposition that follows, and sets the scene for the empirical work that forms the majority of this study.

Community opposition to affordable housing is not a recent phenomenon, nor is it unique to Australia. Such opposition is well documented in academic literature from North America,<sup>1</sup> the United Kingdom and, to a lesser extent, Australia,<sup>2</sup> and is generally regarded as part of a broader trend toward increased opposition to various forms of unwanted developments.<sup>3</sup>

Whilst sharing many of the characteristics described in the ‘NIMBY’ literature,<sup>4</sup> community opposition to affordable housing arguably carries a range of connotations that distinguish such opposition from that related to other land uses. Overseas and Australian studies of community opposition to affordable housing have generally found three main areas of concern for opponents:

- Potential impacts on the host neighbourhood (e.g. concerns about increased crime, stigmatisation of the local area and subsequent reduced property values);
- Characteristics of future tenants (e.g. concerns about who is likely to live in affordable housing and perceptions about their behaviour, as well as issues related to who is ‘deserving’ of affordable housing); and
- Built form and the planning process (e.g. bulk and scale, style or character, density, reduced or lack of community consultation in decision making, fears that it will be ‘substandard’ accommodation).<sup>5</sup>

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<sup>1</sup> See for example Tighe, R (2010) Public Opinion and Affordable Housing: A Review of the Literature, *Journal of Planning Literature*, 25(1), pgs 3-17.

<sup>2</sup> See for example Ruming, K (2014) “It wasn’t about public housing, it was about the way it was done”: challenging planning not people in resisting the *Nation Building Economic Stimulus Plan*, Australia. *Journal of Housing and the Built Environment*, 29:39-60; Ruming, K (2014b) Social Mix Discourse and Local Resistance to Social Housing: The Case of the *Nation Building Economic Stimulus Plan*, Australia. *Urban Policy and Research*, Vol 32, Issue 2, pgs 163-183; and Davison, G., Legacy, C., Liu, E., Han, H., Phibbs, P., Nouwelant, R., Darcy, M. and Piracha, A. (2013) Understanding and addressing community opposition to affordable housing development, AHURI Final Report No.211. Melbourne: Australian Housing and Urban Research Institute.

<sup>3</sup> See for example Shively, C (2007) Understanding the NIMBY and LULU phenomena: reassessing our knowledge base and informing future research, *Journal of Planning Literature*, 21:255-266.

<sup>4</sup> The ‘Not in My Backyard’ phenomenon familiar in popular culture and academic literature since the term was introduced in the 1980s (see, for example, Shively, C (2007) Understanding the NIMBY and LULU Phenomena: Reassessing Our Knowledge Base and Informing Future Research, *Journal of Planning Literature*, 21: 255-266).

<sup>5</sup> Iglesias 2002, Tighe 2012, Scally & Koenig 2012, Nguyen et al 2013, Davison et al 2013



The conflation of all types of ‘affordable housing’ with ‘social housing’ as an increasingly residualised and stigmatised housing tenure, as well as legislation that has facilitated for more dispersed sites for affordable housing and the fast tracking of some arguably poorer quality developments, has also provided multiple, fragmented and increasing opportunities for community opposition in more recent years. Moreover, as some authors note, there is not a ‘homogenous discourse’ of opposition to affordable housing.<sup>6</sup>

The development of both community-wide and project-level strategies to effectively overcome such opposition are thus required. These include a detailed understanding of the local socio-economic, planning and policy context, and genuine engagement with concerns of and respect for the host community distinctly related to this form of development. Proactive, street-level community consultation by proponents, a willingness to negotiate on design, building ongoing relationships with decision makers, showcasing positive examples of well-designed and managed developments, and ensuring that, wherever possible, proposed developments are compliant with planning controls and reflect local character are noted as among the more effective ways to address community opposition.<sup>7</sup>

Positive leadership by a prominent community housing provider, with strong institutional links to and support from local government and active promotion of their role in affordable housing advocacy is also noted as particularly useful, with Port Phillip Housing Association highlighted as a leading example in this regard.<sup>8</sup>

Nonetheless, tension is evident in the literature about the extent to which such strategies can be effective in reducing community opposition, which often relates more to perception than to reality. Such perceptions include fears about safety or social disorder from the presence of affordable housing tenants, and about declining property values. Such concerns and resultant opposition are said to be particularly evident in wealthier, gentrifying, socially homogenous communities and/or areas with a high level of home ownership and a predominance of single family homes, as well as in areas that are facing urban decline.<sup>9</sup>

Strategies proposed in such contexts include undertaking a detailed social and environmental audit of potential localities, providing for targeted community engagement strategies in such areas, and potentially avoiding areas where there are likely to be heightened levels of opposition.<sup>10</sup> Whilst this may be prudent, it is also likely that rapidly gentrifying areas are those more likely to need

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<sup>6</sup> See for example Ruming, K (2014) “It wasn’t about public housing, it was about the way it was done”: challenging planning not people in resisting the *Nation Building Economic Stimulus Plan*, Australia. *Journal of Housing and the Built Environment*, 29:39-60

<sup>7</sup> See detailed review of literature related to effective action in Section 2.8 of JSA. 2016. *Building Support for Affordable Housing: Background Report Part 1* prepared for the NSW Federation of Housing Associations.

<sup>8</sup> Press, M (2009) *Community Engagement and Community Housing: Lessons and practical strategies for local government for responding to contested community housing proposals*, Report prepared for the City of Port Phillip, July. Accessed online at: <http://www.chfv.org.au/database-files/view-file/?id=1010>.

<sup>9</sup> Davison et al (2013) p 12 Citing Cook et al (2012b) and Taylor (2013); Press, M (2009) *Community Engagement and Community Housing: Lessons and practical strategies for local government for responding to contested community housing proposals*, Report prepared for the City of Port Phillip; and Dear (1992) *Understanding and overcoming the NIMBY syndrome*. *Journal of the American Planning Association*, 58(3), 288-300.

<sup>10</sup> Davison et al (2013)

affordable housing, including for historical populations facing displacement through ongoing redevelopment.<sup>11</sup>

With regard to addressing community perceptions about the social and economic impacts of affordable housing, the provision of counter ‘evidence’ and general community education can be important, but appear to be less effective than a change in attitude arising from familiarity with and exposure to affordable housing within a local neighbourhood.<sup>12</sup> Studies that indicate that a majority of residents close to affordable housing developments that initially faced strong community opposition had resolved their concerns after the development was completed and occupied, and generally reported minor or no adverse impacts, and sometimes positive impacts, from the completed development, would tend to support this hypothesis.

Ultimately, many of the strategies employed to overcome community opposition to affordable housing have proven to be relatively ineffective to changing fundamental attitudes or prejudice toward affordable housing, particularly in communities with characteristics likely to heighten such opposition. Despite such opposition, many projects have been approved and constructed where proponents have been able to ensure their project achieves the design quality and compliance to allow it to successfully negotiate the planning process. In this regard, there is a considerable difference between *overcoming opposition* and *achieving project approval*.<sup>13</sup>

The extent of significant opposition to affordable housing developments is also questioned by some authors noting, for example, research conducted in relation to the Commonwealth’s Nation Building Economic Stimulus Program, which showed that only a small minority of developments were in reality controversial, and that only a small minority of councils in affected areas actually expressed strong concern about local affordable housing developments.<sup>14</sup>

The importance of strong leadership by government decision-makers, in particular local government, is thus noted. Scally et al suggest that in order to more effectively deal with community opposition to affordable housing, planners and policy makers need to:

- anticipate opposition,
- better understand public perceptions,
- develop more effective procedures for countering public opposition and changing perceptions, and
- recommit themselves to equitable outcomes.<sup>15</sup>

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<sup>11</sup> See for example Stubbs, J. 2003. *Battle for the Right to the City: opportunities for an emancipatory social practice in a gentrifying urban landscape*, PhD Thesis (unpublished) RMIT, Melbourne

<sup>12</sup> See for example Davison, G., Legacy, C., Liu, E., Han, H., Phibbs, P., Nouwelant, R., Darcy, M. and Piracha, A. (2013) Understanding and addressing community opposition to affordable housing development, AHURI Final Report No.211. Melbourne: Australian Housing and Urban Research Institute; and Goetz (2008) Words Matter: The importance of issue framing and the case for affordable housing, *Journal of the American Planning Association*, 74(2), pgs 222-229

<sup>13</sup> See for example Scally, C. 2012. ‘The Nuances of NIMBY: Context and Perceptions of Affordable Rental Housing Development’ in *Urban Affairs Review*, 49(5) pgs 718-747.

<sup>14</sup> Shepherd and Abelson (2010) Review of Implementation of the National Building and Jobs Plan in NSW and Potential Application for Other Projects, p 104. Available online at: <http://www.appliedeconomics.com.au/pubs/reports-and-journals/2010/>

<sup>15</sup> Scally, C. 2012. ‘The Nuances of NIMBY: Context and Perceptions of Affordable Rental Housing Development’ in *Urban Affairs Review*, 49(5) pgs 718-747.

Such an explicit commitment to affordable housing as a matter in the public interest as a wider community benefit, the presence of a clearly articulated strategic position, and willingness to withstand unreasonable local political pressure by a minority of residents against affordable housing, appear to be important in facilitating affordable housing developments at the local level. Ultimately, these are matter of political will at the State and local levels.<sup>16</sup>

## 2.2 Community opposition to affordable housing - a 'perfect storm'?

Locally unwanted land uses, or 'LULUs', generally fall under four main categories:

- Environmental uses (e.g. waste facilities, wind turbines, nuclear power plants)
- Social services (e.g. homelessness, drug rehabilitation, needle exchange, low cost housing)
- Urban intensification or densification (e.g. development expanding into green spaces, replacing low density housing, increasing residential population densities)
- Culturally or racially specific facilities (e.g. for immigrants, refugees, mosques).<sup>17</sup>

Community opposition to LULUs often suggest that the development is not needed, does not belong in the local area, or will have harmful effects, or that its siting or operating procedures are insufficient.<sup>18</sup> Health risks are chief among the concerns of such opponents, although other concerns often include declining property values, the inevitability of other LULUs once one is approved, declining quality of life due to noise and traffic, overburdening of community services, and aesthetic objections.<sup>19</sup>

Opposition to LULUs which are 'social service' uses are primarily associated with quality of life or property value impacts.<sup>20</sup> However, affordable and social housing developments include elements of at least two, and often three, of the four main categories of LULU developments noted above - social services, urban intensification and facilities that disproportionately house certain cultural groups - creating a 'perfect storm' for community opposition in response.<sup>21</sup>

Further, developments across multiple sites and more recent institutional support for affordable housing have increased opportunities for diverse points of community resistance. Due to the nature of affordable housing developments, there are a variety of proposals across a range of different localities each with unique factors able to trigger community opposition. As noted by Davison et al (2013), opposition to affordable housing proposals will be similarly complex, and community opposition will not involve a single discourse from one homogenous group.<sup>22</sup> The gazettal of legislation to facilitate affordable housing, in particular *State Environmental Planning Policy (Affordable Rental Housing) 2009* in NSW, and to fast-track economic stimulus initiatives in the

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<sup>16</sup> Stubbs, J. 2003. *Battle for the Right to the City: Opportunities for an Emancipatory Planning Practice in a Polarising Urban Landscape*, PhD Thesis, RMIT (Faculty of the Constructed Environment).

<sup>17</sup> Davison, G et al (2013) Ibid, p 17, citing other studies.

<sup>18</sup> Popper 1985

<sup>19</sup> Sandman 1986

<sup>20</sup> Shively, C (2007) Understanding the NIMBY and LULU phenomena: reassessing our knowledge base and informing future research, *Journal of Planning Literature*, 21:255-266.

<sup>21</sup> Davison, G et al (2013) Ibid, p 18.

<sup>22</sup> Davison, G et al (2013) Ibid, p 18 citing Pendall 1999 and Ruming et al 2012.

case of the *Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009 (NSW)*, arguably opened up a multitude of new opportunities for community opposition to affordable housing, and provided further rationale for such opposition (although the latter was time limited, being in force from March 2010 to 1 June 2013, and designed to fast-track various Federal funding initiatives with a rapid job creation focus).

Whilst the term NIMBY is often used pejoratively to refer to self-interested residents who are solely interested in ‘protecting their own turf’,<sup>23</sup> Shively (2007) stresses that the NIMBY and LULU phenomena are in reality quite complex due to the variety of land uses involved, the diverse motivations and concerns of participants, and the ways in which their responses have been characterised.<sup>24</sup> Ruming (2014) concurs that community opposition to social housing proposals under the Commonwealth’s *Nation Building Economic Stimulus Plan (NBESP)* were not simplistic reactions. Rather, they were complex responses from non-homogenous groups of diverse actors that had more to do with planning process, development implementation and concerns about the loss of local democracy rather than anti-social housing sentiment and rhetoric *per se*.

The fast-tracking provisions of legislation that supported the *NBESP*, in particular, provided for a significant challenge to local planning processes and participation, and was short-term in nature. As such, such developments are not included in the current study, as discussed later.

## 2.3 Perception and reality of community opposition

Overseas and Australian studies of community opposition to affordable housing have generally focused on three main areas of concern raised by opponents:

- Potential impacts on the host neighbourhood (e.g. concerns about increased crime, stigmatisation of the local area and subsequent reduced property values);
- Characteristics of future tenants (e.g. concerns about who is likely to live in affordable housing and perceptions about their behaviour); and
- Built form and the planning process (e.g. bulk and scale, style or character, density, reduced or lack of community consultation in decision making).<sup>25</sup>

In a review of the experiences of metropolitan Melbourne councils of opposition to community housing developments *prior to* opposition that followed the *NBESP*, Press (2009) found that similar types of objections were raised regarding the proposed use, and proposed type of future tenants with regard to fears about crime, public safety, drug trafficking and neighbourhood impacts. The greatest fears were reserved for proposed rooming houses (boarding houses in NSW), with additional concerns about impacts on parking, loss of amenity due to noise and traffic, reduced property values, lack of compatibility with existing neighbourhood character and flawed consultation processes.<sup>26</sup>

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<sup>23</sup> Dear (1992) Understanding and overcoming the NIMBY syndrome. *Journal of the American Planning Association*, 58(3), 288-300.

<sup>24</sup> Shively, C (2007) *Ibid*, P 256.

<sup>25</sup> Iglesias 2002, Tighe 2012, Scally & Koenig 2012, Nguyen et al 2013, Davison et al 2013

<sup>26</sup> Iglesias 2002, Tighe 2012, Scally & Koenig 2012, Nguyen et al 2013, Davison et al 2013

A comprehensive review of public opinion towards affordable housing in the United States by Tighe (2010) details how ideology and stereotyping shape and influence community attitudes. Tighe reports that NIMBY responses to affordable housing are complex and the result of a range of factors, with some studies citing individual ideology, level of trust in government and the extent of agreement that affordable housing is needed in the local context as drivers;<sup>27</sup> and other studies contending that the often voiced concerns for reduced property values are simply a proxy response to exclude people from a local area because they are 'homeless, poor, disabled or because of their race or ethnicity'.<sup>28</sup> Ultimately, Tighe concludes that perceptions about future affordable housing tenants are the key drivers in community opposition rather than the range of concerns typically raised as studies on the impact of affordable housing have consistently shown that 'well-managed housing that fits the scale of the neighbourhood seldom produces the negative impacts mentioned'.<sup>29</sup>

Davison et al (2013) tested the extent to which the frequently cited 'fears' about proposed affordable housing, particularly concerns about future tenants, area character and reduced property values, actually eventuated. Researchers surveyed residents proximate to eight recently constructed affordable housing projects in the Parramatta LGA, an area where opposition to a range of affordable housing development proposals was particularly fierce between 2009 and 2011. Whilst 22% of respondents reported negative neighbourhood effects of the formerly controversial projects, 78% reported that the development had little to no effect or a positive effect. Negative impacts that remained were mainly related to parking, traffic, limited anti-social behaviour and noise, and wider perceptions of local decline due to increased multi-unit development.

The researchers also surveyed residents in a neighbourhood where a proposed affordable housing development did not proceed. Interestingly, they found that these neighbours remained the 'most angry' about proposed affordable housing development. The researchers related this response to either the better than expected outcomes in areas where projects had been completed, or a continued fear by residents that the proposal could be resuscitated at some point.<sup>30</sup>

Local and international studies of impacts on property values due to affordable housing developments have had more mixed results. Some studies report that the developments have had no impact on property values, while other show a positive impact on values where the new development has a rehabilitative effect on vacant or eye-sore developments.

Nguyen (2005) found that, where property values are 'harmed' by affordable housing development, the negative effects are likely to be small. Factors likely to adversely affect property values included poor quality, design and management of the development, developments located in neighbourhoods that are already physically run down and disadvantaged, and where affordable housing tenants are clustered. Factors where affordable housing is unlikely to have an effect on property values include projects sited in gentrifying or higher amenity neighbourhoods; the structure of the proposed housing reflects the character of the neighbourhood; the management is responsive to issues and concerns; and the affordable housing is not heavily clustered or located in

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<sup>27</sup> Tighe 2010 citing Pendall 1999

<sup>28</sup> Tighe (2010) citing Ross (2000)

<sup>29</sup> Tighe (2010), P 13. Citing Freeman (2002), Galster et al (2002), Nguyen (2005), Schaffer and Saraf (2003) and Werwath (2004).

<sup>30</sup> Davison et al (2013) p 125.



more mixed tenure developments or precincts.<sup>31</sup> The factors identified reflect Tighe's comments with regard to appropriate management, and appropriate care in siting and designing new affordable housing developments in order to ensure that property values are not adversely affected.

Davison et al (2013) carried out two hedonic models to test the impact of 17 affordable housing projects on property values in Brisbane. The first model looked at impacts on values based on proximity, using 100 metre intervals from the nearest affordable housing development. Due to small sample sizes, results for property sales within 200 metres of an affordable housing development could not be relied upon. However, results showed a minimal positive impact on values for properties sold between 300 and 500 metres from an affordable housing development, with researchers concluding that 'the closer a property was to an affordable housing development, the higher its sales value was, compared to other properties of similar characteristics (number of bedrooms, number of bathrooms etc)'.<sup>32</sup> The second model looked at impacts on values at the level of 14 individual projects in order to explore differences due to project size and context. Results of the model were mixed with 9 of the projects having a negative impact of sale values and 5 of the projects having a positive impact, suggesting that in Australian cities affordable housing developments have no universally positive or negative impact on local property sales values.<sup>33</sup>

As discussed later in relation to empirical research conducted for the current study, it is also likely that economics of redevelopment play a role in findings related to variations in property values, with pressure for redevelopment and feasibility of redevelopment including for projects including affordable housing more likely in gentrifying areas.

## 2.4 Who is most likely to oppose affordable housing?

Research into opposition to affordable housing, in the United States and Australia reports that, whilst opponents are not uniform, opposition is likely to be fiercest in areas that:

- Are wealthy;
- Are socially homogenous;
- Have high levels of homeownership; and where
- Have a predominance of single-family homes.<sup>34</sup>

Press (2009) reports that controversy over new developments is likely to be most aggressive in areas where density is increasing, and based on the experience of inner Melbourne councils, resistance to community housing seems to increase as gentrification of areas likewise increases, noting that the pressures of gentrification and rising land values support the economics of redevelopment and densification and likely travel together.<sup>35</sup> As Press notes, affluence and upward mobility were

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<sup>31</sup> Nguyen (2005)

<sup>32</sup> Davison et al (2013) p 126.

<sup>33</sup> Davison et al (2013) p 127.

<sup>34</sup> Davison et al (2013) p 13. Shively (2007) p 257 citing Mansfield, Van Houtven, and Huber (2001); Walsh, Warland and Smith (1997).

<sup>35</sup> Judith Stubbs and Associates. 2013. *Fisherman's Bend Urban Renewal Area: Options for Delivery of Affordable Housing*, prepared for Places Victoria.

significant factors in opposing neighbourhoods with rising house prices and concern about declining property values.<sup>36</sup>

Seeking to arrest the displacement of historical populations, a consequence of such gentrification, through the maintenance or creation of affordable housing is often an unpopular strategy in such communities. As such, the areas where such housing is most needed for social equity reasons are often the most contested sites.<sup>37</sup>

Takahashi and Dear (1997) analysed results from a national survey of attitudes to controversial human services facilities in the US, including group homes for people with disabilities, found that residents who opposed such developments tended to be older, homeowners, wealthier, better educated and more likely to attend meetings to advocate for their interests.<sup>38</sup> Shively (2007) also notes that most LULU opponents are homeowners 'exhibiting a risk-averse strategy' to protect their investment in their home against declining value due to neighbourhood effects.<sup>39</sup> Davison et al (2013) also notes that other Australian studies of community opposition have found that wealthier communities are more invested and more likely to be effectively engaged with the planning process in order to protect local amenity and land values.<sup>40</sup>

In terms of proximity of opponents, the above mentioned studies report somewhat mixed results though it can be said that opposition is more likely to originate from near-by or adjoining neighbours, and where there is little experience with or exposure to the type of development proposed. Cameron and Crewe's (2006) study of opposition to children's group homes in North America found that, while the distribution of opposition was inconclusive, 'rejecting neighbourhoods' were more likely to be affluent, have rising house prices and were concerned for property devaluation.

Studies of community opposition to LULU developments report that opposition tends to follow a similar life cycle or trajectory, with distinct stages including what Dear (1992) describes as 'youth', 'maturity' and 'old age'.<sup>41</sup> Basically, opposition is largely driven by a relatively small group of residents perceived to be directly impacted by the proposal. These groups may grow or change tactics over time, and eventually diminish as concessions are made or a stalemate is reached.<sup>42</sup> In Press's (2009) Victorian examples, those matters that were heard at Victorian Civil and Administrative Tribunal only involved a small number of immediate neighbours.<sup>43</sup>

Again, it is noted that studies where post-occupancy surveys were undertaken find that community opposition diminishes over time noting that residents have either accepted the development or are indifferent towards it and report few negative impacts, some even report positive reactions to the new developments and new neighbours.<sup>44</sup>

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<sup>36</sup> Press (2009) Ibid.

<sup>37</sup> Stubbs, J. 2003. *Battle for the Right to the City: opportunities for an emancipatory social practice in a gentrifying urban landscape*, PhD Thesis (unpublished) RMIT, Melbourne.

<sup>38</sup> Takahashi and Dear (1997)

<sup>39</sup> Shively (2007) citing Fischel (2001)

<sup>40</sup> Davison et al (2013) p 12 Citing Cook et al (2012b) and Taylor (2013).

<sup>41</sup> Dear (1992)

<sup>42</sup> Davison et al (2013) p 13.

<sup>43</sup> Press (2009)

<sup>44</sup> Press (2009), Zippay and Lee (2008)

## 2.5 Recent upsurge in opposition to affordable housing in NSW has introduced new factors

### 2.5.1 The context of recent opposition

Since 2009, opposition to affordable housing, particularly social housing and boarding houses, has intensified markedly in NSW due to a range of factors. In order to better understand the recent upsurge in community opposition, it is important to briefly reference the historical policy context that has shaped public opinion and debate about affordable housing.

#### Long-term reduction in investment in social and affordable housing

It is widely acknowledged that there have been sustained reductions in investment in social housing over the last three to four decades in Australia<sup>45</sup>, including NSW. This has resulted in reduced availability and quality of affordable housing properties, tighter allocations policies and more residualised tenant base.<sup>46</sup> This has resulted in an increasing concentration of the least well-off and highest needs households in social housing ‘who are there because they have no other options’.<sup>47</sup> The NSW Government has recently launched its ten year strategy to reform the social housing sector, *Future Directions for Social Housing in NSW*, acknowledging that today’s social housing system is a ‘safety net for the most vulnerable in the community’.<sup>48</sup>

This reality is further fuelled by negative portrayals and caricatures of social housing residents in the media<sup>49</sup> and a prevailing political discourse and policies which continue to privilege home ownership over public or private tenure options,<sup>50</sup> deepening the stigma and negative stereotypes of social housing and its tenants.

Regardless of the accuracy or otherwise of such perceptions, the conflation of ‘social’ and ‘affordable’ housing is likely a further factor in community opposition to all forms of affordable housing. Although many affordable housing developments reported later in this study are comprised chiefly of discount market rental, sometimes referred to as key worker housing, such developments likely carry the negative perception carried by concentrated social housing developments and poorer, increasingly high need tenants.

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<sup>45</sup> Jacobs et al (2011) The stigmatisation of social housing: findings from a panel investigation, AHURI Final Report No. 166. Melbourne: Australian Housing and Urban Research Institute.

<sup>46</sup> Luxford (2006)

<sup>47</sup> Jacobs et al (2011) The stigmatisation of social housing: findings from a panel investigation, AHURI Final Report No. 166. Melbourne: Australian Housing and Urban Research Institute.

<sup>48</sup> NSW Government (2016) Future Directions for Social Housing in NSW, p 4. Accessed online at <http://www.socialhousing.nsw.gov.au/>

<sup>49</sup> A recent example of crime and social dysfunction in public housing being highlighted includes Box, D (2015) “Welcome to McKell, Sydney’s most notorious public housing block”. The Australian, January 31, accessed online at: <http://www.theaustralian.com.au/news/features/welcome-to-mckell-sydneys-most-notorious-public-housing-block/story-e6frg8h6-1227201931333>.

<sup>50</sup> Ruming et al (2014), p 235.



## De-concentration and renewal initiatives re-inforce poor public perception and enhance opposition

Government actions to improve or renew public housing estates and areas with high concentrations of social housing have likewise reinforced the view that these areas and communities require ‘urgent intervention’. Many of the estate renewal activities and initiatives to address the demand for and chronic shortage of affordable housing with new developments have focused on de-concentration and dispersal of such housing into mixed tenure neighbourhoods. Unfortunately, this approach coupled with the low public perception of social and affordable housing has resulted in a multitude of new opportunities for local opposition to keep ‘that type of development/those people’ out.<sup>51</sup>

Ruming (2011) has shown that opponents to dispersed affordable housing often refer to the adverse impacts of ‘concentration’ as a basis for why a development should not go ahead, and regardless of whether a proposed development included many or very few dwellings.<sup>52</sup> As Goetz (2004) aptly notes, ‘there is something perversely uniting about the de-concentration argument, it leads to an almost universal resistance to subsidized housing.’<sup>53</sup>

## Facilitative policies by Government to increase affordable housing supply

There have been significant policy levers the federal and state level in recent years to grow the supply of affordable housing. Shelter NSW (2012) provides a concise summary of some of the recent initiatives including:

- A relatively small amount of funding allocated in 2008 for an additional 685 social housing dwellings to be built in NSW by the end of 2010 under the National Partnership on Social Housing;
- The Australian Government’s 2008 National Rental Affordability Scheme (NRAS) initiative to increase the supply of new affordable rental dwellings nationwide by providing non-profit and private developers with an annual tax credit/incentive with contributions from federal and state/territory governments for ten years. NRAS projects are targeted at low and moderate income earners eligible for Commonwealth Rental Assistance with rental costs to be set at least 20% below market rent and not income based. NRAS properties were required to be offered at a discounted rent for 10 years, but could then be sold. The Australian Government announced in 2014 that it would not proceed with Round 5 of the scheme, thus ending the scheme;
- The extra-ordinary, one-off injection of funding through the Nation Building Economic Stimulus Plan (NBESP) to build 6,350 new social housing dwellings in NSW in a two year period from 2009 to 2011. An alternative development assessment process through the Infrastructure Coordinator-General was also created to fast-track NBESP projects and avoid lengthy assessments by local Council;

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<sup>51</sup> Davison et al (2013) citing Darcy (2010).

<sup>52</sup> Ruming (2011)

<sup>53</sup> Goetz (2004)

- The introduction of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (SEPPARH) in July 2009, in part, to facilitate the development of new affordable housing dwellings, including NRAS projects and those intended to be built by HNSW under the NBESP; but more generally, to increase housing affordability and diversity in areas covered by the SEPP.

This is discussed in more detail in **Section 3** below.

As Shelter (2012) notes the circumstances and initiatives created a situation where there was more affordable housing proposed to be built, more favourable conditions to develop affordable housing and more favourable conditions created for Housing NSW, the main developer of affordable housing.<sup>54</sup> The situation was further complicated by local politicking around the looming state government election of 2011, which saw the Liberal party return to power in a landslide election. The conditions resulted in localised opposition to many of the affordable housing developments proposed during this period of time, many of which were NBESP initiatives, particularly in parts of the Sydney metro area but in other regional locations as well (e.g. lower Hunter, Moree).<sup>55</sup>

### 2.5.2 Description of the recent opposition to affordable housing in NSW from recent studies

Shepherd and Abelson (2010) review of the NBESP and extent of community opposition to social housing

Shepherd and Abelson undertook a review of the National Building Economic Stimulus Program (NBESP) in NSW on behalf of the NSW government. Part of this review included a comprehensive assessment of the investment in social housing under the program. Their assessment of the outcomes of the social housing program was based on data provided by Housing NSW, submissions that were made as part of the review process and interviews with key stakeholders.<sup>56</sup> Housing NSW NBESP projects were approved in over 54 local council areas.<sup>57</sup> Shepherd and Abelson report that overall significant complaints were received from fewer than 10% of all councils where the developments were located.<sup>58</sup>

In terms of community opposition to the social housing developments under the NBESP, Shepherd and Abelson report that based on Housing NSW information around 5% of proposals, or 25 out of 503, were 'significantly controversial' and 95% of the proposals were otherwise 'uncontroversial'.<sup>59</sup> In terms of submissions the researchers received, they state that:

Only five submissions from councils expressed significant criticisms of the social housing program. The main message of these criticisms was that the residential

<sup>54</sup> Shelter NSW (2012) Localism and Affordable Housing, Shelter Brief 49, February. Accessed online at: <http://www.sheltersnsw.org.au/publications-new/policy-papers/urban-policy-planning/175-localism-and-affordable-housing>.

<sup>55</sup> Shelter NSW (2012) p 4.

<sup>56</sup> Shepherd and Abelson (2010) Review of Implementation of the National Building and Jobs Plan in NSW and Potential Application for Other Projects, p 104. Available online at: <http://www.appliedeconomics.com.au/pubs/reports-and-journals/2010/>.

<sup>57</sup> Shepherd and Abelson (2010) p 107.

<sup>58</sup> Shepherd and Abelson (2010) p 108.

<sup>59</sup> Shepherd and Abelson (2010) p 103.

units were being constructed in inappropriate locations or out of scale or character with their locations. The councils expressing concern about the social housing program were: Armidale Dumaresq, Bathurst, Lake Macquarie, Wollondilly and the Northern Sydney Regional Organisation of Councils (NSROC) specifically with respect to the City of Ryde.”<sup>60</sup>

Shepherd and Abelson note that ‘the notion of what constitutes an adverse effect of social housing on a local area is complex’ and may be related to factors including:

- Higher density housing than would otherwise be permitted;
- Poor housing design in relation to existing housing properties creating a loss of amenity;
- Poor maintenance of social housing compared to private housing;
- Inadequate parking;
- Inadequate section 94 contributions; and
- Fear of social dysfunction, particularly where social housing is concentrated.

They note that, while they had insufficient evidence to judge whether the social housing developments had unduly adverse impacts on the local host communities, most of the same issues would likely arise under ‘business-as-usual’ conditions and were not solely the product of the NBESP.<sup>61</sup> Nonetheless, the small minority of councils raising significant issues, and the relatively small number of developments deemed significantly controversial, is interesting in this regard.

## Ruming (2014) and the ‘beyond NIMBYism’ opposition to social housing developments under the NBESP

### Overview

In 2014, Ruming traced the community and Council concerns over the development of new social housing brought forward through the NBESP through the exploration of 21 controversial development sites across 4 metro and regional LGAs in NSW including Ryde, Lake Macquarie, Wyong and Wollongong councils. The sites were deemed to be controversial because the local opposition to the projects ‘received extensive media coverage.’<sup>62</sup>

Ruming purports that those communities who actively opposed the development of new social housing in their areas ‘mobilised complex points and models of resistance which extend beyond NIMBYism and anti-social housing rhetoric’. Opponents concerns were articulated around issues associated with the planning process, urban design, local democracy, infrastructure provision and the character of place.

Ruming starts from the premise that NIMBY responses to unwanted local developments are not necessarily the simplistic reaction of those ‘who want to protect their turf’<sup>63</sup> but are complex responses from non-homogenous groups of diverse actors that mobilise multiple points to strengthen opposition. In the cases of those who opposed the NBESP social housing developments,

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<sup>60</sup> Shepherd and Abelson (2010) p 103.

<sup>61</sup> Shepherd and Abelson (2010) p 108.

<sup>62</sup> Ruming, K (2014) “It wasn’t about public housing, it was about the way it was done”: challenging planning not people in resisting the *Nation Building Economic Stimulus Plan*, Australia. *Journal of Housing and the Built Environment*, 29:39-60.

<sup>63</sup> Dear (1992)

Ruming claims that the resistance had more to do with policy, planning process, development implementation and concerns for the loss of local democracy rather than overt or cloaked anti-social housing sentiment and rhetoric. Key points of resistance identified by Ruming included the **planning process, location and built form and arguments for and against social housing tenants**. These are addressed in turn below.

### Planning and approval process

Opposition that centred on the planning process was seen as a way to differentiate concerns away from notions of ‘self-interest’ and ‘anti-social housing’ sentiment.

Across Australia, the NBESP provided \$5.2 billion construct 19,200 social housing dwellings by the end of June 2012. \$1.9 billion was allocated to NSW. The Nation Building and Jobs Plan and the subsequent *Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009* changed the way social housing projects would be assessed for a set period of time in order to meet criteria around the timing and delivery.

In short, the usual development assessment process undertaken by local Councils was sidelined in lieu of structures and processes that were designed to improve the speed of assessment including provisions to allow Housing NSW to self-approve applications under the ARHSEPP 2009 for projects of up to 20 dwellings and of no more than two storeys. Local councils were still able to approve some developments, although only 25% of NBESP projects were processed by local councils. (See Ruming 2014 for a detailed explanation of the approvals process of the NBESP in NSW).

Key points of opposition and concerns raised regarding the changes to the planning process to facilitate the delivery of social housing under the Plan centred on:

- Authority and process, namely the removal of the local approvals process and loss of appeal rights and concern for the potential for further curtailment of functions of local government;
- Information and consultation, limited engagement with communities and local councils about the proposed developments and a perceived disregard for local planning frameworks; and
- Speed of implementation, a macroeconomic process driven by the Federal government was seen to be at odds with local level realities.

### Location and built form

The majority of developments built under the NBESP were built on land already owned by the NSW state government, many with social housing already in existence. However, some sites were also purchased by government for the purpose of development which proved more likely to be locally contentious.

Key issues and concerns that were raised about the location and built form of the NBESP developments included:

- Location, sites were perceived to be selected based on cost and yield without adequate consideration of price paid, physical topography, relationship with local infrastructure (namely transport) and services;
- Built form, densities perceived to be out of character with the existing streetscape and the notion that the proposed densities would at best not meet the needs of future residents and at worst be replicating public housing mistakes of the past by constructing ‘estates of the future’ with concentrations of crime and anti-social behaviour; and
- Incompatibility with existing standards (particularly parking requirements) and the potential for the proposed projects to ‘open the floodgates’ for future inappropriate developments.

### For and against social housing tenants

In what appears to be an attempt to negate a more typical NIMBY opposition to social housing developments due to perceived adverse behaviour and characteristics of future tenants (e.g. crime, anti-social behaviour), the NBESP project opponents positioned themselves as advocates of future tenants and protectors of the collective good. Whilst the expected anti-social housing rhetoric and sentiment was a feature of the local debates, Ruming argues that such voices represented a ‘vocal minority’ who were effectively sidelined by the more organised opponents who framed the debate around the planning process, location and built form.

At the end of the day, the controversy around the NSESP developments and the strategic opposition campaigns waged had limited success. Ruming notes that while many of the local communities profiled in the study ‘remain disillusioned over the process and outcomes’, all but one of the projects studied at the time of writing were completed and tenanted. Moreover, NSW was the only state to meet the timelines set by the Federal government under the initiative.<sup>64</sup>

### Davison et al (2013)

#### Overview

Davison and colleagues from the Australian Housing and Urban Research Institute (AHURI) undertook a mixed methods approach to examining four ‘extreme’ cases of recent community opposition of affordable housing in Parramatta (NSW), Port Phillip (Victoria), Brisbane and Cairns (QLD). The study sought to improve understanding of recent community opposition to affordable housing in Australia in terms of the political and housing market context, the stated and unstated factors underlying opposition, how and why opposition escalates, the true impacts of affordable housing development on host areas compared with the concerns and fears articulated by opponents and strategies to mitigate or address community opposition through policy and practical steps proponents can take.<sup>65</sup>

Much of Davison et al’s findings are similar to others studies including that opposition to proposed affordable housing happens in a small number of cases, but can be particularly fierce and have far reaching implications; and that levels of opposition tend to be greater in relatively wealthy areas

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<sup>64</sup> Leece (2011)

<sup>65</sup> Davison et al (2013)

where the proposed stock challenges the status quo (i.e. low density areas with little multi-unit development).

Concern about the characteristics and/or behaviour of future tenants is a stated and unstated element to the opposition. In fact, some local opponents aim to deflect the NIMBY label by arguing that they are speaking on behalf of the needs of future tenants. Opposition to affordable housing tends to diminish once a project is built, either due to inevitability or because impacts were not as bad as feared. Local media and politicians can play a critical role in escalating tensions and concerns about a proposal.

There is no evidence from Davison et al's modelling of sale prices in Brisbane that affordable housing development has a universally negative impact on property sale values. Davison et al also provides recommendations for strategies developers and governments to mitigate and address community opposition to affordable, which are detailed further below.

### Stated and unstated factors underlying Australian opposition

The AHURI researchers analysed 727 submissions made by community members against affordable housing projects in the four case study areas between 2006 and 2011. The findings from the submissions were triangulated against data from interviews, interview-surveys and media accounts. While the most common concerns raised in the submissions related to parking/traffic, physical form/density, character and amenity (privacy/overshadowing), they note that interview data suggested that respondents fears about future tenants may have been understated in the submissions data (18% of all submissions), and may actually be more widespread than the submission data suggests.<sup>66</sup> They suggest that this may be because many people are aware that a stated objection to lower-income groups is not a planning issue and is unlikely to achieve traction with planning officers or politicians.

Concerns about reduced property values were less prominent in this study compared to other US studies. However, the researchers note that they frequently encountered an alternative economic argument from respondents that they had worked hard to afford to live in their area while it was unfair that affordable housing residents were able to live in subsidized accommodation in the same place.<sup>67</sup> Perhaps such sentiments are a more worrying perception of the unworthiness of affordable housing tenants and a misunderstanding of the role of affordable housing to provide opportunity rather than a hand-out.

Importantly, the researchers note that there were more 'stated' concern about crime, safety, resident transiency and anti-social behaviour of future residents in submissions made regarding a proposed boarding house. Just over 85% of the Parramatta submissions that raised a concern about crime and safety were related to a proposed boarding house. They conclude that boarding houses were particularly objectionable to community members in Parramatta, despite post-occupancy interview-survey responses showing that 'almost no neighbours living close to two new boarding houses had noticed any effect from their development'.<sup>68</sup>

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<sup>66</sup> Davison et al (2013) p 138.

<sup>67</sup> Davison et al (2013) p 140.

<sup>68</sup> Davison et al (2013) p 140.



In summary, the findings from Davison et al in terms of factors underlying opposition mirror the overseas findings and, as the researchers compellingly state, ‘was largely driven by anger and fear’...anger that the developments were taking place especially where people believed they were not permissible and fear that the proposed development would change their area for the worse.<sup>69</sup>

## 2.6 The ongoing politics of difference

Despite broadened rhetoric from opponents of social and affordable housing, particularly with regard to coinciding changes to the planning system in NSW, the evidence suggests that the root of public opposition to affordable housing projects retains underlying fears about the perceived undesirability of future tenants and ambivalence about policies that promote economic integration, particularly into areas where property values are increasing or already high.

As Tighe (2010) point out, while there is rich literature on how to respond to NIMBY attitudes, ‘most feel that the core issue lies in changing attitudes about people who are different from them.’<sup>70</sup> As noted, the post-occupancy research, from Australia and overseas, of neighbours that once opposed affordable housing developments, is compelling in that far fewer negative impacts are experienced once a project is built compared to what was feared and many report positive experiences. Tighe (2010) suggests that proponents should focus on the benefits and opportunities provided by stable and affordable housing as part of efforts to demonstrate that the negative impacts feared are unlikely to eventuate.

## 2.7 Affordable housing: a matter in the public interest

Opposition to affordable housing development, in Australia and elsewhere in the world, has resulted in increased costs and delays for proponents, forced changes to the design and number of units, undermined equitable siting decisions, weakened public and political support for subsidized housing which could threaten efforts to de-concentrate disadvantage and encourage private investment in affordable housing. The result can push developments into already poor areas where there is less political opposition to oppose them.<sup>71</sup>

Press (2009) states that the costs of opposition can be high (e.g. reports of CHPs spending \$700k and \$970k more on a development than originally planned due to delays from opposition) and can have a huge impact on time and number of units ultimately built.<sup>72</sup> Press argues that the cost of delays should be enumerated and reported so that the overall impact on the availability of community (and affordable) housing can be established.<sup>73</sup>

Moreover, Davison et al (2013) note there are ‘unquantifiable’ impacts that are likely to have resulted from high profile community opposition to social and affordable housing that may further

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<sup>69</sup> Davison et al (2013) p 141.

<sup>70</sup> Tighe (2010) Citing Stover et al 1994, Dear 1992.

<sup>71</sup> Shively (2007) Citing Bulki 2002, Estes 2007, Rohe and Freeman 2001.

<sup>72</sup> Press (2009) Ibid.

<sup>73</sup> Press (2009) Ibid.

stigmatize subsidised housing, generate increased fear and misinformation about affordable housing residents and damage public faith in government and the planning assessment process.<sup>74</sup>

The recent opposition and fierce contestation over affordable housing developments represent contestations over city space and as some argue, are issues of public interest. In situations where there has been vocal opposition to an affordable housing development it has typically been highly localised and not representative of a wider community interest. As Press (2009) argues,

Community interests beyond the vocal minority need to be taken into account for the outcomes to be considered fair and just. It is important because the kind of vocal opposition seriously threatens the legitimacy of local government...it deters councillors from acting in the broader community interest and can undermine a broader social justice agenda about maintaining diversity and social inclusion.<sup>75</sup>

Ultimately, the maintenance and provision of a mix of affordable housing across diverse communities, including those where the poor are facing rapid and ongoing displacement through redevelopment and/or gentrification raises broader questions about who has the right to the city, and access to services, jobs and amenity that the city provides.<sup>76</sup> As queried by Goetz (2000),

How do we provide for those whom no-one wants – those who need affordable housing?<sup>77</sup>

## 2.8 Strategies for Addressing Resistance

### 2.8.1 Overview

There are a range of strategies and responses put forward by researchers to counter opposition to affordable housing. Scally (2012) describes the common responses to NIMBY opposition to affordable housing as:

- to disprove fears,
- to shift public opinion,
- to regulate equity, and/or
- to circumnavigate opposition.<sup>78</sup>

Examples of strategies to support such responses include:

- Providing evidence on how affordable housing is unlikely to have negative impacts on property values or crime levels;
- ‘Rebranding’ or ‘re-casting’ affordable housing as supporting a more ‘deserving’ population (i.e. ‘life cycle housing’, ‘key worker housing’ etc);

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<sup>74</sup> Davison et al (2013)

<sup>75</sup> Press (2009) Ibid.

<sup>76</sup> Stubbs, J. 2003. *Battle for the Right to the City: opportunities for an emancipatory social practice in a gentrifying urban landscape*, PhD Thesis (unpublished) RMIT, Melbourne.

<sup>77</sup> Goetz, E.G. 2000. ‘The Politics of Poverty Deconcentration and Housing Demolition’ in *Journal of Urban Affairs*, Vol 22 No2:157-173.

<sup>78</sup> Scally, C. 2012. ‘The Nuances of NIMBY: Context and Perceptions of Affordable Rental Housing Development’ in *Urban Affairs Review*, 49(5) pgs 718-747.



- Offering incentives or removing regulatory barriers to encourage affordable housing (e.g. Australian examples of attempts to regulate equity include the facilitative SEPPARH in NSW); and
- Efforts to deconcentrate or disperse poor households through other means rather than engaging directly with the NIMBY attitudes or actions.

Scally (2012) finds that **none of these responses have proven overwhelmingly successful at overcoming or reversing NIMBY opposition to affordable housing.**<sup>79</sup> Arguably, many of these responses have been utilised effectively to get projects up and increase the supply of affordable housing despite the existence of community opposition. In this regard, there is a considerable difference between *overcoming opposition* and *achieving project approval*.

Scally (2012) suggests that in order to more effectively deal with community opposition to affordable housing, planners and policy makers need to:

- anticipate opposition,
- better understand public perceptions,
- develop more effective procedures for countering public opposition and changing perceptions, and
- recommit themselves to equitable outcomes.<sup>80</sup>

For over twenty years, the Non-Profit Housing Association of Northern California has been producing various tools and kits to assist developers to deal with community opposition to affordable housing.<sup>81</sup>

Davison et al (2013) include a chapter on mitigating and addressing community opposition to affordable housing development in its review of the issue in Australia based on the empirical findings from their four case studies in Parramatta, Port Phillip, Cairns and Brisbane as well as a review of relevant literature. AHURI's recommendations are focused on affordable housing proponents and governments.

There is much to learn from the wealth of information that is available. Despite the different geographical contexts and jurisdictions, many of the overarching themes are comparable, bearing in mind Iglesias (2002) contention that 'the search for a one-size-fits-all solution for dealing with opposition has been unsuccessful.'<sup>82</sup> Key planks of efforts that proponents can take to reduce opposition, increase acceptance and ultimately gain approval of affordable housing developments include **community-wide strategies** and **project level strategies**.

**Community-wide strategies** work on changing the environment in which 'local opposition festers and flourishes' in order to reduce the impact of opposition, understanding that it will never be totally eliminated. Pro-active communications, education and engagement with communities and decision makers, and use of the media are all a part of community wide strategies.

Complementary and necessary **project level strategies** to prepare for and manage opposition should it occur are also required by proponents. Pre-development planning and assessment work,

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<sup>79</sup> Scally (2012) p 222.

<sup>80</sup> Scally (2012).

<sup>81</sup> Iglesias (2002), Non-profit Housing Association of Northern California's online resources available at <http://nonprofithousing.org/category/resources/toolkits/>

<sup>82</sup> Iglesias T (2002), p 80.

negotiating with objectors on certain planning and design elements, and most importantly ensuring that proposals are built within existing controls and meet ‘character test’ requirements for the locality are all project level strategies that proponents should be prepared to undertake.

Each of these is examined in turn below.

## 2.9 Community-wide strategies

### 2.9.1 Overview

The following strategies are cited as community-wide strategies to overcome opposition to affordable housing.

- Pro-active communication, education and engagement with decision makers and communities, including:
  - The difference between ‘overcoming’ and ‘managing’ opposition
  - Messages and word choice
  - ‘Walk the talk’
  - Develop relationships with decision makers and community leaders.
- Understand the localities where you plan to develop affordable housing, including:
  - Local development conditions and requirements
  - Housing legacies and futures
  - Politics and perceptions that exist already

These are explored further below.

### 2.9.2 Pro-active communication, education and engagement

#### The difference between ‘overcoming’ and ‘managing’ opposition

Tighe (2010) states that when encountering opposition it is common for affordable housing proponents to respond by making a case for affordable housing that aims to demonstrate its benefit to the wider community and to present evidence to demonstrate the lack of negative impacts or externalities commonly raised by opponents (e.g. reduced property values, increased crime levels, etc). In other words, they try to ‘disprove fears’ in order to ‘shift public opinion’, as Scally (2012) would suggest.

As Tighe (2010) notes, however, ‘such outreach efforts seldom calm neighbours’ fears’; and while techniques including education, negotiation and litigation have ‘demonstrated some measure of success,’ the underlying factors driving opposition need to be understood in order to utilise these tools successfully.

As mentioned, in Tighe’s view those ‘underlying factors’ are rooted in ideology and stereotyping which are very difficult to sway or alter through education, logical discussion and marketing efforts alone, especially where there is already active or entrenched opposition.<sup>83</sup> Iglesias (2002) concurs

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<sup>83</sup> Tighe (2010) p 11, Noting Gibson (2005), “Attempting to counter ‘ideology’ with ‘data’ remains pointless at best.”

that there are ‘deep roots’ to the public opposition to affordable housing, related to fear, racism, classism, ableism, and growing anti-development reactions<sup>84</sup>, which are unlikely to be ‘*overcome*’.

As such, the author notes that it may more realistic for proponents to aim to ‘*manage*’ opposition by:

- respecting the legitimate concerns of local communities and neighbours,
- respecting the rights of current and future residents that the project aims to serve, and
- advancing the prospects of future affordable housing developments in the wider community.<sup>85</sup>

Davison et al (2013) in many ways concur with these suggestions. They state that addressing concerns and fears about perceived adverse impacts of a proposed affordable housing development should involve:

- Harnessing the existing passion for the place expressed by opponents,
- Giving people some ownership of the new development,
- Understanding their concerns, and
- Seeing whether their input can improve outcomes.<sup>86</sup>

They also suggest that effort is also required to shift negative perceptions of affordable housing and affordable housing residents.<sup>87</sup>

## Messages and Word Choice

Many studies focus on strategies and actions around messaging, word choice and how to shift negative public perceptions through education, evidence and marketing techniques. Whilst there is no doubt some role is to be played in this area, the evidence suggests that such initiatives may not be effective in the long-term, and likely should not be the focus for individual private and community proponents of affordable housing.

Davison et al (2013) stress the importance of ‘re-casting affordable housing as an essential public good’ by getting out positive messages ‘from the bottom-up and top-down’ as part of an important pre-application strategy for affordable housing proponents.

Some research has shown, as Goetz (2008) says ‘words matter’, such that the phrase ‘affordable housing’ has developed an unhelpful association with pejorative perceptions of ‘public housing’ which elicits negative responses. Goetz (2008) describes how many areas in the United States that have faced opposition to affordable housing have quit using the phrase ‘affordable housing’ in favour of a range of euphemisms such as ‘lifecycle housing’ or ‘workforce housing’.<sup>88</sup>

Goetz sought to understand if simple renaming can turn public opinion around, particularly amongst affluent, White, suburbanites. In a representative survey of over 1500 such residents in Minnesota, results showed that support for ‘lifecycle housing’ was significantly greater than

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<sup>84</sup> Iglesias T (2002) Ibid, p 81.

<sup>85</sup> Iglesias T (2002) Managing Local Opposition to Affordable Housing: A New Approach to NIMBY, Journal of Affordable Housing and Community Development, Vol 12, No 1, p 78-122.

<sup>86</sup> Davison et al (2013) p 141.

<sup>87</sup> Davison et al (2013) p 141.

<sup>88</sup> Goetz (2008) Words Matter: The importance of issue framing and the case for affordable housing, Journal of the American Planning Association, 74(2), p 222-229.

support for 'affordable housing'. Goetz notes that the use of different phrases to describe such housing and its occupants is an effort to 'manipulate perceptions about program beneficiaries' as more deserving. Whilst the study shows that words do matter and that using the 'right words' may change the outlook on a potentially controversial developments 'from impossible to possible', Goetz cautions that there are limitations to the utility of reframing in that any term could have a 'limited shelf-life' leaving proponents to come up with the 'next acceptable label' once the function of the housing is understood by the community.<sup>89</sup>

While there is some evidence to suggest that 're-casting' techniques are effective to some extent, the high level of stigma associated with social housing developing over decades, and more intensively since increasing residualisation of the tenant base and housing tenure, indicates that this is likely to be quite difficult to penetrate or shift using such strategies. Davison et al (2013) also note that people 'tend to ignore positive or neutral stories or accounts about affordable housing anyway'.<sup>90</sup>

## 'Walk the Talk'

Importantly, the Port Phillip Housing Association case study in the AHURI study revealed significant support for, and understanding of, affordable housing among some sections of that community – making it unique compared with the other case study areas. Port Phillip is described by the researchers as a politically active and increasingly affluent area where many areas are experiencing urban intensification.<sup>91</sup> It also has long history of direct local government engagement with affordable housing, including developing its own projects using Council land and assets through its Port Phillip Housing Association.<sup>92</sup> Unarguably, affordable housing through the work of PPHA and other organisations in the local area is long established as part of the fabric of the community.

Importantly, PPHA does not strive to be invisible. On the contrary, the PPHA proudly advertises its innovative and award winning designed projects and its objective to 'build beautiful homes for residents who pay rent within their means, minimising financial stress and giving them opportunity to achieve a higher quality of life'.<sup>93</sup>

Objectives to retain affordable housing and housing choice in the area have been part of long standing and explicit policy directives of the Council. The PPHA is a well-respected member of the community, known for its quality developments and effective management of its portfolio.<sup>94</sup>

As Davison et al (2013) suggest that it might be possible to generate community support for affordable housing and shift prejudice against it through positive local examples of projects that are not problematic.<sup>95</sup> They argue that not-for-profit providers can play a significant role in transforming perceptions of affordable housing by establishing a positive reputation for delivering

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<sup>89</sup> Goetz (2008) p 228.

<sup>90</sup> Davison et al (2013) p 142.

<sup>91</sup> Davison et al (2013) p 69-70.

<sup>92</sup> In 2004, Council established the Port Phillip Housing Trust as the ownership vehicle for Council's community housing assets. In 2005, PPHA was appointed Trustee of the Port Phillip Housing Trust. <http://www.ppha.org.au/about-us/history>

<sup>93</sup> <http://www.ppha.org.au/>

<sup>94</sup> <http://www.ppha.org.au/portfolio/awards>

<sup>95</sup> Davison et al (2013) p 142.

‘well-managed and trouble-free’ projects and ‘that they have a stake in the community and are here for the long-term’.<sup>96</sup> The strong and ongoing institutional support of the local government authority is noted in this regard.

We refer to this activity as ‘walking the talk’ in that providers are not just talking about the public benefits of what they do, but their development and management activities demonstrate the benefits to their tenants, their neighbours and the wider community. It would appear that the PPHA provides a good example in this regard.

## Relationship development with decision makers and community leaders

Davison et al (2013) offer many strategies for proponents that could be classified as community-wide strategies with the aim of pro-actively communicating, educating and engaging with decision makers and communities in order to ‘overcome’ where possible and ‘manage’ community opposition if and when it arises including:

- Building relationships with decision makers, particularly local politicians, councillors and planning officers in order to raise the profile of the organisation, providing information sessions about local need for affordable housing and working towards obtaining in-principle support and buy-in from decision makers for the work of the organisation and future development projects.<sup>97</sup>
- Recruiting supporters and community leaders (e.g. resident groups, Chamber of Commerce, business people, community and religious leaders, affordable housing advocacy groups) who are able to influence decision makers and the community, who could be advocates for the work of the organisation and for individual projects.<sup>98</sup>
- Identifying possible opponents to affordable housing, particularly local politicians and political aspirants, and genuinely engaging them in order to understand the nature of their concerns.

Local councillor leadership and resilience in the face of opposition was found to be an important factor in achieving approval for certain community housing developments in the Victorian study. Five of the 11 Victorian councils profiled for the study had specific community housing policies which provided a framework for articulating and achieving Council support for community housing proposals. Strong partnerships between CHPs and councils, which can be occasional and opportunistic during projects or on-going and extensive, have been found to be very useful in increasing the supply of AH and achieving good design outcomes.<sup>99</sup>

### 2.9.3 Understanding localities where affordable housing is proposed

Other strategies include understanding the localities where affordable housing is proposed to be developed, including:

- Local development conditions and requirements
- Housing legacies and futures

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<sup>96</sup> Davison et al (2013) p 149.

<sup>97</sup> Davison et al (2013) p 150.

<sup>98</sup> Davison et al (2013) p 151.

<sup>99</sup> Press (2009) Ibid.

- Politics and perceptions that exist already

Davison et al suggest that proponents should think about developing a locational strategy for their development of affordable housing, which takes into consideration the likely opposition that could exist based on the demographic and housing characteristics of the area. This is explored further below.

## Local development conditions and requirements

It is important that proponents have informed themselves about the development conditions and requirements in the areas where they may consider developing. This can occur at the local government or council level, in terms of the LEP and DCP requirements, as well as any precinct level planning or controls that may also exist in an area.

Having an understanding of the housing typologies and property types already available in a fine-grain level, perhaps even at the street-level, in order to identify areas that may be suitable for a new project and to articulate the ‘character’ of the area. This can be a part of strategic site selection.

Davison et al (2013) suggest that proponents should be ‘pragmatic’ and aim to develop projects in as diverse a range of neighbourhoods as possible within their areas of operation. However, they note that caution should be exercised when proposing development in certain types of areas, particularly areas:

- With no precedent for affordable housing,
- With no precedent for multi-unit development,
- With communities that are socio-economically homogenous, wealthy and militant, with few renters,
- Where advocates for affordable housing development cannot be found, or
- Where the area is seen by its resident to be on the cusp of decline.<sup>100</sup>

Gathering this type of social, demographic and housing market information can assist with anticipating likely opposition to locating projects in certain areas, as well as selecting the most appropriate site for a development where such a choice exists.

## Housing legacies and futures

Part of understanding the localities where affordable housing may be planned includes gathering information on an area’s housing legacies,<sup>101</sup> including the location, history and profile of existing social housing in the area, previous policies related to the provision of affordable housing in the area and the nature of issues and perceptions associated with existing social housing within the local community. Talking with stakeholders, local politicians and residents as well as some basic media research can assist with developing an understanding of the experience of ‘affordable’, ‘social’ and ‘public’ housing in the local context.

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<sup>100</sup> Davison et al (2013) p 150.

<sup>101</sup> Scally (2012) Ibid, p 733, describes the ‘housing legacies’ of the New York state case studies investigated as involving the inventories of subsidized housing in an area, discriminatory planning regimes designed to limit certain types of development in certain areas and regional inequalities in the distribution of subsidized housing based on needs assessments that seek to perpetuate existing distributions.



Regional growth plans and other strategic plans for a local government area should also be considered to understand the extent to which the area is already identified as a growth area slated for significant changes to the existing dwelling and demographic profile of the area, which may have an influence on the level of concern within the community about future development.

## Politics and perceptions that already exist

The above activities can all contribute to understanding the politics and perceptions that already exist at the community level with regards to affordable housing. A better understanding of the existing perceptions of the public and decision makers, particularly local politicians, can assist proponents to development for effective ways to engage with those groups in order to counter and perhaps change opinions but more importantly to better anticipate and prepare for the nature of opposition their proposal may generate and how to respond.

## 2.10 Project level strategies

### 2.10.1 Overview

Pre-development planning and assessment work, negotiating with objectors on certain planning and design elements, and most importantly ensuring that proposals are built within existing controls and meet ‘character test’ requirements for the locality are all project level strategies that proponents should be prepared to undertake, according to the literature. This includes the following:

- Site selection and planning work
- Ensuring proposals are in line with controls and ‘character’ requirements
- Engaging and negotiating with objectors.

These are looked at in turn below.

### 2.10.2 Site selection

As part of understanding the localities where a proponent may seek to develop affordable housing, selecting a site requires further fine-grain assessment of demography, housing typologies and character in the area. It is suggested that proponents consider developing a communications framework based on a thorough analysis of the neighbourhood, its people, the likely arguments and how they might be addressed.

### 2.10.3 Adhere to controls and ‘character’ requirements

Davison et al (2013) advise proponents to ‘keep it simple’ by ensuring that proposals meet as many of the requirements of local planning controls as possible. The authors suggest that proposals that conform as much as possible to the controls provide the local community with ‘one less reason to object’ and do not provide the opportunity for objectors to ‘cloak their concerns about affordable housing residents with issues to do with parking provision or physical form.’<sup>102</sup> Moreover, if a proponent can demonstrate that the proposal contributes to broader policies or strategies it is more likely to be supported by local politicians.

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<sup>102</sup> Davison et al (2013) Ibid, p 152.

#### 2.10.4 Engaging local residents and negotiating with objectors

Some proponents are often in two minds about the value of pro-actively engaging with local residents about a proposed affordable housing development, at the pre-DA stage or otherwise, for fear of ‘stirring things up’ prematurely or risk being criticised for withholding information and ‘having something to hide’ about the proposal. However, most researchers suggest that the benefits of engagement typically outweigh the risks.

Davison et al (2013) suggest that face to face interpersonal interaction between developers and community members should be maximised wherever possible, and recommends meetings with neighbours early in the process.<sup>103</sup> They suggest that while it is possible to ‘fly under the radar’ with community engagement, such an approach can risk opposition being more fierce if it does arise as people will object to not being consulted adequately.<sup>104</sup>

Press (2009) suggests that there are real benefits in reaching out to gain the trust of the host community in order to mitigate opposition by carefully listening and responding to concerns as well as undertaking follow up studies on property values and crime to understand the impact of a development.<sup>105</sup>

It is suggested that pre-lodgement consultations be undertaken by proponents that are conversational and with no fixed agenda that avoids an ‘us and them’ set-up and overly technical presentations. The aim of these consultations is to let neighbours know about the development, being clear about the intended use of the site for affordable housing, prior to design work to hear their issues or concerns. It is important for the proponent to tactfully communicate which elements of the design process they can have input to, and what is not up for negotiation and comment, such as the profile of future residents.

It is also important for proponents to genuinely listen to the concerns raised by residents. If people perceive that developers and local authorities are not receptive to or dismissive of their concerns, that can contribute to anger and resentment and sometimes strengthen their resolve to oppose the proposal.<sup>106</sup>

In turn, proponents should be prepared and willing to negotiate with objectors on certain elements, but it is recommended that parameters for that negotiation (e.g. negotiate on design elements but not on residents) are established early and understood by all parties.<sup>107</sup> It is important for proponents to be aware that making aesthetic changes, altering the design based on community consultation can have downsides in terms of delays, increased costs or a reduced number of units.

Some other engagement strategies suggested for proponents include:

- Providing opportunities, such as open days, for neighbours to visit established development projects so people can ‘see for themselves’ what affordable housing can be

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<sup>103</sup> Davison et al (2013) Ibid, p 152.

<sup>104</sup> Davison et al (2013) Ibid, p 153.

<sup>105</sup> Press, M (2009) Community Engagement and Community Housing: Lessons and practical strategies for local government for responding to contested community housing proposals, Report prepared for the City of Port Phillip, July. Accessed online at: <http://www.chfv.org.au/database-files/view-file/?id=1010>.

<sup>106</sup> Davison et al (2013) Ibid, p 152.

<sup>107</sup> Davison et al (2013) Ibid, p 153.



like and to talk with tenants to better understand their needs and reduce negative stereotyping.<sup>108</sup>

- Developing a neighbourhood protocol within the organisation which outlines how they will respond to any legitimate neighbour concerns about tenant behaviour, such as where there may be impacts on community safety.<sup>109</sup>

## 2.11 Relevance of the current study

The above review of key literature provides valuable insights for the current study, as well as indicating further testing ground regarding the rationale for and most effective ways of overcoming community and institutional opposition to affordable housing.

In particular, much of the Australian research has been undertaken in the economic and policy context of the *Nation Building Economic Stimulus Program* and the strongly interventionist approach of the now repealed *Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009 (NSW)*. The Australian research inquiry reviewed was also quite strongly focused on some of the more resistant councils and controversial developments, which appeared to be a relatively small minority of examples of such developments, as noted. As such, the rationale for community or institutional opposition, and strategies to facilitate approval of such developments, was being explored in an environment that was somewhat less than average.

The studies reviewed also did not have a detailed focus on housing need, or the housing market and economic environments as a strategic context from which to select and examine case study areas or developments. They also did not undertake a systematic review of all case law related to affordable housing developments to provide a context for understanding the relative litigiousness of local authorities.

The approach taken by the current study is somewhat different in this regard. Whilst sharing some common concerns or objectives of Australian studies reviewed, it selects as a testing ground case studies within areas that have a high unmet demand for affordable housing and where housing and land economics is likely to support redevelopment, and/or where there is strong State Government support for redevelopment (designated urban redevelopment areas). Within, or close to these areas, it selects a range of case studies (fifteen in all) where there have been a variety of community and institutional responses to proposed developments, with the aim of learning from examples that have been quite unproblematic as well as those that were strongly contested.

The current study also excludes from consideration any developments that were fast-tracked under previous legislation specifically associated with the *Nation Building Economic Stimulus Program* (i.e. the former *Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009 (NSW)*) due to the controversy of developments associated with this legislation and approach, and that this legislation is now defunct.

Instead, selected case study developments used a variety of approval mechanisms, including the normal planning approvals process as well as the facilitative provisions of *SEPP Affordable Rental Housing 2009* for more liberal controls for specified types of developments. Whilst the latter

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<sup>108</sup> Press (2009) Ibid.

<sup>109</sup> Press (2009) Ibid.

arguably opens up increased opportunities for affordable housing and increased density, the approvals process and character test provide for more regular forms community consultation and planning processes than the former *Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009*. It is hoped that this would remove some of the more extreme community angst associated with the latter legislation and processes, and be more reflective of the current policy environment.

The current study seeks to undertake a more systematic selection and review of case study developments within the context of recent case law, local housing need and demand across all local government areas in NSW, and an analysis of evidence of economic pressure for redevelopment including in areas prioritised for urban renewal in government policy. In this way, the study aims to focus on areas where increasing the provision of affordable rental housing would be most beneficial and economically feasible, and to contribute to the evidence base for consideration by government, community and private sector stakeholders. It does so within the legislative and policy framework of NSW State Government, as described below.

## 3 Planning, Funding & Policy Environment

### 3.1 Funding and policy environment

#### 3.1.1 Regional affordability issues

It is widely acknowledged that there is major shortfall in affordable housing in most cities and many regional and rural communities across Australia.<sup>110</sup> The most severe and lasting impacts are experienced by very low and low income households in unaffordable private rental accommodation, who do not gain the benefits that accrue to home purchasers, including long-term capital gains and a decreasing debt to household income ratio over time,<sup>111</sup> and for whom social rental is increasingly inaccessible.<sup>112</sup>

Some people achieve 'affordable' purchase or rental through moving to an increasingly remote urban fringe or regional areas, but such locations can increase costs to households, socially or economically, through increased travel time, transport costs,<sup>113</sup> and decreased access to services and employment.<sup>114</sup> However, even these areas are increasingly unaffordable, particularly with regard to rent for key target groups.<sup>115</sup>

#### 3.1.2 Recent State Government Policy Initiatives

##### Overview

There have been a range of more recent **NSW State Government** initiatives to support maintenance and growth of social and affordable housing. Most recently, these include the Communities Plus initiative calling for expressions of interest for the redevelopment of Land and Housing Corporation sites throughout metropolitan Sydney and regional NSW; and the proposed \$1 billion Social and Affordable Housing Fund.

Family and Community Services currently offer grants of \$10,000 per room to encourage the construction of new Boarding Houses or the addition of new rooms to existing premises under the Boarding House Financial Assistance Program.<sup>116</sup>

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<sup>110</sup> Darcy, M. and Stubbs, J. 2005. 'Housing and Contemporary Social Work Practice', in Alston, M. & McKinnon, J. (eds) *Social Work Fields of Practice*, Oxford University Press, UK.

<sup>111</sup> Burke, T. and Hulse, K. 2010. 'The Institutional Structure of Housing and the Sub-prime Crisis: An Australian Case Study', in *Housing Studies*, Vol. 2. No. 6, 821-838, November 2010.

<sup>112</sup> NSW Government (2016) Future Directions for Social Housing in NSW, accessed online: <http://www.socialhousing.nsw.gov.au/>

<sup>113</sup> Kellett, J. Morrissey, J. and Karuppannan, S. 2012. 'The Impact of Location on Housing Affordability', *Presentation to 6th Australasian Housing Researchers Conference*, 8-10 February 2012, Adelaide, South Australia.

<sup>114</sup> Burnley, I. and Murphy, P. 2004. *Sea Change: Movement from Metropolitan to Arcadian Australia*, UNSW Press, Sydney; Burke, T. and Hulse, K. 2010. 'The Institutional Structure of Housing and the Sub-prime Crisis: An Australian Case Study', in *Housing Studies*, Vol. 2. No. 6, 821-838, November 2010.

<sup>115</sup> See for example, JSA (2013) *Background Paper: Housing Affordability*, Wyong Shire Council.

<sup>116</sup> <http://www.housing.nsw.gov.au/about-us/programs-and-grants/boarding-house-financial-assistance-program> accessed 8 January 2016.

## Future Directions for Social Housing in NSW

In early 2016, the NSW State Government released its ten year strategy to reform the social housing sector in NSW, *Future Directions for Social Housing in NSW*. The strategy has three main priorities:

- To increase the supply of social housing in order to address the demand, including a waiting list that has grown to 60,000 households;<sup>117</sup>
- To develop/provide more opportunities, incentives and/or support for people to avoid social housing all together or to shorten their length of tenure by successfully transitioning into the private market; and
- To improve the social housing experience for tenants.

The first priority, to grow the supply of social housing, will be achieved through ‘significant expansion and redevelopment of properties through partnerships with private sector developers and finance’ by:

- Transferring the management or ownership of up to **35% of all social housing properties** in NSW to the community housing sector;
- Introducing measures to ensure that social housing properties are better utilised to meet the needs of tenants (e.g. reducing under occupancy, improving allocations, and building new dwellings that are smaller and more ‘fit for purpose’); and
- Providing **\$1.1 billion** investment through the **Social and Affordable Housing Fund (SAHF)** for new social and affordable housing development, with returns on this used to pay an unquantified operating subsidy for up to 25 years to successful bidders. However, it is understood that the land component is required to be donated (for example, by local government), and that a minimum of 200 dwellings are required to be created, although these can be on non-contiguous sites, or different local government areas (e.g. with a proposal put together by a consortium of community housing providers). Nonetheless, the scale and amount of land required is likely to favour larger charities with large land holdings in the initial rounds. It is expected that around 3,000 additional properties will be delivered through this initiative.<sup>118</sup>

The only reference made in the strategy to the planning system in NSW is that the government will ‘work with planning agencies and authorities to ensure appropriate rezoning is possible’.<sup>119</sup>

## Communities Plus

A key plank for the strategy’s first priority to grow the supply of social and affordable housing is the **Communities Plus program** which is described as a ‘new approach to delivering integrated communities and improved social outcomes’ via the redevelopment of LAHC sites undertaken in partnership between the government and non-government and/or private sector. The

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<sup>117</sup> NSW Government (2016) Future Directions for Social Housing in NSW, accessed online: <http://www.socialhousing.nsw.gov.au/>

<sup>118</sup> Interviews with larger community housing providers related to other research in which JSA is involved.

<sup>119</sup> NSW Government (2016) Future Directions for Social Housing in NSW, p.9. Accessed online: <http://www.socialhousing.nsw.gov.au/>

Communities Plus redevelopment project sites will be aligned with the UrbanGrowth priority renewal areas. It is expected that around 6,500 additional dwellings will be created over 10 years.

It is understood that the 'Plus' in Communities Plus refers to the range of initiatives and pilot programs that will be trialled at these sites to link housing assistance to participation in education, training and local employment opportunities to promote independence.<sup>120</sup>

There is currently an EOI for partners to redevelop the first LAHC sites earmarked under this program into mixed tenure (social, affordable and private housing) communities with a 70:30 split between private and social housing, resulting in 3,000 new social and affordable rental dwellings across the sites located in:

- Ivanhoe (the first and largest site at Macquarie Park which will include 1800 private, 556 social and 128 affordable dwellings – this EOI closed in Dec 2015)
- Gosford
- Newcastle
- Tweed Heads
- Seven Hills
- Telopea
- Liverpool.

The EOI for the six sites closed on 16 February 2016. We note that the second phase EOI is scheduled for mid-2016 and will focus on sites in Penrith, Bankstown, Liverpool, Parramatta, Lane Cove, Wagga Wagga, Port Macquarie, and Wollongong.<sup>121</sup>

## Other aspects of the strategy

Other relevant aspects of the strategy include increasing independence for current social housing tenants to improve life opportunities and transition out of social housing. This includes:

- Increasing private rental assistance products and introducing new private rental funding products;
- Reducing disincentives for tenants to gain employment, increasing early intervention for education, and opportunities for tenants to be engaged in maintenance contracts;
- Exploring options to better utilise Government lands for social and affordable housing; Renewing and reconfiguring the regional stock portfolio and expanding the types of houses built through a program of acquisitions to replace dwellings and expand supply in regional centres with good access to services and employment, identifying Crown Land which may be suitable for future social housing development and investigating shared equity loans to increase home ownership in regional areas.

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<sup>120</sup> NSW Government (2016) Future Directions for Social Housing in NSW, p.9. Accessed online: <http://www.socialhousing.nsw.gov.au/>

<sup>121</sup> <http://www.communitiesplus.com.au/>

## Boarding House Financial Assistance Program

Family and Community Services currently offer grants of \$10,000 per room to encourage the construction of new Boarding Houses or the addition of new rooms to existing premises under the Boarding House Financial Assistance Program.<sup>122</sup>

To be eligible for the BHFAP – New supply grant, your Boarding House project must:

- construct new rooms which are self-contained with private ensuite and a kitchenette;
- comply with all aspects of the *SEPP (Affordable Rental Housing) 2009* for New Generation Boarding Houses, including accessibility and room size requirements;
- intend to provide long term and low cost accommodation for at least five years;
- have a ‘residential’ rating with local council;
- be operationally viable, with a Boarding House calculator available to help determine if a Boarding House is operationally viable.
- be registered with the NSW Fair Trading once complete; and
- represent value for money and be cost effective.

### 3.1.3 Increasing community sector capacity

Previous initiatives focused more generally on growing affordable housing through **increasing community housing sector capacity to deliver and manage such housing**. These include increased funding for Community Housing Providers (CHPs), transfer of social housing properties to CHPs, including some with title, and regulatory support to increase their professionalism and capacity.<sup>123</sup>

There has also been an increasing emphasis on **development and management partnerships** that can make the most efficient use of Federal and State Government funding and resources, including between State and local government, the private sector and CHPs. The rationale for such partnerships is to increase affordable housing constructed through leveraging State and Federal funding including through access to council or other publicly-owned land, access to resources created through the planning system, or through the accumulated funds or the borrowing capacity against equity of larger CHPs.

There are some key differences between the community housing sector and state housing authorities that provide potential financial and resource advantages, and make them attractive affordable housing partners. Whereas the Department of Housing is not eligible to receive Commonwealth Rental Assistance (CRA) payment,<sup>124</sup> CHPs are able to receive 100% of CRA paid to tenants as part of rent calculation which often enables CHPs to operate at or above breakeven point and potentially generate an operating surplus. Their ability to enter into debt against equity financing arrangements, from which State Government is generally precluded, is also an advantage in entering into development partnerships. There is also an expectation that CHPs will leverage (raise finance against) stock transferred from State Government to them.

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<sup>122</sup><http://www.housing.nsw.gov.au/about-us/programs-and-grants/boarding-house-financial-assistance-program> accessed 8 January 2016.

<sup>123</sup> Fact sheets, NSW Federation of Housing Associations.

<sup>124</sup> Rental supplements to low income tenants

A significant slowdown in the economy in 2009 prompted a range of Federal Government actions to stimulate growth. The social housing system was a major beneficiary of government expenditure under Nation Building (economic stimulus), which provided some growth in absolute terms in a sector in NSW as a whole that has been declining relative to need for some decades. However, post-stimulus, the supply of such housing still falls far short of the current and projected need for affordable housing across Australia. Further, many low and moderate income households currently in housing stress would not be eligible for social housing, and those very low income households that *are* eligible generally face a waiting time of many years.

Very low and low income renting households remain problematic groups for whom to achieve affordable housing outcomes, especially in the absence of direct funding and significant subsidies for such groups. The majority of those in housing stress or affordable housing need are very low income renting households, and most would find it difficult to access public and community housing in the current funding environment.

Given the extent of unmet affordable housing need in areas described later, the retention and creation of affordable housing for very low renters and low income purchasers through the planning system becomes crucial,<sup>125</sup> though a significant challenge.

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<sup>125</sup> Gurrán, N. and Whitehead, C. 2011. 'Planning and Affordable Housing in Australia and the UK: A Comparative Perspective', in *Housing Studies*, Vol. 26, Nos. 7-8, 1193-1214



## 3.2 The NSW Planning Context

### 3.2.1 Affordable Housing Support in EP&A Act and related policies

#### Overview

The retention and creation of affordable housing for very low, low and moderate income households through the planning system becomes more important in the context of constraints to federal policy and funding.<sup>126</sup> There are significant opportunities for local government to support the creation and maintenance of affordable housing through core planning legislation and policies in NSW compared to most Australian states, with an increasing interest in this policy area by NSW State Government evident. However, there are also significant constraints to action by local government, principally arising from its subordinate relationship to state government in Australia, its lack of planning autonomy, the prescriptive nature of the land use zoning system compared with other international jurisdictions like the UK,<sup>127</sup> and its constrained economic position and constraints to raising capital through debt financing.<sup>128</sup>

Nonetheless, local government has an implicit role in affordable housing and an impact on affordability through land use zoning, controls, the timing of land release, location of services and facilities, and the levying of rates and development contributions. It can also choose to play a more proactive role in the creation and retention of affordable housing through active intervention in

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<sup>126</sup> Gurran, N. and Whitehead, C. 2011. 'Planning and Affordable Housing in Australia and the UK: A Comparative Perspective', in *Housing Studies*, Vol. 26, Nos. 7-8, 1193-1214.

<sup>127</sup> See for example Gurran, N., Milligan, V., Baker, D. Bugg, L. B., Christensen, S. 2008. *New directions in planning for affordable housing: Australian and international evidence and implications*, AHURI Sydney Research Centre, who note that early 20<sup>th</sup> century Australian planning legislation drew heavily upon UK planning law, with its strong reliance on a prescriptive land use zoning system under the *Town and Country Planning Act 1932*. However, the UK shifted away from this system from 1947, introducing the discretionary system and nationalised development rights, whereas Australia went further down a path of implied development entitlements fixed by zoning. As noted by Gurran and Whitehead, this underlying zoning system of assumed development rights has two main consequences for affordable housing requirements. 'First, the ability to negotiate for a community outcome, such as affordable housing provision, is eroded in advance by establishing development potential ahead of specific planning proposals'. A second consequence is that, when public authorities seek to acquire land not already set aside for public purposes for affordable housing, 'they must do so at a market rate which reflects these opportunities.' This significantly constrains the ability to capture benefit through the approvals process using mandatory mechanisms compared with the UK, and means that the most significant opportunities in the Australian planning context generally rely upon the rezoning of land, imposing effective constraints on development arising from more restrictive zoning that can be varied through incentive-based mechanisms where a share of additional profit is provided for affordable housing, capturing a share of benefit in areas of high land value or major gentrification (new release areas, centres or high amenity precincts), and the mandated protection of low cost dwellings or dwellings types. There is thus more 'finessing' of affordable housing under the regulatory context in NSW compared with for example the UK (see also Stubbs (2003) op cit).

<sup>128</sup> Gurran et al (2008) op cit; Stubbs, J. and Storer, T. 2006, 'Planning at the Margins? The Role of the NSW Planning System in Protecting Affordable Housing' in *Proceedings of the 23rd Australasian Law and Society Conference in Wollongong*, 13-15 December 2006; Stubbs, J. 2003. *Battle for the Right to the City: Opportunities for an emancipatory social practice in a polarising urban landscape*, RMIT (unpublished PhD thesis)



the market through the development of appropriate planning mechanisms and strategies, as discussed below.<sup>129</sup>

## Opportunities and Constraints of Principal Legislation and Related Policies

Unlike jurisdictions like Western Australia, where the principal planning legislation is silent on the matter of affordable housing,<sup>130</sup> the Environmental Planning and Assessment Act 1979 (NSW) has express provisions related to the creation and protection of affordable and low cost housing, and others which may be used to support such housing through the planning and approvals process. NSW local government accordingly has roles and responsibilities relating to affordable housing under planning legislation including state environmental planning policies (SEPPs).

In NSW, objects and a range of related provisions have been progressively included in the Environmental Planning and Assessment Act since 1999, including section 5(a)(viii) which provides that an objective of the Act is the ‘maintenance and provision of affordable housing’.<sup>131</sup> There are likewise definitions and benchmarks related to ‘affordable housing’ in core legislation and related policy, though there are practical differences in affordable housing outcomes due to differences in affordable housing definitions in different instruments.<sup>132</sup>

Importantly, it is a requirement of the Act that a consent authority take into account the ***social and economic impacts*** of a development application as part of a merits assessment under s79C(1)(b). This has obvious applicability to development applications that may result in the loss of affordable or low cost housing, such as low cost flats, Boarding Houses and caravan parks, as well as the assessment of the benefits of an application involving the creation of affordable housing, particularly where this is balanced against other factors as part of the merits assessment. The ability

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<sup>129</sup> Stubbs, J. and Storer, T. 2006, ‘Planning at the Margins? The Role of the NSW Planning System in Protecting Affordable Housing’ in *Proceedings of the 23rd Australasian Law and Society Conference in Wollongong*, 13-15 December 2006.

<sup>130</sup> For example, the *Planning and Development Act 2005 (WA)* is silent on the matter of affordable housing. There are no objectives or definitions regarding affordable housing, and no mandatory requirement for a consent authority to take into account the social and economic impacts of development or redevelopment under the Act, which could otherwise be used to mitigate the loss of low cost or affordable housing, as there is in NSW and Victoria. There are also no specific State Planning Policies (SPPs) related to preservation of existing stocks of affordable housing in core planning legislation as there are in NSW, nor to provide for incentives to create affordable housing through, for example, express relaxation of zone controls and development standards where a proportion of properties created are dedicated to affordable rental housing, which is again provided for in NSW under *SEPP (Affordable Rental Housing) 2009*.

<sup>131</sup> In December 1999, the Act was amended to make the provision of affordable housing a specific objective of the Act; add a definition of affordable housing; and make explicit that environmental planning instruments could include provisions to provide for, maintain and regulate matters relating to affordable housing.

<sup>132</sup> *State Environmental Planning Policy No 70 (Affordable Housing)* and *State Environmental Planning Policy (Affordable Rental Housing) 2009* each have different benchmarks and definitions which lead to quite different practical outcomes for ‘affordable housing’. *SEPP 70* defines ‘very low-income’ households as those on less than 50% of median household income; ‘low-income’ households as those on 50-80% of median household income, and ‘moderate-income’ households as those on 80-120% of median household income for Sydney SD. Under *SEPP ARH*, affordable housing is defined as housing that is rented to very low, low and moderate income households for no more than 30% of their gross income; or as housing that complies with rents and eligibility criteria under the National Rental Affordability Scheme (NRAS), with the latter based on discount market rents and income eligibility limits. In some markets, the second criterion can result in households paying more than 30% of gross household income in rent (and sometimes substantially more) so that, while the housing must be rented to relevant target groups, it will not be ‘affordable’.

to seek mitigation for loss of affordable housing as part of conditions of consent is also possible under this head of consideration. A growing body of case law in the NSW Land and Environment Court related to social impacts is also relevant.

Likewise, a consent authority is required to consider whether a proposed development is in the *public interest* under s 79C(1)(e), and a growing body of case law has likewise determined that it is in the public interest to give effect to the objectives of relevant legislation. It is relevant in this regard that the Act has as an objective '*the maintenance and provision of affordable housing*' (s5(a)(viii)).

As such, on the face of it, local government has a role and indeed a statutory responsibility to seek to preserve and create affordable housing through the planning and assessment process. However, there are also limitations to local government's power under the Act, particularly in relation to the levying of mandatory contributions for affordable housing, though arguably its constraints are not as great as some would perceive.

Dealing first with **mandatory contributions**, in June 2000, further amendments were made to the Act in relation to affordable housing to provide consent authorities with the specific power to require, as a condition of consent, the dedication of land free of charge or the payment of a monetary contribution for affordable housing in certain circumstances. *Sections 94F and 94G* were introduced<sup>133</sup> to provide consent authorities with the express power to impose such conditions 'if a State Environmental Planning Policy (SEPP) identifies that there is a need for affordable housing within an area' and certain other conditions are met.<sup>134</sup>

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<sup>133</sup> The 2000 amendment to the EP&A Act was gazetted in direct response to the effective invalidation of Amendment 6 of South Sydney Council's LEP (on Green Square). Significantly, this had resulted from a successful challenge to Council's affordable housing provisions by Meriton Apartments in the NSW Land and Environment Court. The action was taken in relation to Green Square, a 'brownfields' redevelopment site on the old ACI Glass Factory site at Waterloo-Zetland. Green Square lies within the boundaries of South Sydney Council (SSC), and is affected by the SSC Local Environmental Plan 1998 (Amendment No. 2) – Green Square. The subject site was also affected by the Green Square Affordable Housing Development Control Plan (DCP), under which SSC aimed to include a component of housing affordable for low and very low incomes earners, who had traditionally lived in SSC area and were being rapidly displaced by gentrification. Despite the fact that the DCP provided for only 3% of residential and 1% of commercial floor space (equivalent) to be dedicated to affordable housing as defined in the DCP, Meriton mounted and was successful in having upheld, a Land and Environment Court (LEC) challenge that rendered the provision of the DCP invalid (*Meriton Apartments v Minister for Urban Affairs and Planning* (2000) NSW LEC 20 – Decision 18 February 2000). The decision of Justice Cowdry in this matter (*Meriton Apartments v Minister for Urban Affairs and Planning* (2000), NSW LEC 2000) relied partly on an inconsistency between South Sydney Council's Local Environmental Plan (LEP) and DCP, and partly because it represented a 'fundamental interference with property rights' at common law (p.383). The NSW LEC decision on Green Square referred to had the effect of potentially invalidating all local government Development Control Plans (DCPs) that provided for the inclusion of affordable housing, including those who were attempting to deal with increasing gentrification through capturing some public benefit from the rezoning and redevelopment of existing sites, and had far reaching effects for other local planning schemes.

<sup>134</sup> Councils may only use these provisions if a SEPP identifies that there is a need for affordable housing within its area, and a Regional Environmental Plan (REP) or a local environmental plan (LEP) has been made in accordance with the relevant requirements for affordable housing provision set out in the SEPP, and if the Council has a developer contributions scheme set out or adopted in such a plan. The consent authority must be satisfied that that the development in respect of which the contribution is required will result in a reduction of affordable housing, will increase the need for affordable housing, or is in accordance with relevant regulations or zoning.

The relevant SEPP for this purpose is *SEPP 70 Affordable Housing (Revised Schemes) (SEPP 70)*, which amends relevant local and regional environmental planning instruments to enable the levying of development contributions to provide for affordable housing. *SEPP 70* provides guidance regarding the requirements for assessing housing need, setting contribution levels, apportionment, administration and accountability, and specifies relevant income and rental criteria.<sup>135</sup>

On the face of it, this gives effect to what a number of Councils had been doing for some time under the pre-2000 provisions of s94 (development contributions including for community facilities). However, the provisions of s94F and s94G are operationalised and limited in practice by *SEPP 70*, which applies to a very limited number of housing schemes including Ultimo-Pyrmont, Willoughby and Green Square, and to only three Council areas – Sydney, Leichhardt and Willoughby Councils. This would appear to preclude other Councils from imposing a mandatory levy, at least under s94F and s94G, although some Councils have done so unchallenged.<sup>136</sup> Despite lobbying from Councils throughout NSW where affordable housing is increasingly a serious issue,<sup>137</sup> the State Government has to date maintained the limited application of s94F and s94G of the Act.

Other express provisions are also contained within the Act to further the affordable housing objectives.

S93F of the Act provides for the making of a **voluntary planning agreement** in relation to a proposed amendment to a planning instrument or development application. Under such a planning agreement, the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose. ‘Affordable housing’ as defined in the Act is one of the listed ‘public purposes’.

A planning agreement is generally advertised in conjunction with the development or rezoning application to which it relates, and forms part of the conditions of consent. A planning agreement is registered and runs with the title to the land, and is binding on, and enforceable against, the owner of the land from time to time as if each owner for the time being had entered into the agreement. The provisions also provide for administrative, reporting, review and other accountability requirements like other forms of development contributions, and may be used in place of or as well as levies with respect to other infrastructure under normal development

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<sup>135</sup> *SEPP 70* defines ‘very low-income’ households as those on less than 50% of median household income; ‘low-income’ households as those on 50-80% of median household income, and ‘moderate-income’ households as those on 80-120% of median household income for Sydney SD.

<sup>136</sup> For example, Wollongong and North Sydney Councils levied for a contribution to affordable housing to offset the loss of low cost flats, units and Boarding Houses from around 1987 under s94 of the Act on a per bedspace basis as well as using the provisions of the then SEPP 10 - Retention of Low Cost Rental. Wollongong discontinued its policy from around 1992, although North Sydney Council has continued to use s94 to levy for the loss of low cost accommodation until recently. The lack of LEC challenge was likely due to the relatively low levy per bedspace lost compared with the profit from strata subdivision or redevelopment.

<sup>137</sup> Thorpe, D., Miers, S., Stubbs, J., Richardson, R. and Berryman, C. 2004, *Enhancing the Role of Local Government in Affordable Housing: Options for Improving Our Planning System*, Affordable Housing Network, Shelter NSW.

contributions provisions of the EP&A Act. Importantly, a planning agreement does not have to demonstrate nexus between the development and the public purpose for which it was made.

More flexibility or discretion for NSW State Government is apparently provided for in more recent amendments to the Act in relation to **'Special Infrastructure Contributions'**, which expressly include 'affordable housing' as defined. This includes the provision, extension and augmentation of (or the recoupment of the cost of providing, extending or augmenting) public amenities or public services, **affordable housing** and transport or other infrastructure relating to land [emphasis added]; and the funding of recurrent expenditure in relation to the above, or any studies or other support required (*s94ED*). Such contributions are not limited to land within a 'special contributions area', although such contributions are not to be required unless the provision of infrastructure 'arises as a result of the development or class of development of which the development forms part' (*s94EE(2)(c)*).

Reasonable discretion also appears to be provided for in *s94EE(3)*, which states that, despite the limitations of other provisions, 'the Minister may...determine the level and nature of development contributions in the form of a levy of a percentage of the proposed cost of carrying out development or any class of development'. Further, the Minister will determine what part (if any) a development contribution will be 'for the provision of infrastructure by a Council' (*s94EE(3A)*). It is noted that, in determining the level and nature of contributions, the Minister will, as far as practicable make the contribution 'reasonable with regard to the cost' of infrastructure in relation to the development (*s94EE(2)(a)*).

There appears to be scope under these provisions to propose the levying of contributions for affordable housing where nexus between the development or class of development and increased demand for affordable housing (as a form of special infrastructure) is demonstrated, and there is reasonableness in the assessment of the level of contribution levied.

Finally, it is noted that Councils often assume greater limitations to their powers than necessary since the gazettal of the 2000 amendments.<sup>138</sup> However, *s94F(5)* makes it clear that 'nothing in this section prevents the imposition on a development consent of other conditions relating to the provision, maintenance or retention of affordable housing'. This, and *s5(a)(viii)* and other relevant provisions discussed above, appear to provide sufficient latitude for Councils to engage in, for example, negotiating agreements with developers, identifying circumstances in which it is appropriate to provide for planning incentives through relevant EPIs, mandating diversity or affordability through developing performance criteria or targets in relevant plans (e.g. Masterplan DCPs), requiring social impact assessments to mitigate the loss of affordable housing, or other planning or procedural mechanisms apparently available to further the objects of the Act. A range of more active Councils are engaged in some or all of these activities at present, and these types of activities appear to be legal.

More recent amendments to the Act would also appear to open the door to mandatory contributions as a form of special contributions where nexus can be established and ministerial approval can be obtained, though clarification of the legality of such a position should be obtained from the Department of Planning and Environment. Rationale for the provision of affordable

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<sup>138</sup> See for example, Stubbs, J. 2003. *Battle for the Right to the City*, Faculty of the Constructed Environment, RMIT (PhD thesis).

housing as a form of infrastructure and the economic feasibility and reasonableness of mandatory mechanisms (including requiring the provision of or a contribution) towards affordable housing are key matters addressed in the research for the current study.

The gazettal of *State Environmental Planning Policy (Affordable Rental Housing) 2009 (SEPPARH)* aimed to provide a consistent planning regime to encourage and enable the provision of affordable and diverse housing to various target groups. In particular, the SEPP aims to facilitate the provision of affordable and diverse housing through zone liberalisation, the provision of incentives for delivery of new affordable rental housing including close to places of work, facilitating the retention and mitigation of the loss of existing affordable rental housing, and the development of housing for special needs groups including social housing, Boarding Houses and supportive accommodation.

Prior to significant amendments to the SEPP in 2011, development for the purposes of dual occupancies, multi-dwelling housing and residential flat buildings could be carried out in certain residential zones – even if it was normally prohibited – provided that 50% or more of dwellings in the development were for affordable housing, and that the development was less than 8.5 metres high.

However, the 2011 Amendments introduced several changes in relation to in-fill affordable housing and boarding houses, including that:

- dual occupancies, multi-dwelling housing and residential flat developments are no longer automatically permitted in certain residential areas by virtue of the ARH SEPP; and
- where such development is permissible within the relevant zone:
  - a consent authority must consider whether the proposal is compatible with the local character of the area (the "*local character*" test); and
  - at least 20% of total floor space, rather than a proportionate number of units, must be used as affordable rental housing (for 10 years).

The 2011 Amendments have effectively tightened planning controls around the provision of infill affordable housing. In addition, the local character test involves a subjective assessment by the consent authority as to whether a proposed development would be in harmony with the buildings around it. This requirement can therefore be difficult to satisfy, especially where there is significant local opposition to the proposed development.

This is discussed in more detail in relation to the review of recent case law in Section 4 below, including relevant information on legal interpretation of the 'local character test'.

### 3.2.2 Recent Policy and Legislation on Boarding Houses

In recent years, the NSW government has initiated policy changes to increase the supply of quality Boarding Houses to meet the needs of a variety of residents including key workers, those who need more flexible housing options and those with special needs,<sup>139</sup> and to provide a more appropriate

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<sup>139</sup> Affordable Rental Housing State Environmental Planning Policy 2009, Reg 30, Standards for Boarding Houses.



regulatory framework to deliver Boarding House services that promote and protect the wellbeing of residents.<sup>140</sup>

The NSW *State Environmental Planning Policy Affordable Rental Housing 2009* (SEPPARH) encourages the creation of 'New Generation' Boarding Houses that provide low cost and flexible rental housing to suit a range of different tenant groups such as single retirees, working singles, homeless, students and young couples.<sup>141</sup> The SEPP includes standards for proposed Boarding Houses that must be satisfied prior to development consent.

The Government provides various incentives for proprietors of Boarding Houses, such as land tax exemption or reduction in land value, and grants for essential fire-safety works. In order to receive these incentives, certain requirements or conditions must be met. For example, an exemption for the 2014 tax year is available where at least 80% of the accommodation is available for Boarding House residents and maximum tariffs per room must not be exceeded.<sup>142</sup>

Recent legislation and regulatory support for Boarding Houses, including the *Boarding Housing Act 2012 (NSW)* has also provided a more robust framework for such development, improved management requirements, design standards and amenity, and increased the attractiveness of this form of development as a legitimate tenure form.

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<sup>140</sup> Boarding Houses Bill 2012, Part 1, Clause 3, Object of this Act.

<sup>141</sup> NSW Government, Supporting Affordable Rental Housing – New Generation Boarding Houses fact sheet, accessed 10 June 2015 at: [http://www.planning.nsw.gov.au/plansforaction/pdf/Affordable%20Housing\\_Fact\\_NewGenerationBoardingHouses.pdf](http://www.planning.nsw.gov.au/plansforaction/pdf/Affordable%20Housing_Fact_NewGenerationBoardingHouses.pdf)

<sup>142</sup> NSW Office of State Revenue, Revenue Ruling No. LT 93, Exemption – Land Use and Occupied Primarily for a Boarding House – 2014 Tax Year, accessed online 12 January 2016 at <http://www.osr.nsw.gov.au/info/legislation/rulings/land/lt093>



## 4 NSW Case Law Context

### 4.1 Overview

JSA undertook a review of all affordable housing cases that have come before the NSW Land and Environment Court from 2009 (the gazettal of SEPPARH) to the present that could be identified through a key word search of Austlii legal data base.

Cases related to boarding house developments and affordable (social, key worker and/or discount market rental) housing were undertaken separately due to the differences in community and institutional reactions to these two form of affordable housing in the literature. After difficulties identifying specific ‘affordable housing’ developments were encountered,<sup>143</sup> the search was refined to identify those that had been lodged using the provisions of SEPPARH, and a range of additional on-line search measures were also used to ensure that a many cases as possible were captured..

Cases were reviewed to understand areas from which most litigation was originating, and the outcome of such litigation.<sup>144</sup> Being involved in Land and Environment Court proceedings with regard did not necessarily mean that there was community opposition to the proposal. However, those areas where more cases have resulted in litigation provides an indication of where there may be a higher level of affordable housing activity and opposition.

In particular, we sought to understand the main issues raised by councils in their refusals, and the issues that were most likely to be sustained or upheld by the Court where the appeal against a refusal was dismissed by the Court (that is, where the Court refused the development). The relative issues and outcomes of boarding house and all other forms of affordable housing developments under the SEPP were also reviewed to provide insight into the way in which these uses were regarded.

An overview of synthesised findings of the review of Land and Environment Court cases for boarding houses and all other forms of boarding house development is first provided below. This is followed by a more detailed review of findings related to each of these form of development. Finally, some practical considerations for ensuring that an affordable housing application has a better chance of council or court support (or is at least more difficult to refuse) are provided based on the evidence arising from the review of cases.

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<sup>143</sup> Case law often did not include key search terms related to ‘affordable housing’ so that the search was refined and other cases that related to high density developments were examined in more detail to determine whether they had an ‘affordable housing’ component.

<sup>144</sup> It is noted that this does not necessarily reflect the number of applications actually lodged with NSW councils. Despite numerous attempts to gain an insight into the total number of applications approved and withdrawn in key LGAs, poor publicly available data and access to council documents prevented this aspect of the research from occurring. Nonetheless, the review of LEC cases below does provide some insight into the main areas where applications are likely to be lodged, and the reactions of councils to these applications.

## 4.2 Comparison of boarding house case law and affordable housing case law

### 4.2.1 Most prominent councils areas, number and outcomes

JSA's review of all LEC cases that could identify applications for new affordable housing and boarding house developments indicate that eight councils have been particularly litigious. These eight councils, Parramatta, Hurstville, Ashfield, Bankstown, Manly, The Hills, Marrickville and Pittwater, have each been involved with five or more SEPPARH Land and Environment Court decisions between 2009 and 2015, accounting for more than 60% of all decisions in this area over the period.<sup>145</sup>

The largest number of boarding house cases originated from the LGAs of Parramatta, Ashfield, Hurstville, Manly and Marrickville; whilst the largest number of affordable housing cases originated from the LGAs of Pittwater, Hurstville, Bankstown, The Hills Shire and Manly.

The local council areas of Ashfield, Hurstville, Manly, Bankstown, The Hills Shire and Randwick all appear in the top 10 highest percentages for both types of cases.

As discussed later, JSA's survey of community housing providers (CHPs) indicated that there is some overlap between those councils most prominent in Land and Environment Court actions involving refusals of affordable housing development and areas where CHPs identified problems, namely Ashfield, Hurstville and Parramatta (as well as Sutherland) LGAs. These were most often noted in the survey of CHPs area areas where community opposition was most strongly experienced with regards to a development applications lodged by the organisation using the provisions of SEPPARH, reported in a later stage of the study.

There appears to be some difference between the councils areas most often represented in litigation and those LGAs identified in research reviewed above where the response to affordable housing proposals has been 'extreme'<sup>146</sup> or 'controversial'<sup>147</sup> or as 'expressing criticisms'<sup>148</sup> of the NBESP social housing development, that is,

- Metro Councils: Parramatta, Ryde
- Outer Metro: Wyong, Wollondilly
- Regional Councils: Armidale, Bathurst, Lake Macquarie, Wollongong,

with Parramatta being the only common area.

Overall, more cases relating to boarding house development applications were identified than affordable housing applications - 55 and 33 respectively. For both boarding house and affordable housing applications, the highest numbers of appeals occurred in 2012, followed closely by 2015, likely related in the former to the introduction of the 'local character test' and other amendments to the SEPP, discussed elsewhere.

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<sup>145</sup> JSA 2016

<sup>146</sup> Davison et al (2013)

<sup>147</sup> Ruming (2014)

<sup>148</sup> Shepherd and Abelson (2010)

It is interesting that the majority of affordable housing appeals against the refusal were dismissed (58%) (that is, the LEC approved 42% of developments on appeal), while 62% of boarding house appeals were upheld (that is, the LEC approved 62% of developments on appeal), perhaps indicating that grounds for refusal of boarding houses by relevant councils were not regarded as being as reasonable or able to be supported as those related to other forms of affordable housing, and/or that physical amenity impacts related to boarding houses were not as significant as those related to infill affordable housing apartments.

#### 4.2.2 Comparison of reasons for refusal by councils of boarding houses and affordable housing and reasons for LEC refusal

Reasons for **refusal of a boarding house development by a local authority** generally followed a similar pattern to reasons for refusals of affordable housing applications. (Note that examples of items on each of these categories are provided in Table 4.5 below.

**Physical character** was strongly represented in these reasons for refusing both boarding houses and affordable housing development applications (31% and 46%, respectively). However, **physical amenity** in the surrounding context did not feature as strongly in affordable housing refusals as in boarding house refusals, accounting for 12% and 33% of the reasons for refusal respectively. The next highest reason for refusal for both affordable housing and boarding houses were **administrative issues** such as non-compliance with the SEPP (19% and 13% respectively) and **adverse amenity impacts** (12% and 9% respectively).

Interestingly, explicit issues related to social impacts and matters in the public interest were not common reasons given for refusal of a development application for affordable housing or boarding houses.

Generally speaking, **reasons given for the dismissal of an appeal by the NSW LEC** tended to be similar for both boarding houses and affordable housing.

**Physical character** remains the most prominent reasons for dismissal of an appeal (approval of a development by the Court) for boarding houses (30%) and particularly for affordable housing developments (59%). More specifically, for affordable housing developments, the most common reason for dismissal was that the development was **incompatible with the character of the local area**, accounting for almost half of the reasons for dismissal.

Other more common reasons for the dismissal by the Court of both boarding house and affordable housing appeals were **administrative issues** (22% and 24% respectively) and **residential amenity** (8% and 10% respectively).

**Physical amenity in the surrounding context** was a more prominent reason for dismissal of an appeal in boarding house appeals (16%), than affordable housing appeals (3%). Social impacts, access and egress and public interest were not commonly cited as reasons for dismissal of an appeal for boarding house or affordable housing appeals.

Differences between boarding house developments and other forms of affordable housing developments are provided in more detail below.

## 4.3 Boarding House Cases

### 4.3.1 Boarding house cases from 2009-2015

JSA searched for boarding house cases heard in the NSW Land and Environment Court from 2009, when the State Environmental Planning Policy (Affordable Rental Housing) ('SEPP ARH') was enacted, until the end of 2015, using the legal database 'AustLII'.

The following table indicates the number of cases identified in each year related to the refusal of a boarding house development application by a council. The years 2012 and 2015 produced the highest number of relevant cases; however the search did not yield any results for 2010 and only 3 for 2009, likely due to the lead time for development of a proposal following the gazettal of the SEPP.

A total of 55 cases were identified and analysed by JSA to understand the main reasons for refusal by local government and reasons for dismissal of appeal by the Court.

Table 4-1 Appeals against refusals of boarding house development in NSW LEC (2009-2015)

Year	No. of Cases
2015	13
2014	9
2013	9
2012	14
2011	7
2010	0
2009	3
Total	55

Source: JSA 2016, derived from AustLII legal database (2009-15)

Overall, 60% of the cases analysed were successful and had their appeal upheld (that is, they Court approved the development on appeal). The tables below shows that in 5 out of the 6 years, the majority of appeals were upheld, with 2012 having the highest percentage of appeals upheld (71%).

Table 4-2 Results of the appeals analysed at the NSW Land and Environment Court

Result	No.	%
Appeal Dismissed	21	38%
Appeal Upheld	34	62% <sup>149</sup>
Total	55	

Source: JSA 2016, derived from AustLII legal database (2009-15)

Table 4-3 Number of appeals by year and by result in the NSW LEC

Number of cases by Year	Total	Appeal Upheld	Appeal Dismissed
2015	13	9	4
2014	9	5	4
2013	9	3	6
2012	14	10	4
2011	7	4	3
2010	0	0	0
2009	3	2	1
total	55	33	22

Source: JSA 2016, derived from AustLII legal database (2009-15)

The following table shows the number of cases heard by their LGA of origin, with cases divided into those where the appeal was upheld (Court-approved) and those where the appeal was dismissed.

**The vast majority of appeals generally originated from the Greater Sydney region with only two cases coming from regional NSW.**

The highest percentage of total cases came from the Parramatta LGA (9 cases or 16% of all cases in the period), followed by Ashfield LGA (11%) and Hurstville, Manly and Marrickville LGAs (7% each).

Eight council's had three or more of their boarding house development refusals appealed by the applicant. Of these, half had their refusals overturned by the Court. Interestingly, Ashfield Council had four out of its six refusals reversed by the Court on appeal; Hurstville and Sydney lost all of their boarding house matters; and Bankstown had two out of three appeals by the developer upheld.

The breakdown of the number of appeals by LGA, and the outcome of these appeals against council refusal, are shown in the following table.

<sup>149</sup> One appeal was in relation to a Council appealing the decision of the NSWLAC, granting development consent for a boarding house. This appeal was dismissed, and the development of the boarding house was permitted; for the purposes of this analysis it is being referred to as an 'appeal upheld' as it has that equivalent value.

Table 4-4 The number of cases by LGA, broken down into whether the appeal was upheld or dismissed and the total from each LGA

Cases by LGA	Appeal Upheld	%	Appeal Dismissed	%	Total	%
Parramatta	4	12%	5	23%	9	16%
Ashfield	4	12%	2	9%	6	11%
Manly	2	6%	2	9%	4	7%
Hurstville	4	12%	0	0%	4	7%
Marrickville	2	6%	2	9%	4	7%
Sydney	3	9%	0	0%	3	5%
The Hills	1	3%	2	9%	3	5%
Bankstown	2	6%	1	5%	3	5%
Sutherland	0	0%	2	9%	2	4%
Warringah	1	3%	1	5%	2	4%
North Sydney	1	3%	1	5%	2	4%
Fairfield	0	0%	2	9%	2	4%
Burwood	0	0%	1	5%	1	2%
Byron	1	3%	0	0%	1	2%
Canada Bay	1	3%	0	0%	1	2%
Canterbury	1	3%	0	0%	1	2%
Lane Cove	1	3%	0	0%	1	2%
Leichhardt	1	3%	0	0%	1	2%
Newcastle	1	3%	0	0%	1	2%
Randwick	1	3%	1	5%	2	4%
Ryde	1	3%	0	0%	1	2%
Strathfield	1	3%	0	0%	1	2%
Total	33		22		55	100%

Source: JSA 2016, derived from AustLII legal database (2009-15)



### 4.3.2 Analysis of reasons for refusal of a boarding house DA and reasons for dismissal of appeal in the NSW LEC

A number of reasons were given by councils for their refusal of a boarding house development application. JSA conducted a thematic analysis, coded according to relevant case law, identifying eight broad categories - physical character, physical amenity and surrounding context, administrative, residential amenity, social impacts, access and egress, public interest and other. Each of these categories also contained sub-categories, where reasons were sorted with more detail as indicated in the table below.

The most common reasons for refusal related to physical aspects of the development including the physical amenity and surrounding context of the development (33%) and physical character and design of the development (31%), which overall accounted for almost two thirds of the reasons for refusal. Administrative issues, including non-compliance with legislation such as SEPPARH or the LEP, accounted for 13% of reasons for refusal by council, followed by issues related to residential amenity (9%), social impacts (8%), public interest (3%) and issues with access and egress to the development (2%).

Reasons for refusal relating to the physical amenity and surrounding context of the property were most commonly related to parking and traffic concerns (12%), followed by privacy and overlooking concerns (6%), impacts on solar access (6%) and noise concerns (5%).

Reasons for refusal relating to the physical character of the development most commonly concerned compatibility with the character of the local area (12%), the bulk and scale of the development (9%), issues with the set-backs, landscaping, drainage or other onsite concern (8%) or heritage considerations (2%).

Administrative reasons for refusal were most commonly related to non-compliance or application of legislation such as the SEPPARH or the LEP (10%). Refusal related to residential amenity generally concerned issues with the internal design or layout of the boarding house (5%). Reasons for refusal based on social impacts were most commonly related to the potential profile/risk/behaviour of future tenants (2%) or a potential demographic conflict with existing residents and potential future residents.

Overall, councils tended to give an average of four **reasons for refusal** of a development application for a Boarding house, ranging from one reason for refusal to up to 10. The most common *sub-reasons* for refusal of a boarding house development application by a council were **incompatibility with the character of the local area (12%) and parking and traffic concerns (12%)**.

The most common **reasons for dismissal of an appeal by the court** (that is, the Court upheld the council's refusal) were non-compliance with legislation such as the SEPP ARH or LEP (20%), and the development being incompatible with the character of the local area (11%). This is interesting, given only 10% of reasons for refusal by councils initially related to non-compliance. Heritage considerations (8%), internal design and layout of the building (8%) and setbacks, landscaping or other onsite concern (9%) were all also prominent reasons for dismissal of an appeal. Although 8% of reasons for refusal of a boarding house by a council were related to the potential social impacts, the Court did not give social impacts as a reason for dismissing the appeal in any cases reviewed.

Table 4-5 Reasons for refusal of a boarding house development application by council by result of appeal to NSW Land and Environment Court

Reasons for refusal	Appeal Upheld	%	Appeal Dismissed	%	Total	%
<b>Administrative</b>	12	8%	19	20%	31	13%
Inadequate Documentation/issue with application	3	2%	2	2%	5	2%
Non-compliance with /application of SEPP ARH 2009	6	4%	7	7%	13	5%
Non-compliance with legislation e.g. LEP	3	2%	10	11%	13	5%
<b>Physical Amenity in Surrounding Context</b>	57	38%	25	27%	82	33%
Noise	11	7%	2	2%	13	5%
Privacy/Overlooking	11	7%	3	3%	14	6%
Parking or traffic Concerns	19	13%	10	11%	29	12%
Solar Access	10	7%	5	5%	15	6%
View	2	1%	2	2%	4	2%
Loss of amenity of neighbours	4	3%	3	3%	7	3%
<b>Access and Egress</b>	2	1%	2	2%	4	2%
Road	1	1%	1	1%	2	1%
Pathways	1	1%	1	1%	2	1%
<b>Physical Character</b>	43	28%	32	34%	75	31%
Bulk and Scale	14	9%	7	7%	21	9%
Compatibility with character of local area	18	12%	11	12%	29	12%
Heritage Considerations	1	1%	4	4%	5	2%
Set-backs, landscaping, other onsite	10	7%	10	11%	20	8%
<b>Residential Amenity</b>	14	9%	8	9%	22	9%
Internal design and layout of building	6	4%	6	6%	12	5%

Reasons for refusal	Appeal Upheld	%	Appeal Dismissed	%	Total	%
Internal open space	1	1%	0	0%	1	0%
Size, layout of rooms	6	4%	1	1%	7	3%
Size of boarding house	1	1%	1	1%	2	1%
<b>Social Impacts</b>	15	10%	4	4%	19	8%
Displacement of existing residents	1	1%	0	0%	1	0%
Profile/risk/behaviour of future residents	4	3%	2	2%	6	2%
Demographic Conflict/incompatibility	6	4%	2	2%	8	3%
Conflict of Adjacent land uses	3	2%	0	0%	3	1%
Access to shops, transport etc.	1	1%	0	0%	1	0%
Public Interest	5	3%	2	2%	7	3%
Other	3	2%	2	2%	5	2%
Total	151		94		245	

Source: JSA 2016, derived from AustLII legal database (2009-15)

Table 4-6 Reasons for the dismissal of an appeal to the NSW LEC

Reasons for Dismissal of Appeal	No.	%
<b>Administrative:</b>	11	22%
Inadequate Documentation/issue with application	1	2%
Non-compliance with /application of SEPP ARH 2009	5	10%
Non-compliance with legislation e.g. LEP	5	10%
<b>Physical Amenity in Surrounding Context:</b>	8	16%
Noise	1	2%
Privacy/Overlooking	0	0%
Parking or traffic Concerns	3	6%
Solar Access	2	4%
View	0	0%
Loss of amenity of neighbours	2	4%
<b>Access and Egress:</b>	0	0%
Road	0	0%
Pathways	0	0%
<b>Physical Character:</b>	15	30%
Bulk and Scale	2	4%
Compatibility and street scape	5	10%
Heritage Considerations	4	8%
Set-backs, landscaping, other onsite	4	8%
<b>Resident Amenity:</b>	4	8%
Internal design and layout of building	4	8%
Internal open space	0	0%
Size, layout of rooms	0	0%
Size of boarding house	0	0%
<b>Social Impacts:</b>	0	0%
Displacement of existing residents	0	0%
Profile/risk/behaviour of future residents	0	0%
Demographic Conflict/incompatibility	0	0%
Conflict of Adjacent land uses	0	0%
Access to shops, transport etc.	0	0%
Public interest	0	0%
Other	12	24%
Total	50	

Source: JSA 2016, derived from AustLII legal database (2009-15)

## 4.4 Affordable Housing Case Law

### 4.4.1 Affordable housing case law analysed by year, result of appeal and by LGA of origin

From 2009 to 2015, JSA analysed 33 cases that related to affordable housing development applications to councils under the State Environment Planning Policy (Affordable Rental Housing) 2009 (SEPP ARH). Of these cases, the majority (58%) had their appeal to the Land and Environment Court dismissed (that is, the Court upheld the relevant council's decision), while 42% had their appeal upheld. This was quite a different outcome to the boarding house cases reviewed above.

Table 4-7 Appeals against refusals of affordable housing developments (2009-2015)

Result	No.	%
Appeal dismissed	19	58%
Appeal Upheld	14	42%
Total	33	100%

Source: JSA 2016, derived from AustLII legal database (2009-15)

The following table shows the number of cases identified by year and by the result of the appeal. Again, 2012 and 2015 had the largest number of cases.

The largest number of cases with appeals dismissed was 2012, while 2013 had the greatest number of cases who had appeals upheld (Court approved). Relevantly, 2011 saw the introduction of several amendments to SEPPARH including the introduction of the 'local character' test where a consent authority must consider whether the proposal is compatible with the local character of the area.<sup>150</sup> This appears to have had a significant effect on the case law of the following year (2012) with 8 out of the 9 cases analysed that year being refused due to failure of the local character test.

There is often a flurry of activity when a new provision is introduced to legislation. Perhaps some adjustment through relevant cases as the character test was bedded down, and clarified of its meaning in relevant cases contributed to a decrease of such decisions in subsequent years, although local character remains an important determinant of the outcome of a case in affordable housing developments.

<sup>150</sup><http://www.landars.com.au/publications/environment/out-of-character-delivering-affordable-rental-housing-in-nsw/>

Table 4-8 Number of cases analysed by year and result of the appeal

Number of cases by Year	Total	Appeal Upheld	%	Appeal Dismissed	%
2015	8	3	38%	5	63%
2014	4	2	50%	2	50%
2013	6	5	83%	1	17%
2012	9	1	11%	8	89%
2011	3	1	33%	2	67%
2010	3	2	67%	1	33%
2009	0	0	0%	0	0%
Total	33	14	42%	19	58%

Source: JSA 2016, derived from AustLII legal database (2009-15)

The following table shows the number of appeals originating from each LGA where there was Land and Environment Court action, and the percentage of appeals upheld or dismissed from each LGA. The highest percentage of cases originated from Pittwater (15%), followed by Hurstville (12%), Bankstown (9%) and The Hills Shire (9%).

Of the LGAs that delivered multiple cases, only the Hills Shire and Strathfield council areas had the majority of appeals against a refusal of their councils upheld (Court-approved). Pittwater and Bankstown both had the majority of appeals against their councils dismissed (the council's initial decision to refuse was affirmed), while Randwick, Manly and Hurstville all had equal results of appeals upheld or dismissed. Only one case out of the 33 analysed originated outside of the Greater Sydney area (in Shoalhaven City Council or the south coast of NSW).

Table 4-9 Appeals Upheld or Dismissed by Local Government Area

Cases by LGA	Appeal Upheld	%	Appeal Dismissed	%	Total	%
Pittwater	2	40%	3	60%	5	15%
Hurstville	2	50%	2	50%	4	12%
Bankstown	1	33%	2	67%	3	9%
The Hills Shire	2	67%	1	33%	3	9%
Manly	1	50%	1	50%	2	6%
Randwick	1	50%	1	50%	2	6%
Strathfield	2	100%	0	0%	2	6%
Ashfield	0	0%	1	100%	1	3%



Cases by LGA	Appeal Upheld	%	Appeal Dismissed	%	Total	%
Auburn	0	0%	1	100%	1	3%
Blacktown	0	0%	1	100%	1	3%
Botany Bay	1	100%	0	0%	1	3%
Campbelltown	0	0%	1	100%	1	3%
Hornsby	0	0%	1	100%	1	3%
Marrickville	0	0%	1	100%	1	3%
Parramatta	0	0%	1	100%	1	3%
Ryde	0	0%	1	100%	1	3%
Shoalhaven	1	100%	0	0%	1	3%
Sutherland	1	100%	0	0%	1	3%
Warringah	0	0%	1	100%	1	3%
<b>Total</b>	<b>14</b>	<b>42%</b>	<b>19</b>	<b>58%</b>	<b>33</b>	

Source: JSA 2016, derived from AustLII legal database (2009-15)

#### 4.4.2 Analysis of reasons for refusal of an affordable housing DA and reasons for dismissal of appeal in the NSW LEC

Overall, the most common reasons for refusal of an affordable housing development application were related to the physical character of the development (46%), more specifically relating to the compatibility with the character of the local area (22%), the bulk and scale of the development (14%), or setbacks, landscaping or other onsite concerns (11%). Administrative issues (including the application of or compliance with legislation) were the next most common broad reason for refusal by a council (19%), followed by physical amenity and surrounding context (12%), resident amenity (12%), public interest (5%) and social impacts (3%). None of the cases analysed had issues with access and egress as a reason given by council for their refusal of a development application.

Where appeals were upheld by the LEC (Court approved), the most common reasons for refusal by council had again been due to physical character (41%) followed by administrative issues (20%), physical amenity in the surrounding context (16%), residential amenity (8%) and social impacts (2%).

Where appeals were dismissed by the LAC (Court refused), 50% of the reasons for refusal by council were related to the physical character of the development. Administrative issues were the next most common reason (18%), followed by resident amenity (15%), physical amenity in the surrounding context (8%) and social impacts.

The reasons given by the LEC upon dismissal of an appeal followed a similar trend to the reasons for council refusal. Overall, 59% of reasons given for dismissal of an appeal were in relation to the physical character of the development, 45% of which was specifically in relation to the development's incompatibility with the character of the local area. This was followed by administrative issues (24%), resident amenity (10%), physical amenity in the surrounding context (3%) and social impacts (3%).

The following tables provides a further breakdown of the reasons given by the LAC for the dismissal of an appeal against council's refusal of an affordable housing development application.

Table 4-10: Reasons for refusal of an affordable housing development by a council by result of appeal to NSW LEC

Reasons for refusal	Appeal Upheld	%	Appeal Dismissed	%	Total	%
<b>Administrative:</b>	10	20%	11	18%	21	19%
Inadequate Documentation/issue with application	3	6%	1	2%	4	4%
Non-compliance with /application of SEPP AHH 2009	3	6%	3	5%	6	5%
Non-compliance with legislation e.g. LEP	4	8%	7	12%	11	10%
<b>Physical Amenity in Surrounding Context:</b>	8	16%	5	8%	13	12%
Noise	1	2%	1	2%	2	2%
Privacy/Overlooking	2	4%	1	2%	3	3%
Parking or traffic Concerns	0	0%	1	2%	1	1%
Solar Access	2	4%	1	2%	3	3%
View	1	2%	0	0%	1	1%
General loss of amenity of neighbours	2	4%	1	2%	3	3%
<b>Access and Egress:</b>	0	0%	0	0%	0	0%
Road	0	0%	0	0%	0	0%
Pathways	0	0%	0	0%	0	0%
<b>Physical Character:</b>	21	41%	30	50%	51	46%
Bulk and Scale	8	16%	7	12%	15	14%
Compatibility and street scape	9	18%	15	25%	24	22%

Reasons for refusal	Appeal Upheld	%	Appeal Dismissed	%	Total	%
Heritage Considerations	0	0%	0	0%	0	0%
set-backs, landscaping, other onsite	4	8%	8	13%	12	11%
<b>Resident Amenity</b>	4	8%	9	15%	13	12%
Internal design and layout of building	3	6%	7	12%	10	9%
Internal open space	1	2%	2	3%	3	3%
Size, layout of rooms	0	0%	0	0%	0	0%
Size of boarding house	0	0%	0	0%	0	0%
<b>Social Impacts</b>	1	2%	1	2%	2	2%
Displacement of existing residents	0	0%	0	0%	0	0%
Profile/risk/behaviour of future residents	0	0%	0	0%	0	0%
Demographic Conflict/incompatibility	0	0%	0	0%	0	0%
Conflict of Adjacent land uses	0	0%	1	2%	1	1%
Access to shops, transport etc.	1	2%	0	0%	1	1%
Public Interest	3	6%	2	3%	5	5%
Other	4	8%	2	3%	6	5%
Total	51		60		111	

Source: JSA 2016, derived from AustLII legal database (2009-15)

Table 4-11 Reasons for the dismissal of an appeal to the NSW LEC

Reasons for Dismissal of Appeal	No.	%
<b>Administrative</b>	7	24%
Inadequate Documentation/issue with application	1	3%
Non-compliance with /application of SEPP AHH 2009	2	7%
Non-compliance with legislation e.g. LEP	4	14%
<b>Physical Amenity in Surrounding Context</b>	1	3%
Noise	0	0%
Privacy/Overlooking	0	0%
Parking or traffic Concerns	0	0%
Solar Access	0	0%
View	1	3%
Loss of amenity of neighbours	0	0%
<b>Access and Egress</b>	0	0%
Road	0	0%
Pathways	0	0%
<b>Physical Character</b>	17	59%
Bulk and Scale	2	7%
Compatibility and street scape	13	45%
Heritage Considerations	0	0%
set-backs, landscaping, other onsite	2	7%
<b>Resident Amenity</b>	3	10%
Internal design and layout of building	3	10%
Internal open space	0	0%
Size, layout of rooms	0	0%
Size of boarding house	0	0%
<b>Social Impacts</b>	1	3%
Displacement of existing residents	0	0%
Profile/risk/behaviour of future residents	0	0%
Demographic Conflict/incompatibility	0	0%
Conflict of Adjacent land uses	1	3%
Access to shops, transport etc.	0	0%
Public interest	0	0%
Other	0	0%
Total	29	

Source: JSA 2016, derived from AustLII legal database (2009-15)

### 4.4.3 The character test in case law

Given the prominence of the ‘local character test’ in recent decisions, and the likely importance of dealing effectively with this in relation to a more efficient approvals process for future boarding and affordable housing developments, this section provides a more detailed look at the test and how it has been operationalised.

As noted, 2011 saw the introduction of amendments to SEPPARH including the ‘local character test’. This amendment stated that the consent authority must consider whether the proposal is compatible with the local character of the area in the case of infill affordable housing developments and boarding houses.<sup>151</sup> The parameters and criteria of such an analysis are not clearly specified, for example, in a relevant guideline, and many councils do not provide objective guidance to applicants. This leaves each council to decide upon these on a case by case basis, and considerable uncertainty in this regard. The case law is thus instructive in this regard.

Of the 29 affordable housing cases that had their appeal dismissed, 13 (45%) were dismissed due to their incompatibility with the character of the local area. The importance of this issue was far less in the case of boarding house cases, with on 10% of cases with this as one of the grounds for dismissal of the appeal. This is likely due to fact that affordable housing developments in more economically viable areas of Greater Sydney are more likely to be apartments, which may increase potential for this issue to be raised in a lower density or transitional environment.

Analysis of the case law has shown that this test is satisfied by answering three questions:

- What is the ‘local area’ or ‘locality’?
- What is the ‘character’ of the local area?
- Is the proposed development ‘compatible with the character’ of the local area?

Each of these questions is looked at in more detail below from relevant case law.

### 4.4.4 What is the local area?

As stated in *Peninsula Development Australia Pty Limited v Pittwater Council* the local area is principally described as ‘the visual catchment in which the development will be viewed [although]...the wider catchment is also relevant.’<sup>152</sup> The experts in urban design in the case of *Peninsula Development*<sup>153</sup> went on to agree that the ‘local area’ is the area where ‘there is a visual connection between the development and other buildings and the context within which the development will be viewed’.<sup>154</sup>

What is considered the local area or the visual catchment of the development may vary between developments, for example due to differences in street frontage such as in *Northcote Trust v Hornsby Shire Council*.<sup>155</sup>

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<sup>151</sup><http://www.landars.com.au/publications/environment/out-of-character-delivering-affordable-rental-housing-in-nsw/>

<sup>152</sup> *Peninsula Development Australia Pty Limited v Pittwater Council*

<sup>153</sup> *Peninsula Development Australia Pty Limited v Pittwater Council*

<sup>154</sup> Ibid, para 55

<sup>155</sup> *Northcote Trust v Hornsby Shire Council*.<sup>155</sup>



#### 4.4.5 What is the Character of the local area?

As stated in *Project Venture Developments v Pittwater Council*<sup>156</sup> ‘the most important contributor to urban character is the relationship between the built form to surrounding space, a relationship that is created by building height, setbacks and landscaping’.<sup>157</sup> In the 13 affordable housing cases where the appeals were dismissed by the Court due to incompatibility with the character of the local area a number of different reasons were cited that constituted incompatibility including:

- Inability to provide a meaningful landscape component consistent with the local area.<sup>158</sup>
- The extent of the elevated building platform of the development causing adverse visual and aural impacts.<sup>159</sup>
- The width of the site causing constraints on the development potential.<sup>160</sup>
- The bulk and scale (number of storeys) of the property; speculation over future developments having the potential to have similar bulk and scale, and therefore changing the character of the area, was rejected.<sup>161</sup>
- Loss of visual amenity due to the bulk and scale of the development, lack of open space or green zone at the rear of the property.<sup>162</sup>
- The buildings length, width and height are incompatible with the local area and cannot be softened or screened through landscaping to overcome this incompatibility.<sup>163</sup>

#### 4.4.6 Is the proposal Compatible with the character of the local area?

##### Elements that inform the assessment of local character

As stated in *Project Venture Developments v Pittwater Council*<sup>164</sup> ‘Compatibility is...different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve’.<sup>165</sup>

For a development to be considered compatible with the local area in which it is to be situated, it must embrace, or respond to, the essential elements that make up the local urban design and character. For some areas, the urban character may have already been described by town planning instruments or urban design studies. However, in most cases the urban character has not yet been defined or described and hence must be done so as part of the proposal’s assessment.<sup>166</sup>

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<sup>156</sup> *Project Venture Developments v Pittwater Council*

<sup>157</sup> Ibid para 26

<sup>158</sup> *State Projects Pty Ltd v Hurstville City Council*

<sup>159</sup> *Zheng v Hurstville City Council*

<sup>160</sup> *Capital Developments Pty Ltd v Auburn City Council*

<sup>161</sup> *Tamer v Blacktown City Council*

<sup>162</sup> *Succar v Bankstown City Council*

<sup>163</sup> *Peninsula Developments Australia Pty Ltd v Pittwater Council*

<sup>164</sup> *Project Venture Developments v Pittwater Council*

<sup>165</sup> Ibid para

<sup>166</sup> *Huang & Lei v Parramatta City Council* (citing *Project Venture Developments v Pittwater Council*) para 26

The vast majority of cases that were dismissed on the basis of the local character test cite *Project Venture Developments v Pittwater Council*<sup>167</sup> as an authority on the definition of ‘compatibility with the local character of the area’. The majority of these cases specifically quote a number of paragraphs from this case that relate to building height, setbacks, landscaping giving an explanation as to how each design element should relate to the local area, for example,

The most important contributor to urban character is the relationship of built form to surrounding space, a relationship that is created by building height, setbacks and landscaping. In special areas, such as conservation areas, architectural style and materials are also contributors to character.<sup>168</sup>

It is evident from the case law that inconsistencies with the design elements with the character of the local area, regardless of whether they fit within the planning controls of the area, can form a reason for dismissal. This is particularly the case in areas where there are heritage or conservation elements, where the design and materials used are assessed more scrupulously in regards to their compatibility, as the scope given for incongruity will be far narrower.

Buildings do not have to be the same height to be compatible. Where there are significant differences in height, it is easier to achieve compatibility when the change is gradual rather than abrupt. The extent to which height differences are acceptable depends also on the consistency of height in the existing streetscape.<sup>169</sup>

Front setbacks and the way they are treated are an important element of urban character. Where there is a uniform building line, even small differences can destroy unity. Setbacks from side boundaries determine the rhythm of the building and the void. While it may not be possible to reproduce the rhythm exactly, new development should strive to reflect it in some way.<sup>170</sup>

Landscaping is also an important contributor to urban character. In some areas landscape dominates buildings, in others buildings dominate landscape. Where canopy trees define the character, new developments must provide opportunities for planting canopy trees.<sup>171</sup>

In conservation areas, a higher level of similarity between the proposed and the existing is expected than elsewhere. The similarity may extend to architectural style expressed through roof form, fenestration and materials.<sup>172</sup>

It is also noted that such issues regularly form the basis for refusal, irrespective of the specific application of the local character test.

The degree of subjectivity and differences in the way that boarding houses and affordable housing proposals were treated is also noted.

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<sup>167</sup> *Project Venture Developments v Pittwater Council*

<sup>168</sup> *Project Venture Developments v Pittwater Council*, para 26

<sup>169</sup> *Ibid*, para 27

<sup>170</sup> *Project Venture Developments v Pittwater Council*, para 28

<sup>171</sup> *Ibid*, para 29

<sup>172</sup> *Ibid*, para 30

It was stated in *Project Venture Developments Pty Ltd v Pittwater Council*<sup>173</sup> that while the physical impacts of a development, such as noise or overshadowing, can be assessed in a fairly objective manner, whether a development is harmonious with the surroundings is far more subjective.<sup>174</sup> It is suggested that, to reduce the subjectivity of the assessment, the existing context should be analysed and understood before and the new development then tested against this standard.<sup>175</sup>

It was evident in the case law that there were elements of subjectivity in the assessment of whether a development was compatible with the character of the local area. In relation to affordable housing cases, this test seemed to be applied more rigidly, with far more developments being rejected on this basis of incompatibility. While cases involving boarding house developments, the approach seemed to be that it had to be proven that the development did not fit within the character of the local area; evidently the onus seemed to be on proving that it was not compatible with the area, rather than putting the onus on proving that it did fit within the character.

Nonetheless, there are elements of the character test that can be more objectively applied, in particular those related to overshadowing, overlooking and noise, whilst issues such as being ‘in harmony’ with the locality likely more subjectively assessed.

## 4.5 Potential implications

The case law perhaps indicates that a description or definition by a council of the local character of the area in which a development is to be placed, formed *before* a development application was finalised, would greatly reduce the number of developments that are rejected and, in turn, that are taken to Court.

If this were not practical for a local authority, it is possible that those planning a development should have the local area assessed by a relevant professional, and use this assessment to determine if a development could be made on the proposed block that was compatible with the area, and if it could, incorporate the necessary design elements into the proposal. However, it is also noted that applicants frequently have an expert assessment of local character undertaken as part of their environmental assessment, and that experts often disagree during the Court process.

Importantly for those considering lodging an application for infill affordable housing or boarding house development, it is noted that the Court has displayed a willingness to allow appeals following council’s refusal based on compatibility in relation to local character, and has provided useful guidance as to how this can be demonstrated.

As noted, in determining whether a proposed development is compatible with the character of the local area, the Court will compare building height, bulk, scale, setbacks and landscaping to existing developments. It is important to note that developments which limit the development potential of surrounding sites will not be compatible with the character of a local area, so issues such as overshadowing, overlooking and noise must be considered when designing affordable rental housing developments.

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<sup>173</sup> *Project Venture Developments Pty Ltd v Pittwater Council*

<sup>174</sup> Ibid para 25

<sup>175</sup> Ibid para 25

As such, clearly addressing these issues when preparing a development application for an affordable rental housing or boarding house development is also likely to demonstrate that the proposal is compatible with the character of the local area. This is likely to reduce the grounds upon which council can refuse the development, and reduce the risk that the Court will dismiss the appeal if it proceeds to litigation.

## 5 Need for Affordable Housing

### 5.1 Overview

This section provides an overview of trends related to housing cost and affordability across NSW.

Relevant definitions and benchmarks related to affordable housing are first outlined. This is followed by an examination of relative housing need across NSW through analysis of key housing cost, affordability and relative supply of selected products by LGA and target group.

This provides a further context to the selection and analysis of case studies, reported later

### 5.2 What is Affordable Housing?

This section first sets out relevant affordable housing benchmarks as a context to later discussion on housing cost, need and affordability.

Housing is generally considered to be ‘affordable’ when households that are renting or purchasing are able to meet their housing costs and still have sufficient income to pay for other basic needs such as food, clothing, transport, medical care and education.

‘Affordable housing’ also has a statutory definition under the *NSW Environmental Planning and Assessment Act 1979 (NSW)*, being housing for very low, low or moderate income households. *SEPP 70* defines ‘very low-income’ households as those on less than 50% of median household income; ‘low-income’ households as those on 50-80% of median household income, and ‘moderate-income’ households as those on 80-120% of median household income for Sydney SD.

As a commonly used rule of thumb, affordable housing is taken to be housing where households pay less than 30% of their gross household income on housing costs. This is often regarded as the point at which such households are at risk of having insufficient income to meet other living costs, and deemed to be in ‘housing stress’. Those paying more than 50% of gross income are regarded as being in ‘severe housing stress’.

‘Low cost’ housing is often, though not always, ‘affordable’. For example, in a premium (high amenity) location, even a small, lower amenity strata dwelling may be ‘unaffordable’ to a very low-, low- or moderate-income household.

The following table provides benchmarks that are used in this study when referring to ‘affordable housing’, in 2015 dollars, and are consistent with relevant NSW legislation.

Table 5.1: Relevant Affordable Housing Income and Cost Benchmarks

	<b>Very low-income household</b>	<b>Low-income household</b>	<b>Moderate-income household</b>
Income Benchmark	<50% of Gross Median H/H Income for Greater Sydney	50-80% of Gross Median H/H Income for Greater Sydney	80%-120% of Gross Median H/H Income for Greater Sydney
Income Range (2)	<\$788 per week	\$789-\$1,260 per week	\$1,261-\$1,891 per week
Affordable Rental Benchmarks (3)	<\$236 per week	\$237-\$378 per week	\$379-\$567 per week
Affordable Purchase Benchmarks (4)	<\$224,000	\$224,001-\$358,000	\$358,001-\$538,000

Source: JSA 2015, based on data from ABS (2011) Census indexed to September Quarter 2015 dollars

- (1) All values reported are in September Quarter 2015 dollars
- (2) Total weekly household income
- (3) Calculated as 30% of total household income
- (4) Calculated using ANZ Loan Repayment Calculator, using 4 January 2016 interest rate (5.56%) and assuming a 20% deposit for a 30 year ANZ Standard Variable Home Loan and 30% of total household income

## 5.3 Relative Cost of Housing

### 5.3.1 Rental

Housing NSW provides a quarterly rent and sales report, which gives median and quartiles rent and sale prices for selected areas and dwelling types.

Based on this data, it can be seen that smaller dwellings in Greater Sydney are very expensive compared with Regional NSW, with a median smaller dwelling in the Greater Metro Area costing \$475 per week in September Quarter 2015, compared with a median of \$180 per week for Regional NSW. This means that, while a median one bedroom unit in Regional NSW would be affordable to a households at the top of the very low income band and all low income households, a similar dwelling in Greater Sydney would only be affordable to those at the very top of the moderate income band, making it much more likely for low and very low income households to be in housing stress or completely excluded from the private rental market.

The 20 most expensive Local Government Areas are shown in the following figures. They include the LGAs of Sydney (\$550 per week for a median one bedroom unit), Willoughby (\$535), Manly (\$525) and Botany Bay (\$520).

For two bedroom units the situation in Greater Sydney is even worse, with a median priced dwelling of this type being unaffordable to all moderate income households as well as low and very low income households. Again, the LGA of Sydney is the most expensive, with a median two



bedroom unit renting for \$730 per week, followed by Manly (\$675), Waverley (\$665) and Woollahra (\$650).

This ranking of relative cost of apartments across NSW is further refined by factoring in the number of very low, low and moderate income households in each LGA. As shown in **Figure 5.3** below, the more expensive inner city and middle ring areas are generally most prominent in this ranking, with City of Sydney ranked '1' on this analysis, and only one regional area (Newcastle).

Median priced three bedroom apartments and separate houses are generally not affordable to the relevant target groups in these areas.

(See also **Appendix A1**, which provides a ranking and data for all LGAs in NSW).

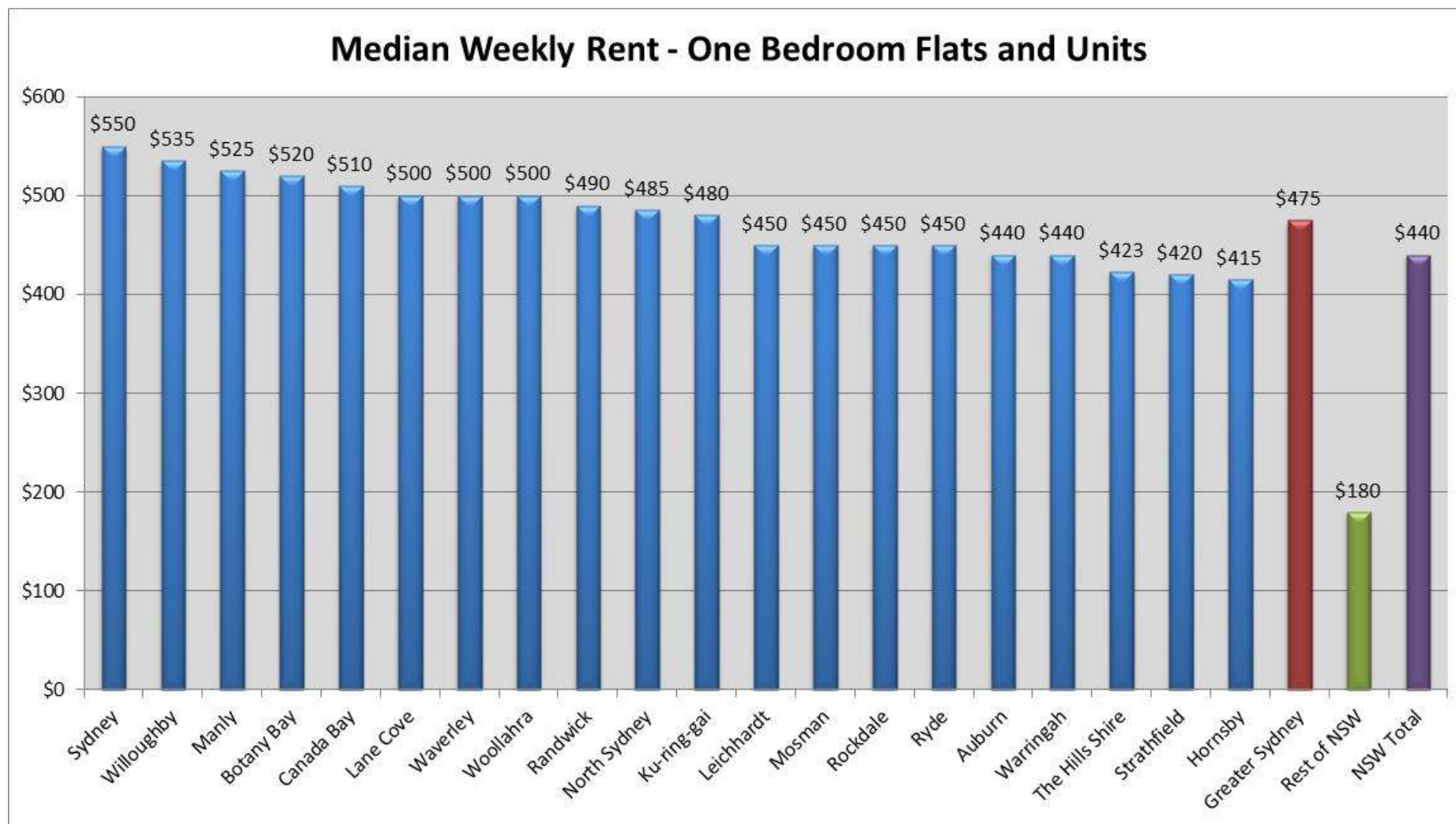


Figure 5-1: Median Weekly Rent for One Bedroom Units – Top 20 LGAs in NSW

Source: JSA 2016, based on data from Housing NSW Rent and Sales Report Issue 113 (September Quarter 2015)

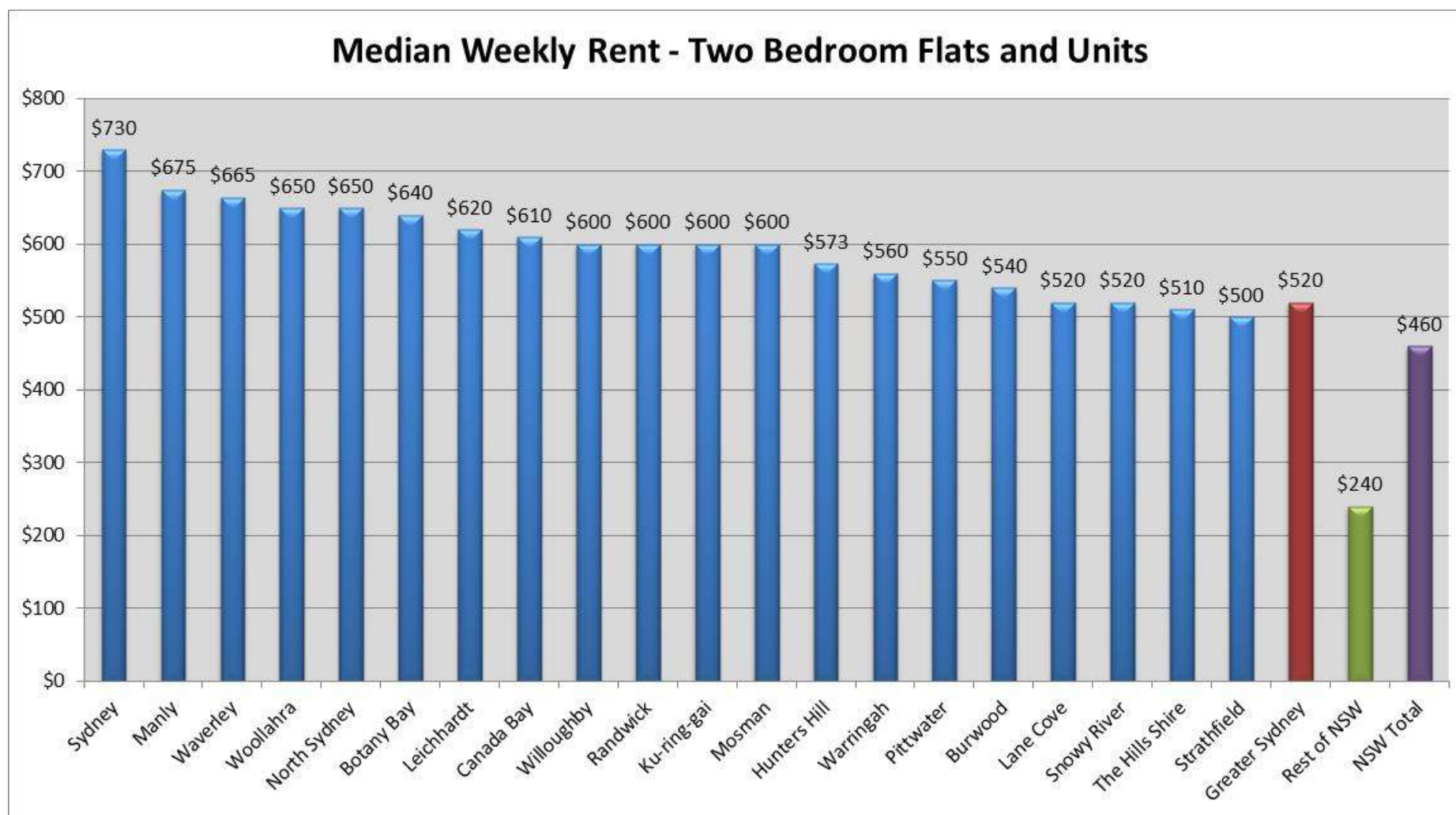


Figure 5-2: Median Weekly Rent for Two Bedroom Units – Top 20 LGAs in NSW

Source: JSA 2016, based on data from Housing NSW Rent and Sales Report Issue 113 (September Quarter 2015)

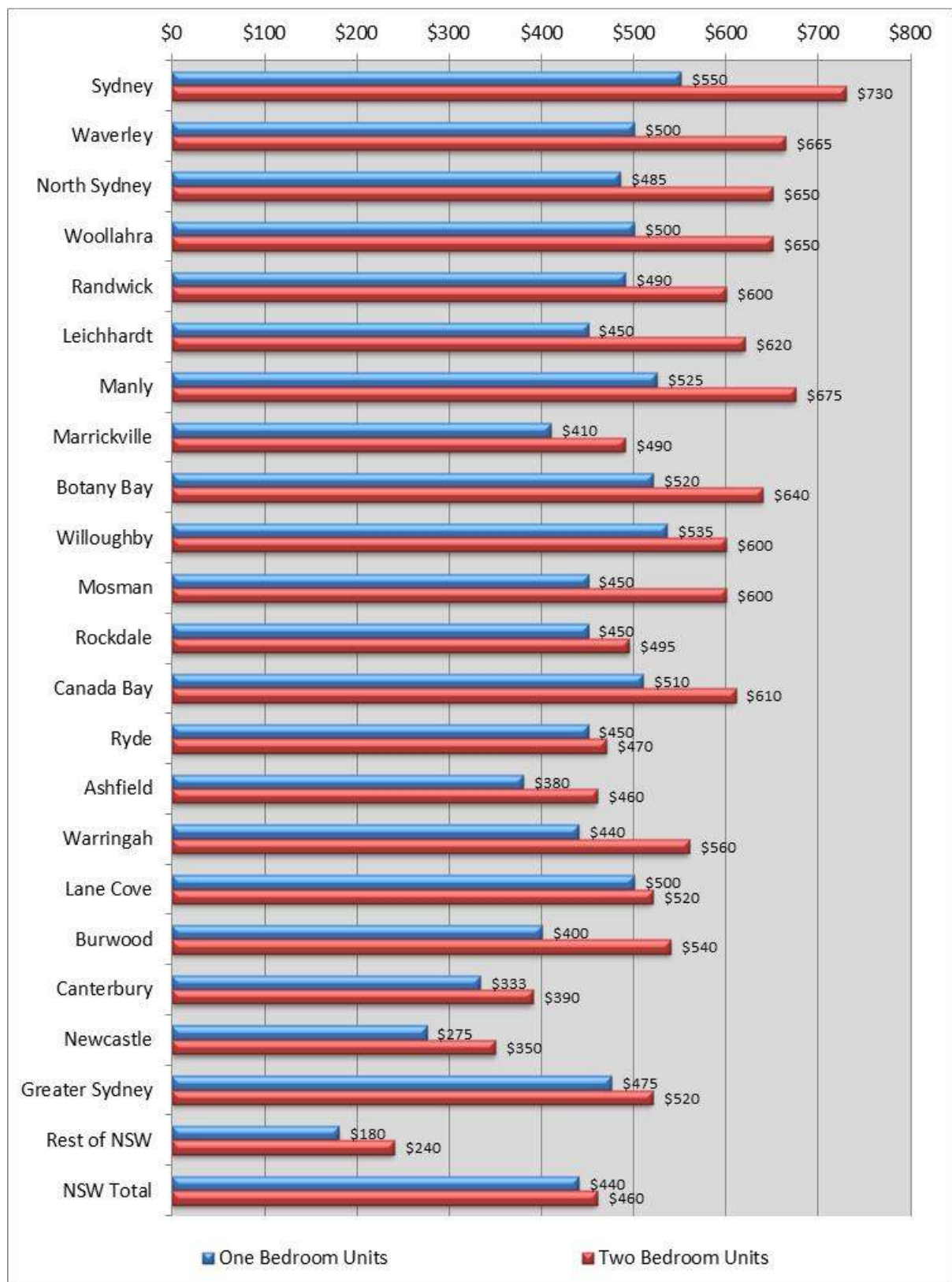


Figure 5-3: Median Weekly Rent for One and Two Bedroom Units weighted by Number and Proportion Very Low and Low Income Private Renters– Top 20 LGAs in NSW

Source: JSA 2016, based on data from Housing NSW Rent and Sales Report Issue 113 (September Quarter 2015) and ABS Census of Population and Housing 2011

### 5.3.2 Sales

In terms of sale prices, again Greater Sydney is much more expensive than Regional NSW.

While a median priced dwelling in Regional NSW sold for \$342,500 in June Quarter 2015, in Greater Sydney the sale price was more the double at \$750,000. Using the Commonwealth Bank Loan Repayment Calculator, assuming the buyer has a 20% deposit, using the interest rate at the time of writing of 5.17%<sup>176</sup> and assuming the loan will be paid back over 30 years, buying a median priced dwelling in Greater Sydney would result in a monthly repayment of \$3,284, or a weekly repayment of around \$820. This 70% (or around \$340 per week) more than a top-end moderate income household could affordably repay. Comparatively, purchasing a median dwelling in Regional NSW would result in a monthly mortgage repayment of \$1,500, or \$375 per week which, while still unaffordable to low and very low income households, is at least affordable to some of the higher-earning moderate income households.

In terms of strata dwellings, purchasing a median property in Greater Sydney would result in a monthly repayment of \$2,938 or \$735 per week. Even a first quartile strata property in Greater Sydney would result in a monthly repayment of \$2,277 or \$570 per week, which is unaffordable to all moderate, low and very low income households. Regional NSW is much more affordable, with a median strata property resulting in a repayment of approximately \$315 per week, affordable to all moderate income households and those at the top of the low income band, while a first quartile strata property would result in repayments of approximately \$240 per week, which would be affordable to all moderate income households and most low income households, though very low income households would be excluded.

In terms of all dwellings, the most expensive LGAs are Hunters Hill, Woollahra, Ku-ring-gai and Willoughby, with median prices ranging from \$1.5M to \$1.7M, while for the strata the most expensive are Woollahra, Manly, Waverley and North Sydney, with medians ranging from \$700,000 to \$860,000 for these LGAs.

These relativities are shown in the following graphs, which rank the top 20 areas for relative cost.

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<sup>176</sup> 11 January 2016.

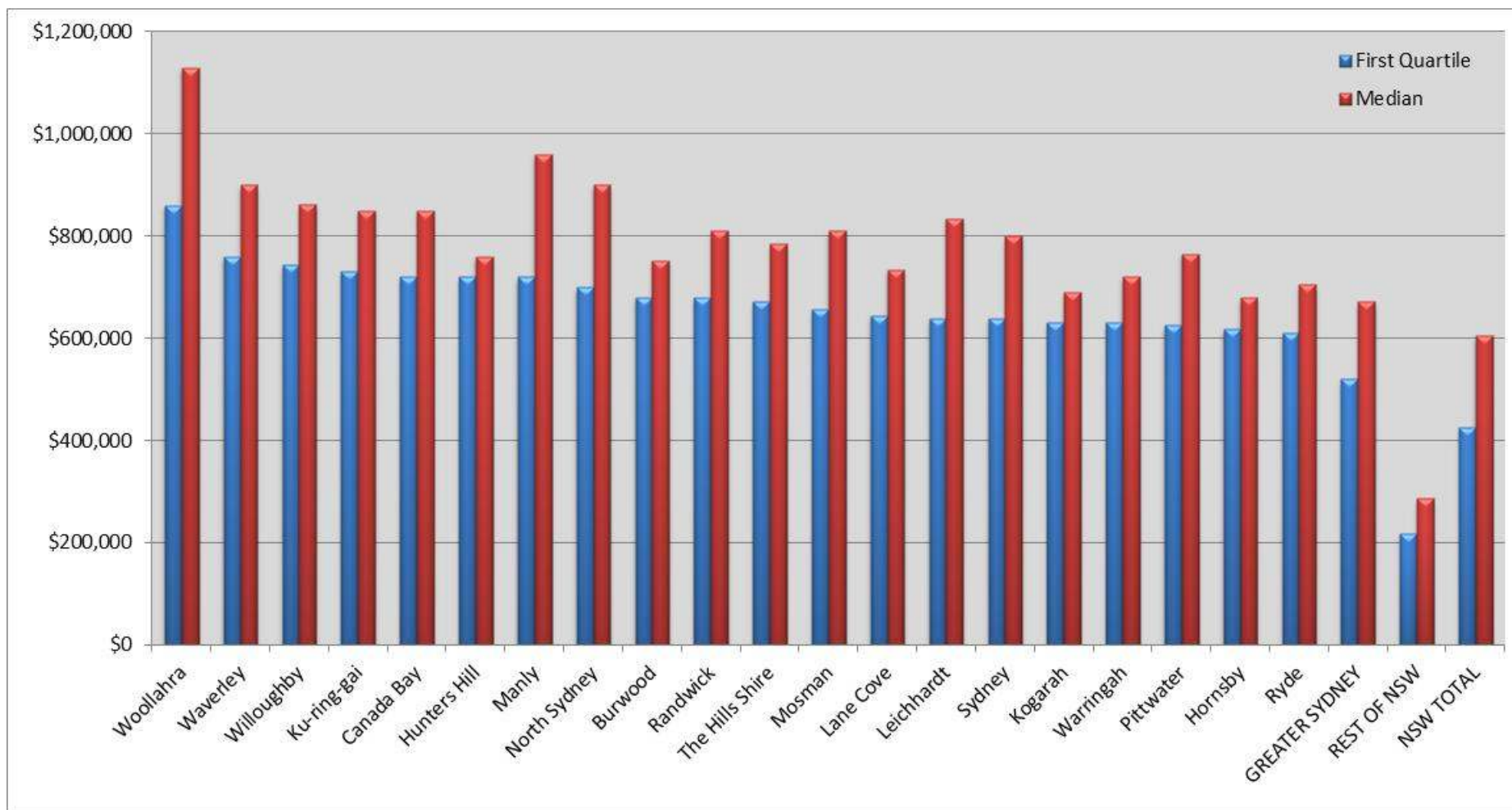


Figure 5-4: First Quartile and Median Sale Prices for Greater Sydney LGAs sorted by First Quartile—Top 20

Source: JSA 2016, based on data from Housing NSW Rent and Sales Report



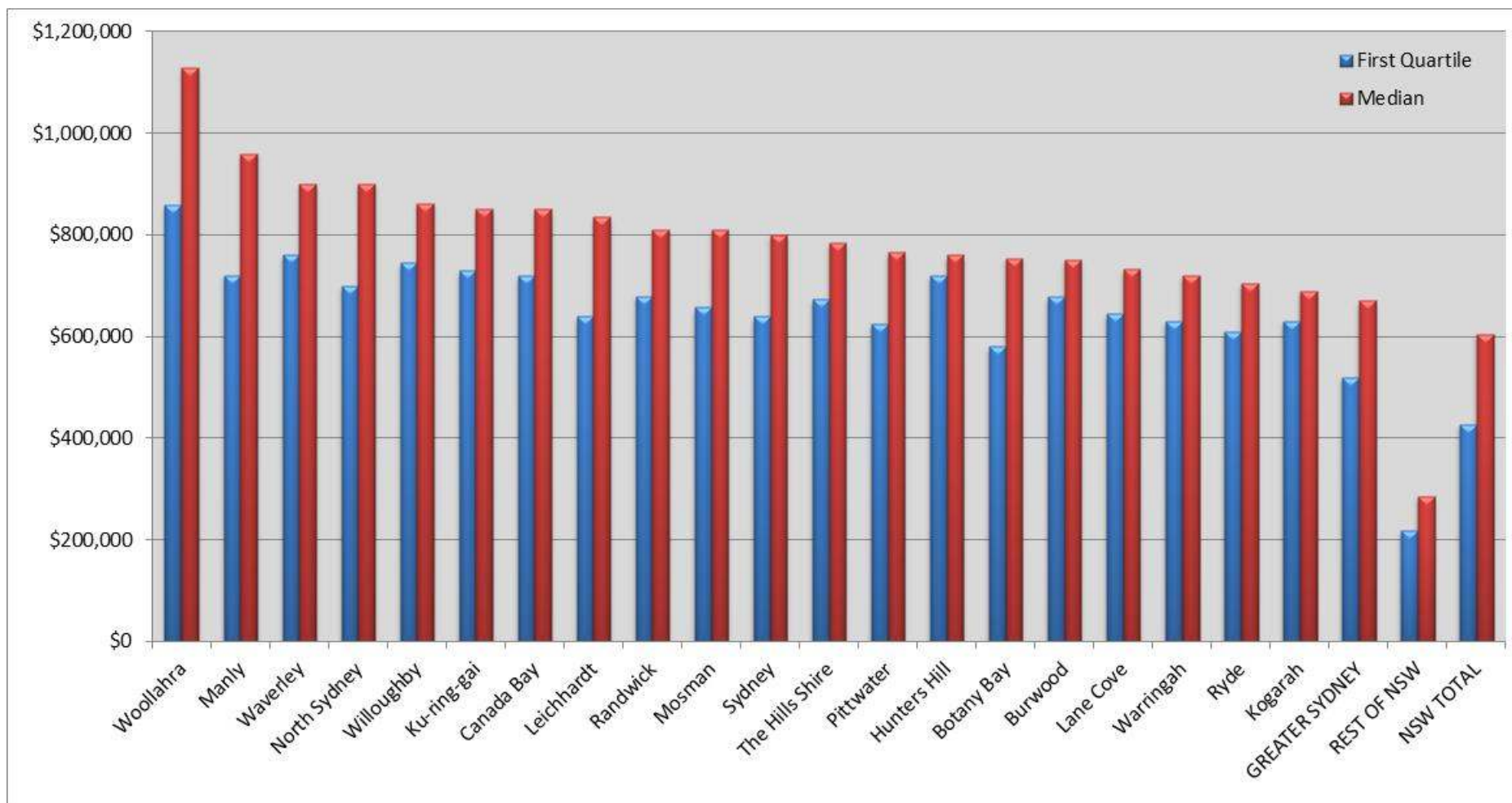


Figure 5-5: First Quartile and Median Sale Prices for Greater Sydney LGAs sorted by Median– Top 20

Source: JSA 2016, based on data from Housing NSW Rent and Sales Report Issue 113 (June Quarter 2015)





Figure 5-6: Median Sale Prices for All Dwellings NSW sorted by Median – Top 20

Source: JSA 2016, based on data from Housing NSW Rent and Sales Report Issue 113 (June Quarter 2015)

## 5.4 Private Rental Stress by LGA in Very Low, Low, Moderate and All income Bands

### 5.4.1 Local Government Area Rankings

The figures below show LGA's with high numbers and proportions of private renters on very low, low and moderate incomes in rental stress. The proportions shown in Figures 3.1-3.4 are the number of private renters in rental stress in a particular income band or group of income bands divided by the total private renters in that income band or group of income bands. The proportions shown in Figures 3.5-3.8 are the number of private renters in rental stress in a particular income band or group of income bands divided by the total number of private renters.

Each LGA was ranked according to the numbers of private renters in housing stress and then ranked by the proportion of private renters in housing stress. Each LGA was then given an overall ranking based on the average of these two rankings and the top 20 were shown on the figures below. The proportions for Greater Sydney, regional NSW and the total for NSW were included as a benchmark for comparison.

Despite the very high relative cost of housing and housing stress in many inner city areas, when looking at this measure of need (which also factors in absolute number of households in housing stress), a range of outer ring LGAs and several regional areas are also elevated in the ranking of **very low income** households in housing stress. The lower cost of housing in these areas is offset by the lower average income of residents in many of these areas. Not surprisingly, virtually all very low income private renters in these areas are in housing stress.

When looking at **low income** households, a somewhat different picture emerges, with an increased number of inner city LGAs in the top 20 areas for need, and no regional areas ranked. Likely the impact of more expensive markets is more evident here, where low income households are more likely to find something they can afford in regional areas.

The picture for **moderate income** households in housing stress is further skewed toward the more expensive areas of Sydney. As well as reflecting local housing markets, this likely indicates that moderate income households have still maintained a foothold in these areas and have not faced the level of displacement that has already occurred for very low and also low income households.

This is shown in the following graphs. A full ranking of LGAs is provided at **Appendix A1**.

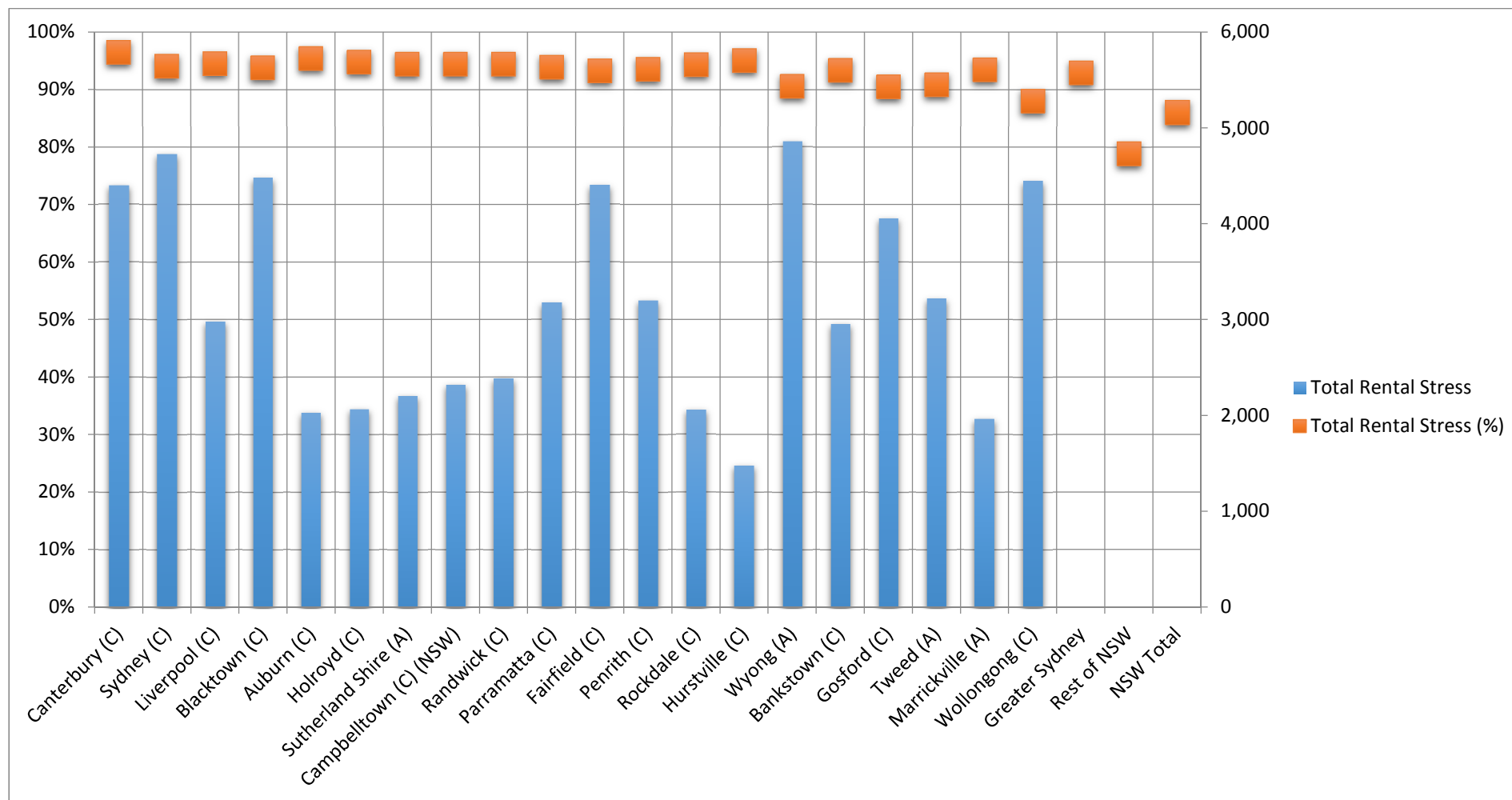


Figure 5-7: Local Government Areas with High Numbers and Proportions of Private Renters with Very Low Incomes in Rental Stress (As a proportion of Very Low Income earners)

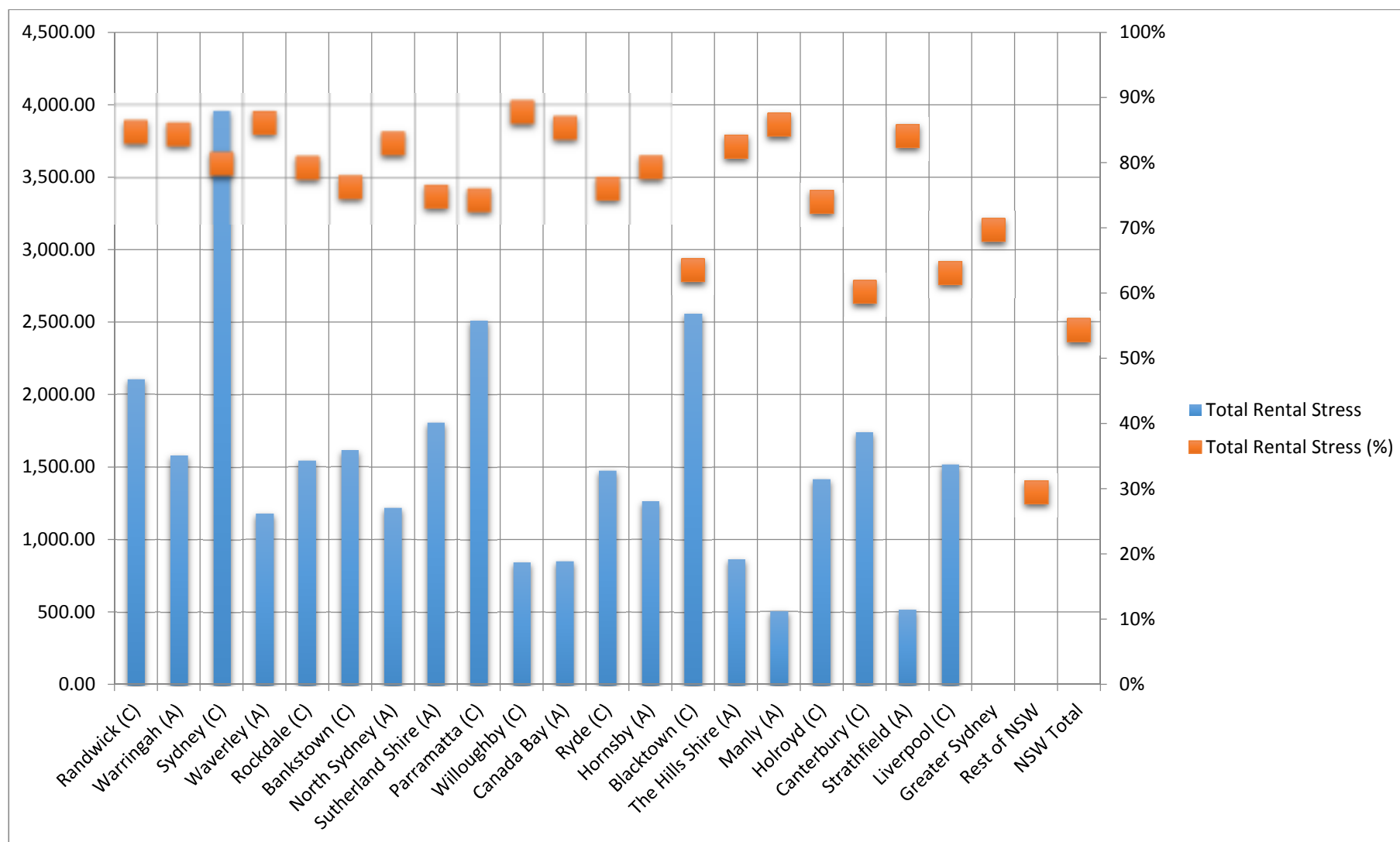


Figure 5-8: Local Government Areas with High Numbers and Proportions of Private Renters with Low Incomes in Rental Stress (As a Proportion of Low Income Earners)

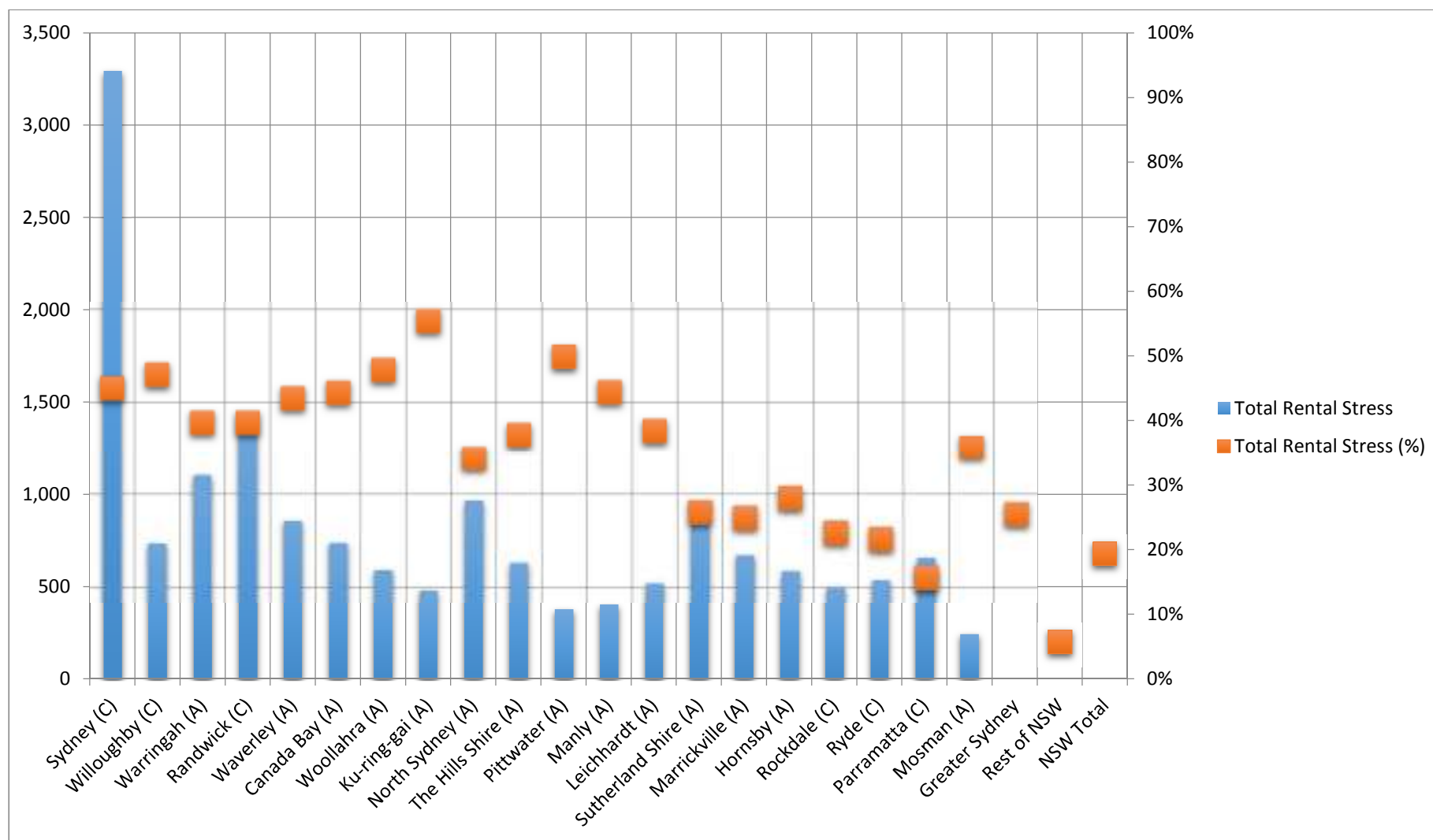


Figure 5-9: Local Government Areas with High Numbers and Proportions of Private Renters with Moderate Incomes in Rental Stress (As a proportion of Moderate Income Earners)

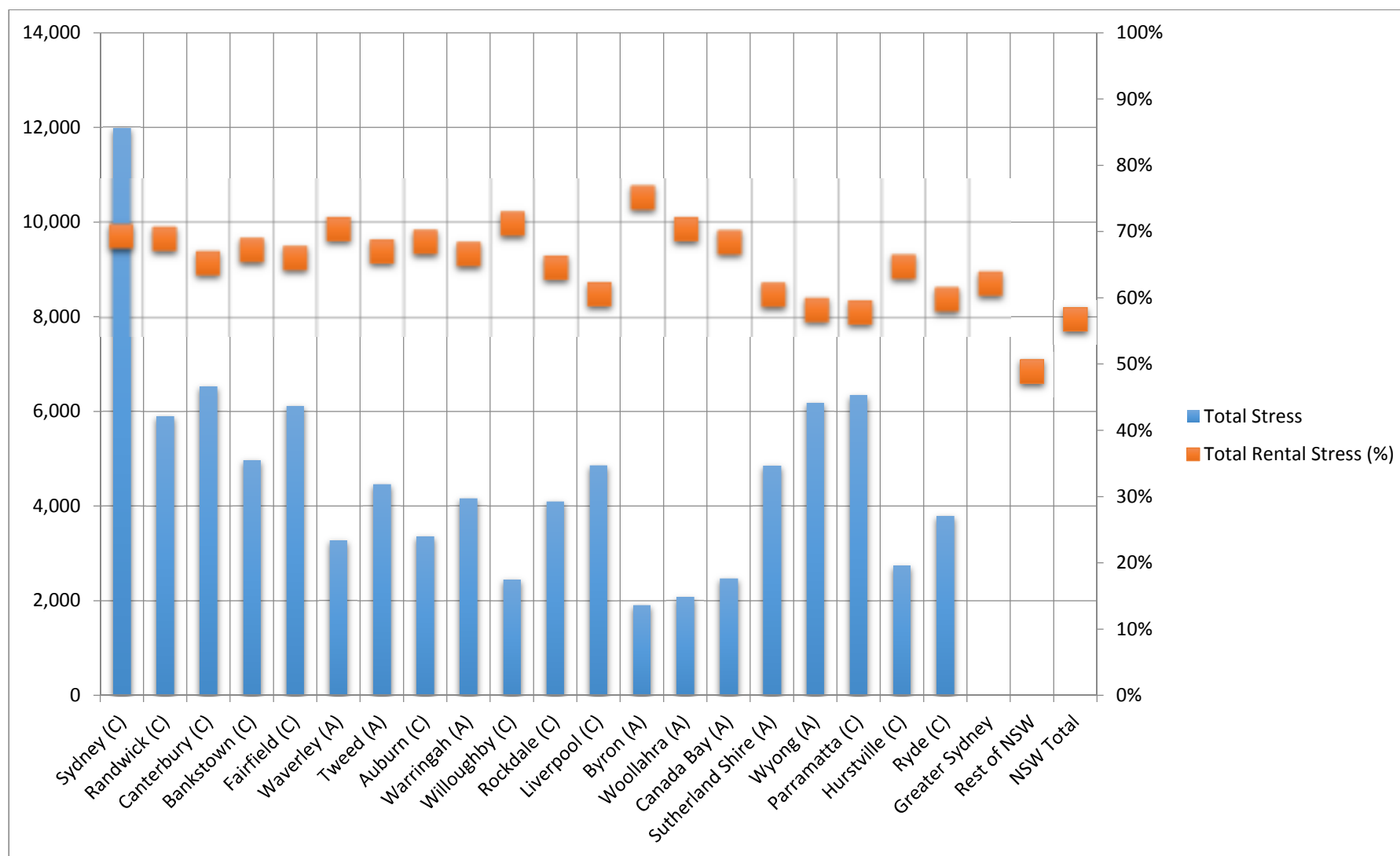


Figure 5-10: Local Government Areas with High Numbers and Proportions of Private Renters in Rental Stress (As a proportion of Private Renters with Very Low, Low and Moderate Incomes)

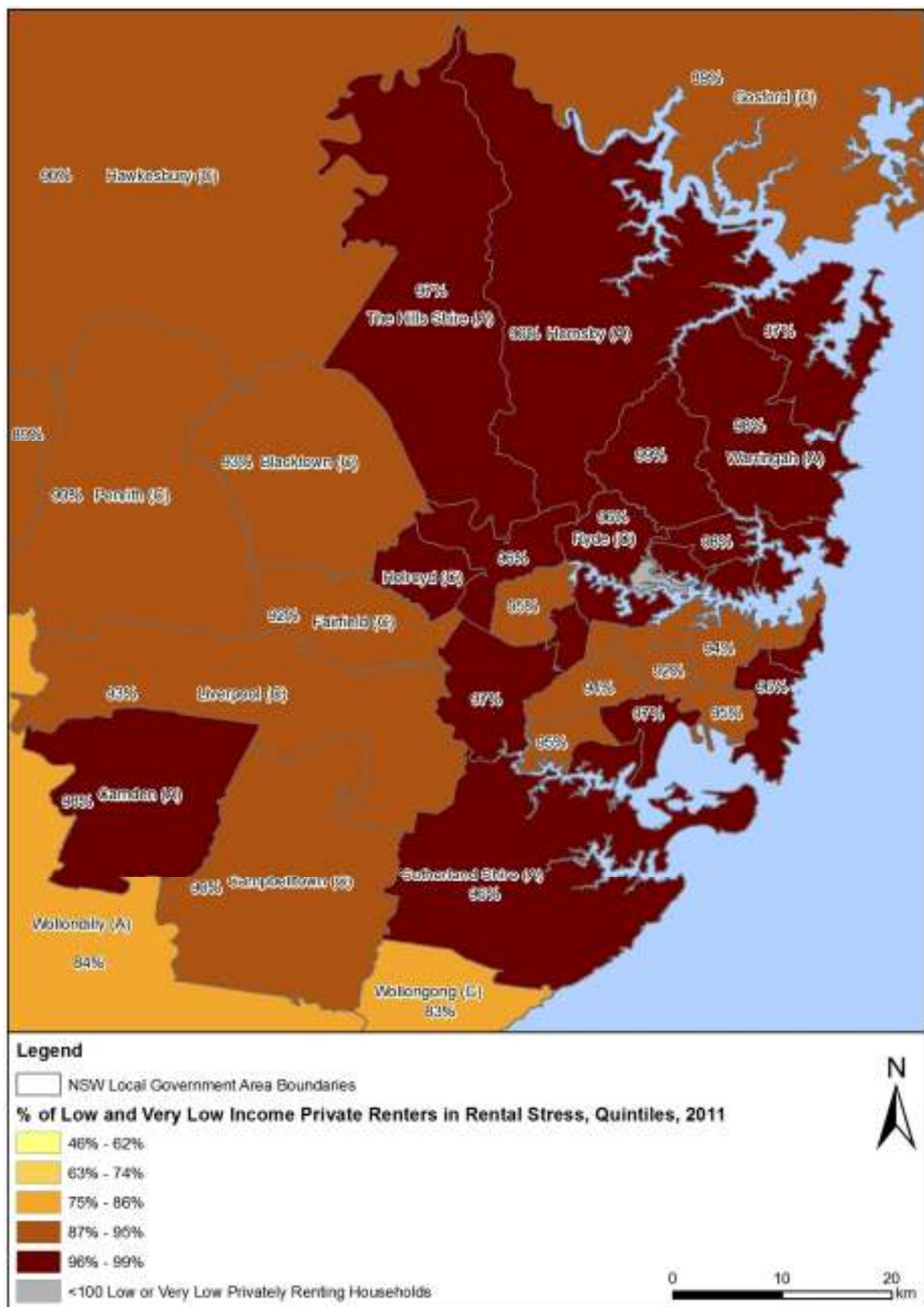
### 5.4.2 NSW State-Wide Spatial Analysis

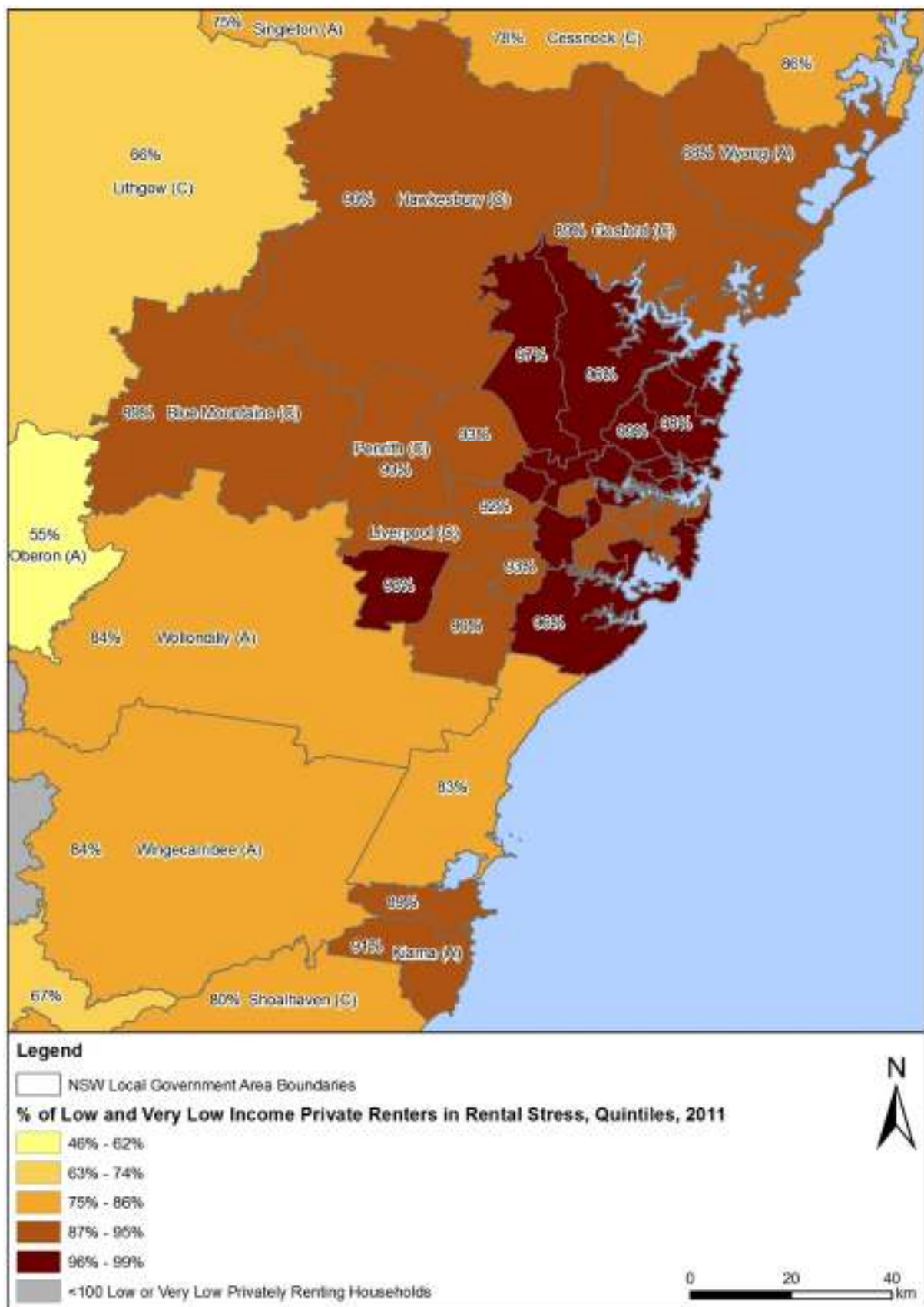
The following maps show the distribution of private renters in housing stress across NSW by local government area to provide a spatial dimension to the analysis.

They show that the vast majority of very low and low income renters are in housing stress across all inner, middle and outer ring suburbs of Sydney. This is not surprising given the rental prices reviewed above.

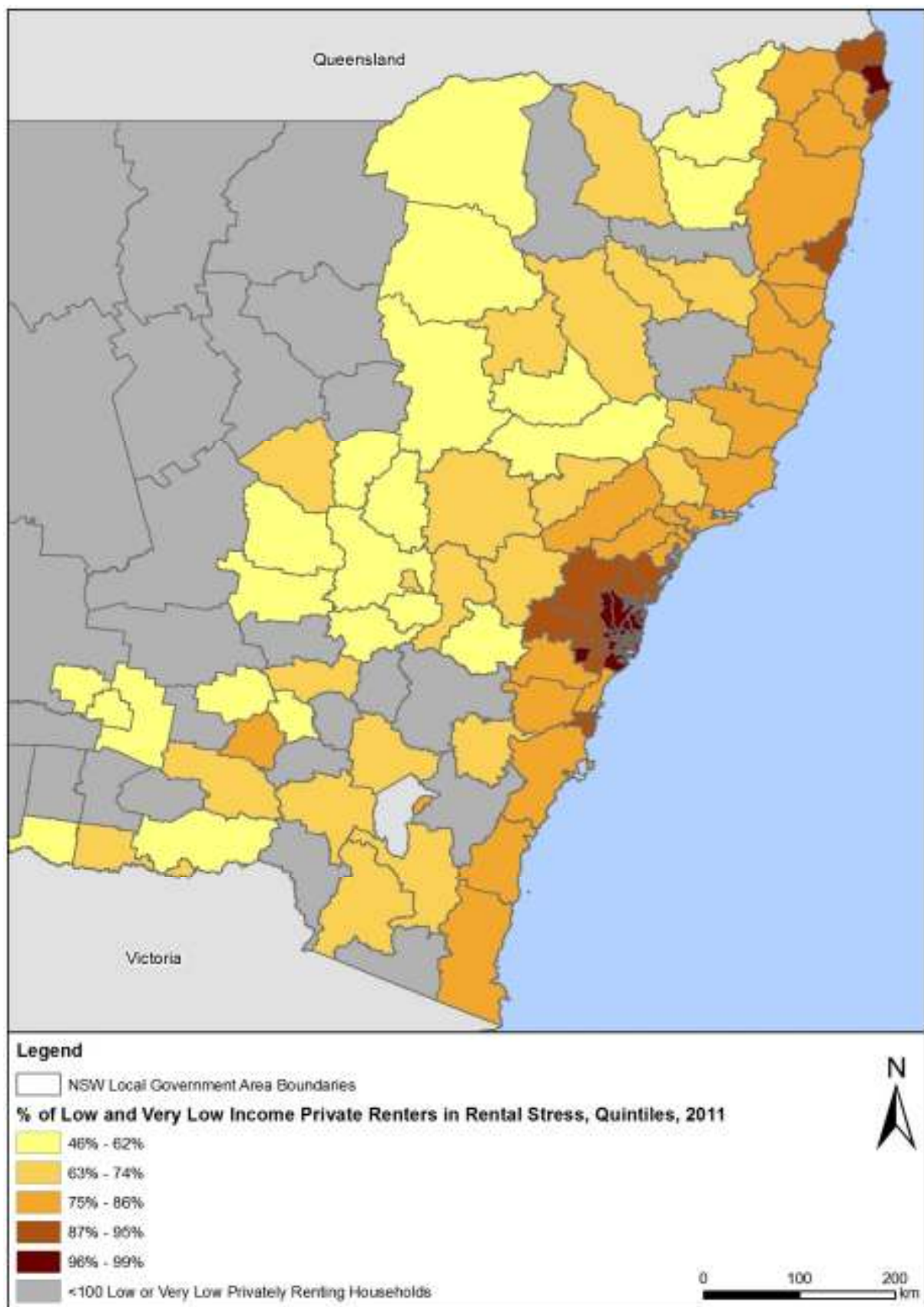












Map 5.4: Very Low and Low Income Private Renters in Housing Stress (NSW Zoom)

Source: JSA 2016, derived from ABS (2011) Census

## 5.5 Supply and Affordability of Housing for Smaller Households

### 5.5.1 Overview

This section seeks to understand the nature of need for smaller rental accommodation through an analysis of relative supply of such accommodation across NSW compared with indicators of likely demand.

Smaller studio and one-bedroom dwellings are the generally the lowest cost and most affordable conventional housing product. Given the lack of data on New Generation Boarding Houses, they could also be regarded as a proxy for this form accommodation, particularly where such accommodation is not readily available in an area.

The major target group currently taking up accommodation in Boarding Houses are lone person households who are in need of rental accommodation, due both to the size and amenity of rooms and restrictions on residency by children.<sup>177</sup>

As such, the first part of the analysis focuses on supply- and demand- side issues for lone person households currently renting through the private market, although some of the analysis in this section is also relevant to the supply of affordable housing more generally. Given the project involves the selection of case studies in priority areas where there is likely to be significant unmet demand for affordable housing, the top 20 areas for a range of indicators of relatively supply and demand issues have again been highlighted.

Overall, under-supply of smaller dwellings suited to smaller renting households is evident in both inner and middle ring areas of Metropolitan Sydney such as City of Sydney, Waverley, North Sydney, Marrickville, Ryde, Canterbury, Randwick and Ashfield, and larger or higher amenity regional areas such as Albury, Newcastle, Wyong, Gosford, Wagga Wagga, Coffs Harbour and Wollongong. Although housing affordability is most critical in the inner and middle ring areas of Metropolitan Sydney, supply of smaller dwellings (studios and one-bedroom apartments) is much more plentiful.

Relatively high levels of housing stress among smaller households in two-bedroom dwellings in key regional areas noted below also indicates supply constraints in these areas, in particularly the lack of one-bedroom dwelling options in many key regions, including those with relatively high levels of lone person private renters. It is also likely that there will be increased upward pressure on smaller properties that are available in such regions, increasing affordability issues over time. The economics of development often does not facilitate such development through the private market, however, as discussed later.

By far the major challenge is to provide *anything* that can be affordably rented by very low income households in Sydney and in some key regions, requiring a rental cost of less than around \$200 per week, and potentially for the lower half of low income households (who could afford up to around

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<sup>177</sup> ABS (2011) Census: Tablebuilder

\$250 per week), and it is here that New Generation Boarding Houses could potentially make a significant contribution.

As such, although a key focus of research and action that facilitates the development of smaller, more affordable rental dwellings, including New Generation Boarding Houses, needs to be on inner and middle ring LGAs of Sydney, there is also evidence of increasing affordable housing need among smaller households in key regions of NSW.

### 5.5.2 Indicators of Need for Smaller Apartments and Boarding House

As part of this research into the need for boarding houses across the State of NSW, we have looked at various indicators that would indicate which areas have a higher need for this type of accommodation. We have focussed on lone person private renters, since this group will likely be the people most likely to live in boarding houses, given the smaller size of rooms, as well as the fact that children are not allowed in this type of accommodation, and many boarding house rooms contain a single bed. They are also a key target group for studios and one-bedroom apartments, although couples would also be likely to live in such accommodation.

Indicators that we have looked at include:

- Number and concentration of lone person private renters, both as a whole and those on a very low and low income (i.e. the main target group);
- The proportion of lone person private renters compared with the proportion of studio and one bedroom private rental properties (i.e. accommodation suitable for this group);
- Number of studio and one bedroom private rental apartments per lone person pvt renter;
- Number and proportion of lone person private renters that are living in accommodation larger than what they may require (i.e. accommodation with two or three bedrooms), and looking at these people by level of housing stress;

For each indicator, the State has been analysed at the Local Government Area. These LGAs have been ranked according to their need for smaller rental accommodation such as studios, one bedroom and boarding house style accommodation based on each indicator. Unless otherwise stated, data has been taken from the ABS (2011) Census of Population and Housing 2011.

### 5.5.3 Lone Person Private Renters

In looking at the need for smaller rental accommodation across the State, it is important to understand the concentration of lone person private renters, since this will be the group most likely to take up this type of accommodation.<sup>178</sup> While it is important to know the proportion of occupied private dwellings (OPDs) that are occupied by lone person private renters, it is equally important to know the absolute numbers of these people. Therefore, in ranking the LGAs for this indicator, an average ranking has been taken for both absolute number and proportion of OPDs occupied by lone person private renters.

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<sup>178</sup> ABS (2011) Census: Tablebuilder

The Top 20 LGAs for this indicator are predominantly based in the Greater Sydney Metropolitan Area, for example Sydney (C) (approximately 10,000 LP Private Renters, 12% of OPDs), North Sydney (A) (approx. 3,700 or 12%), Marrickville (A) (approx. 2,800 or 8.6%) and Waverley (A) (approx. 2,300 or 8.3%). Exceptions include Newcastle (C) (approx. 2,900 or 4.8%), Albury (C) (approx. 1,400 or 7.1%), Queanbeyan (C) (approx. 900 or 6.1%) and Wagga Wagga (C) (approx. 1,100 or 4.9%). Comparatively, the proportion of OPDs occupied by Lone Person Private Renters across the State of NSW was 4.0% in 2011, with a somewhat higher proportion for Greater Sydney (4.2%) compared with Regional NSW (3.7%).

The following figure shows this in more detail, whilst Appendix A1 provide State-wide data.



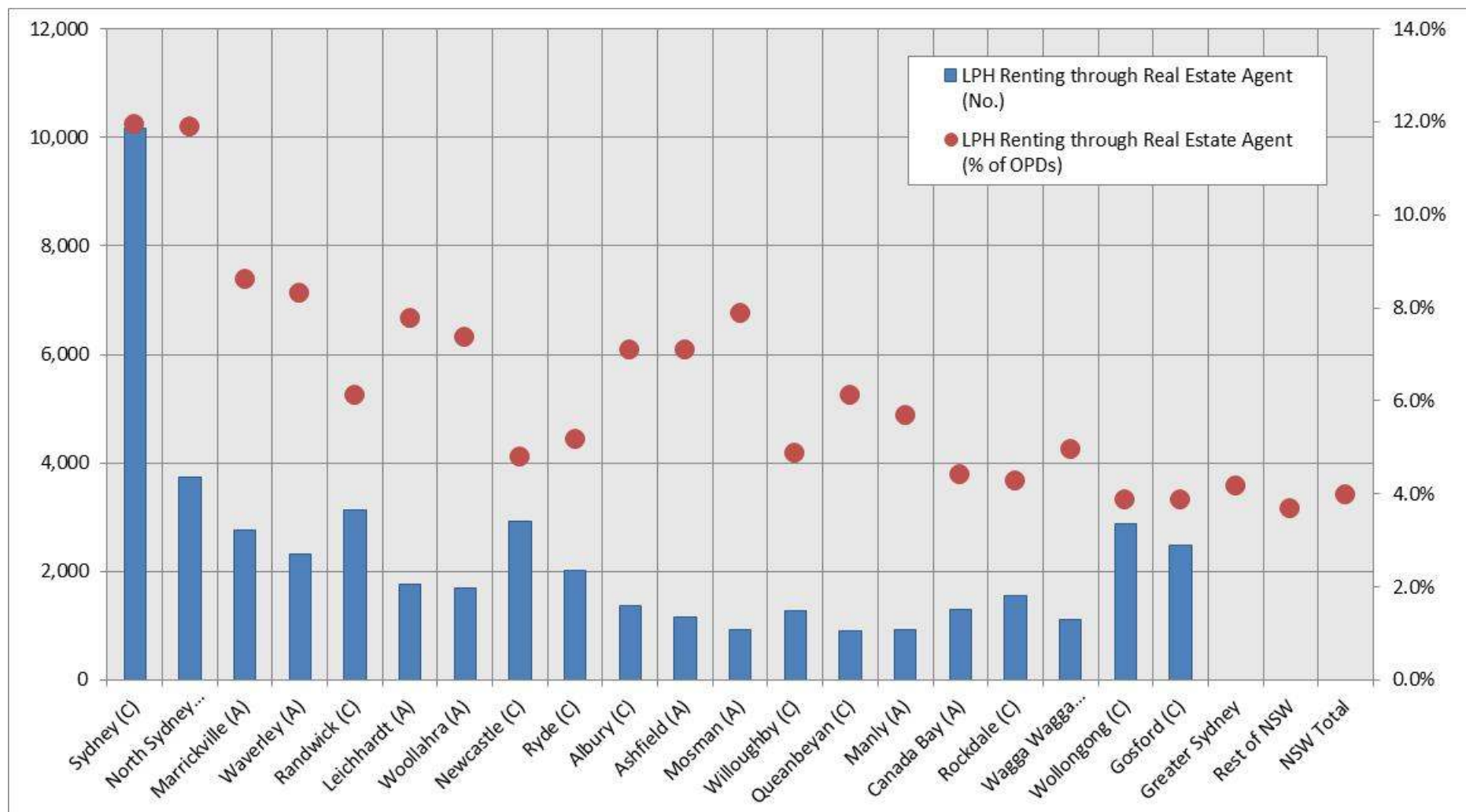


Figure 5-11: Local Government Areas in NSW with High Numbers and Proportions of Lone Persons Renting through a Real Estate Agent (Top 20)

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011

### 5.5.4 Low and Very Low Income Lone Person Private Renters

It is likely that the group most in need of the lower cost (if not affordable) accommodation that studio, one bedroom or boarding houses would provide are lone person private renters on a low or very low income. LGAs across NSW have been analysed in terms of this target group both in numbers and as a proportion of all occupied private dwellings (OPDs). A ranking was then applied to each LGA based on numbers and proportions and an average of these two rankings then taken. This was done in order that weight was given both to the number and the proportion of this group in each LGA. The results of this analysis for the 20 LGAs with the highest average ranking are shown in the following figure.

Of the Top 20 LGAs, eight are in Greater Sydney, with the remaining twelve being in Regional NSW. The top two are in Sydney (Sydney (C) and Marrickville (A)), with these two LGAs having a combined total of around 4,500 low and very low income lone person private renters, with this group representing around 4% of OPDs in each. However, eight of the next highest nine LGAs are in Regional NSW, with Albury (C), Newcastle (C), Coffs Harbour (C) and Greater Taree (C), highest amongst these. Low and very low income private renters tend to represent between 3% and 4% for these areas, though Albury (C) has a higher proportion at around 5.5%. Comparatively, for Greater Sydney this group makes up around 2% of OPDs, while for Regional NSW in comprises around 2.5%.

Although there are apparent supply constraints relative to need in regional areas, this of course, must be weighed against the relative housing stress and housing cost in regional versus Greater Sydney areas, discussed later.

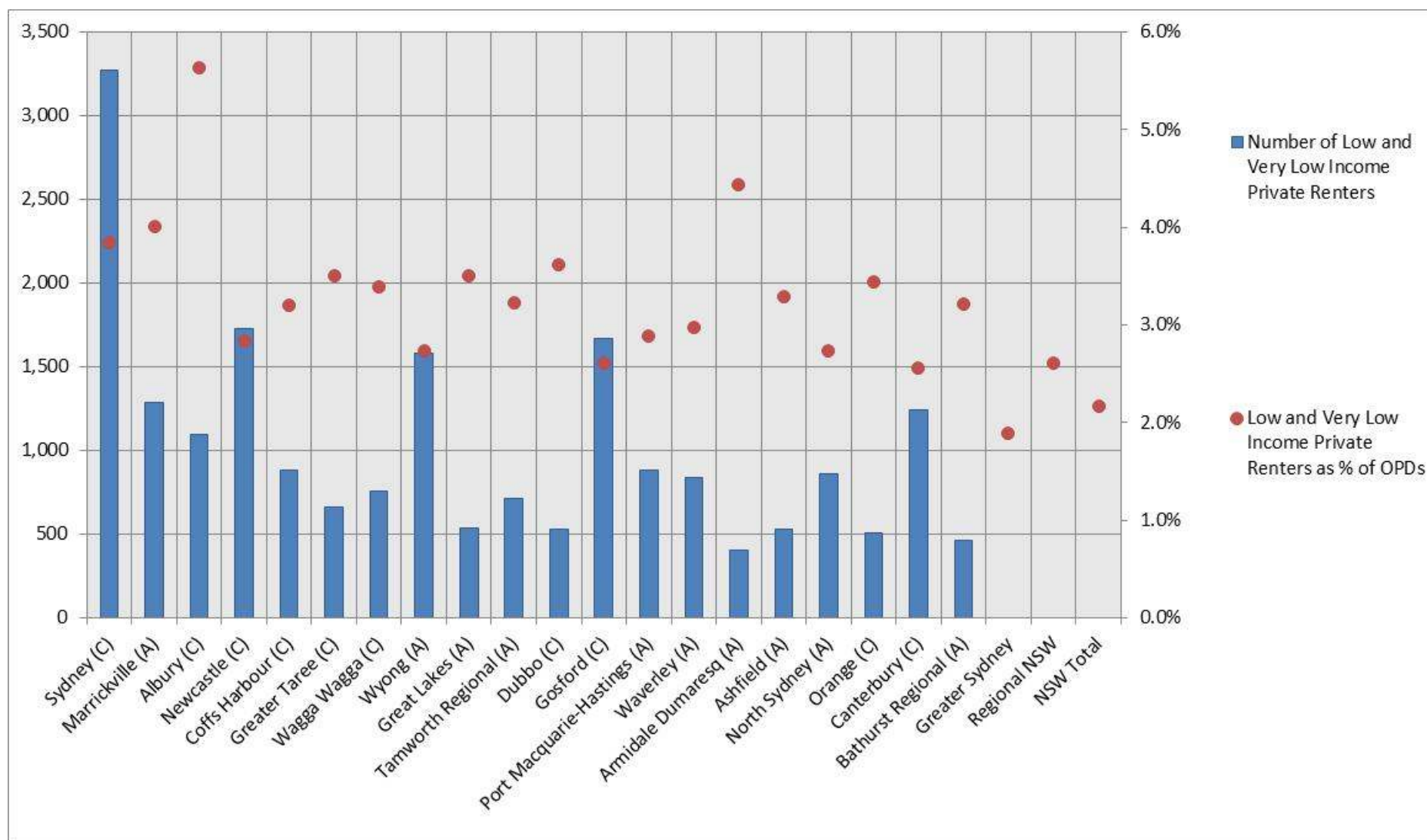


Figure 5-12: Number and Proportion of Low and Very Low Income Lone Persons Renting through Real Estate Agent, 2011 (Top 20)

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011

### 5.5.5 Concentration of Lone Person Private Renters by Proportion of Smaller Rental Accommodation

Using the ranking from the previous indicator, we have then combined this with a ranking for LGAs based on the proportion of occupied private dwellings that are privately rented studio and single bedroom apartments in order to find which areas have an under-supply of accommodation suitable for this group, potentially forcing these people into renting accommodation that is larger and more expensive than what they require, and potentially placing them in housing stress.

This indicator gives quite different results compared with that above, due to the high supply of this form of accommodation across the Greater Sydney Metropolitan Area (2.6% of OPDs) compared with Regional NSW (0.6% of OPDs), while both Metropolitan and Regional NSW have quite similar proportions of Lone Person Private Renters (4.2% and 3.7% respectively).

While several of the Top 20 LGAs across the State for this indicators are within or near the Greater Sydney Metropolitan Area, for example Wyong (A) (3.6% Lone Person Private Renters compared with just 0.3% studio and one bedroom private rental apartments), Campbelltown (C) (2.5% compared with 0.1%) and Blacktown (C) (2.0% compared with 0.1%), LGAs with an under-supply of smaller rental accommodation are generally found in Regional NSW. Areas with highest concentrations of Lone Person Private Renters and the most substantial under-supply of smaller rental accommodation include Port Stephens (A) (3.5% compared with 0.2%), Forbes (A) (5.1% compared with 0.2%), the Shoalhaven (3.4% compared with 0.2%) and Junee (A) (3.5% Lone Person Private Renters with no smaller rental accommodation).

Regardless of cost and housing stress, this indicates the need to significantly increase supply of such accommodation in these areas, particularly as their housing markets also experience more pressure and become more expensive for local people, who are on average on lower incomes than for Greater Sydney.

This is shown in more detail below, and in Appendix A1.

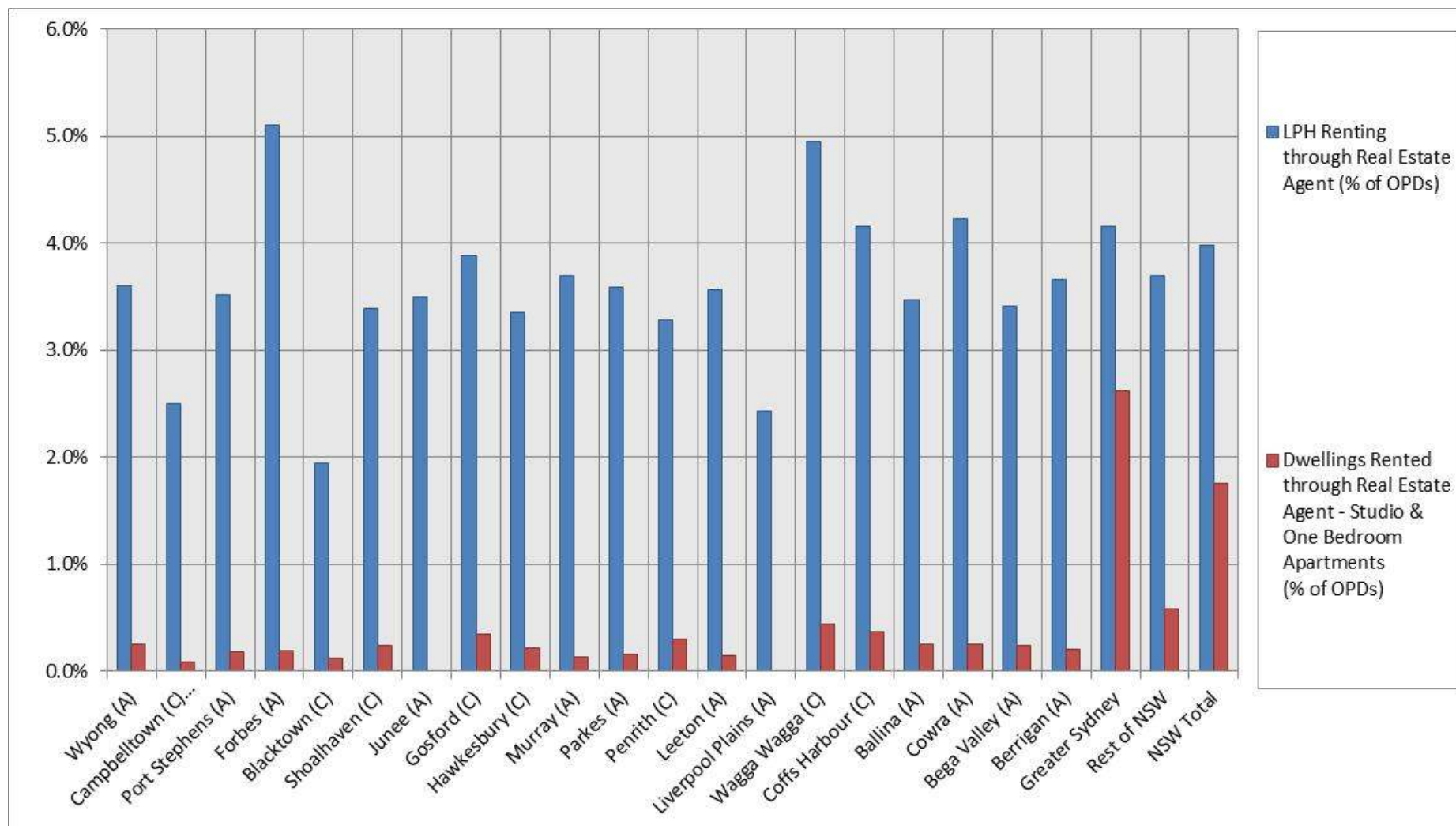


Figure 5-13: Local Government Areas with High Numbers and Proportions of Lone Persons Renting through a Real Estate Agent and Low Proportions of Studio and One Bedroom Units Rented through a Real Estate Agent

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011

### 5.5.6 Number of Smaller Rental Apartments per Lone Person Private Renter

This indicator is quite similar to the above indicator and gives quite similar results, with the majority of LGAs that made the Top 20 for the above indicator also appearing in the Top 20 for this indicator. The most notable exception is Deniliquin (A), which is ranked 2<sup>nd</sup> for this indicator, having just 0.055 smaller rental apartments per lone person private renter (18 lone person private renters per smaller rental apartment). Other notable exceptions include Goulburn Mulwaree (A), ranked 11<sup>th</sup> for this indicator with a ratio of 0.081, and Young (A), ranked 12<sup>th</sup> with a ratio of 0.072.

Using this measure, Forbes (A) is elevated to number one (0.037), with other LGAs being elevated including Wagga Wagga (C) (0.090), Coffs Harbour (C) (0.090) and Cowra (A) (0.061).

Comparatively, the number of smaller rental apartments per lone person private renter across NSW in 2011 was 0.442, with a large difference in ratios between Greater Sydney and Regional NSW (0.629 and 0.157 respectively).

See the following figure for more detail.

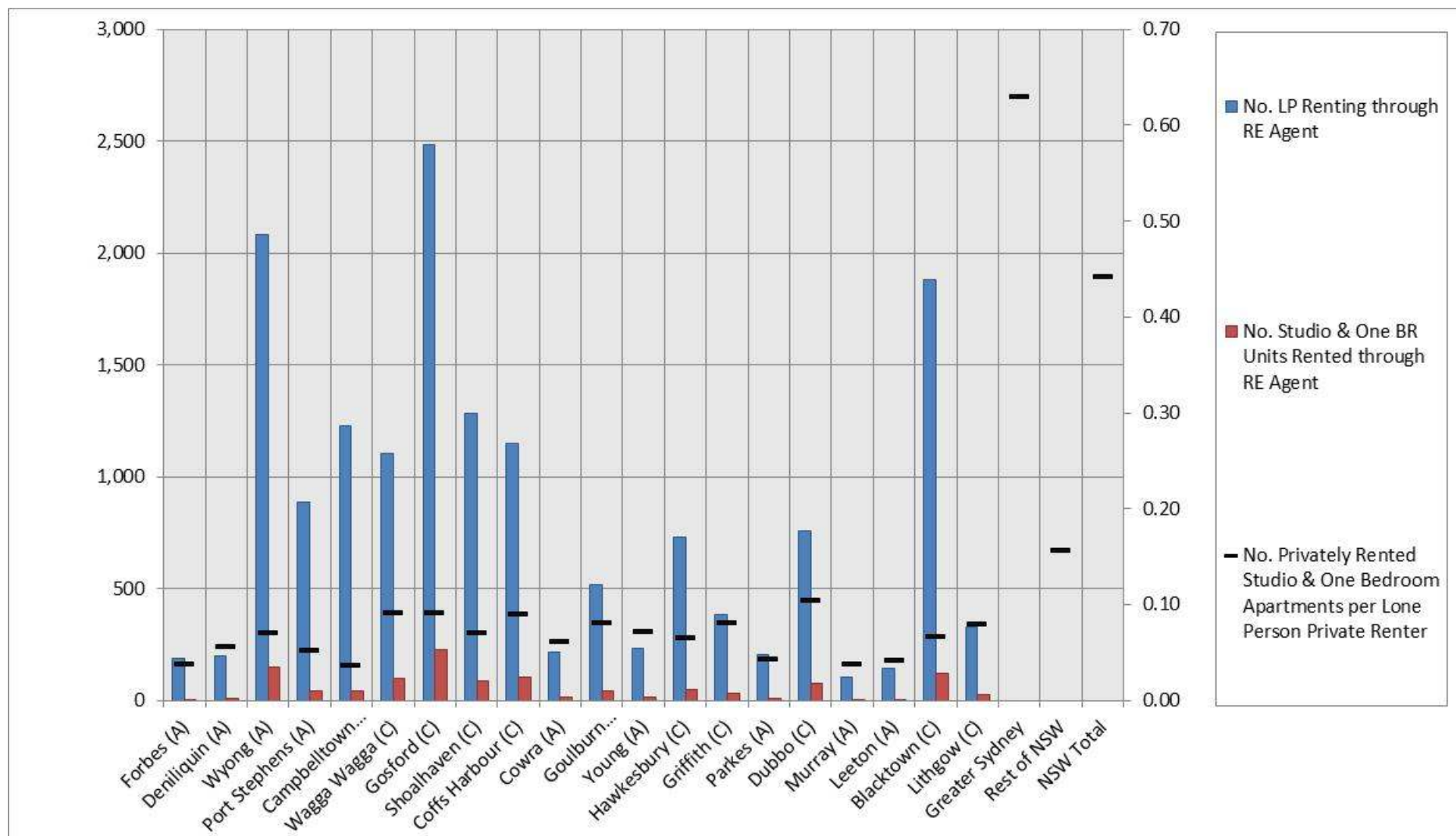


Figure 5-14: Local Government Areas with High Numbers and Proportions of Lone Persons Renting through a Real Estate Agent and Low Number of Smaller Private Rental Units per Lone Person Private Renter

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011



### 5.5.7 Lone Persons Privately Renting Larger Accommodation in Rental Stress

In order to gain an understanding of areas in terms of lone person private renters living in larger accommodation than they require, and who would likely downsize if they had the opportunity, housing stress (both overall and severe) was calculated for lone persons privately renting accommodation with 2-3 bedrooms, both as a number and as a proportion of OPDs. An average ranking was then calculated based on these figures. The results of this analysis for the LGAs with the 20 highest average rankings are shown in the following figures.

The results are a roughly 50/50 split between Greater Sydney and Regional NSW LGAs in terms of the Top 20 numbers and proportions on lone persons in rental stress living in larger accommodation. Coffs Harbour (C) has the highest average rank with 600 persons in this situation, representing around 2.3% of OPDs. Other LGAs with higher rankings in Regional NSW include Albury (C) (500 persons or 2.5% of OPDs), Port Macquarie-Hastings (A) (600 or 2.0%) and Tweed (A) (650 or 1.8%), while in Greater Sydney, the highest ranked LGAs include Wyong (A) (1,100 or 1.9%), Canterbury (C) (900 or 1.9%) and Rockdale (C) (700 or 2.0%).

In terms of severe rental stress, 12 of the top 20 are in Greater Sydney, with the remaining 8 in Regional NSW. Unlike overall stress, the majority of the top 10 are in Greater Sydney, with the highest ranked being Canterbury (C) (500 or 1.1%) and Rockdale (C) (400 or 1.1%), though Coffs Harbour (C) comes in third (350 or 1.2%). Randwick (C) also comes in quite high in this measure (500 or 1.0%), as do Wyong (A) (500 or 0.9%), Waverley (A) (300 or 1.1%) and Tweed (A) (350 or 1.0%).

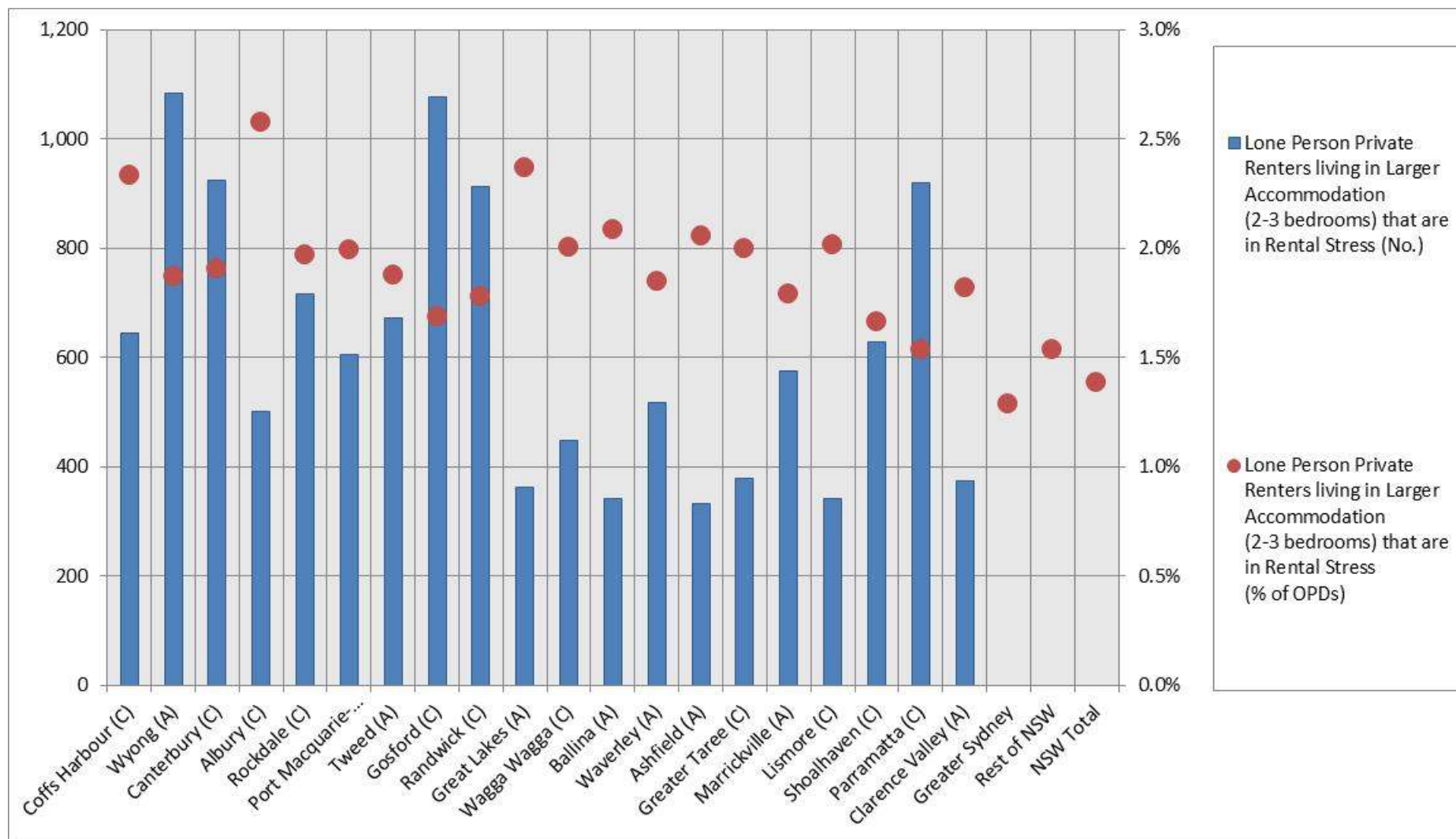


Figure 5-15: Local Government Areas with High Numbers and Proportions of Lone Person Private Renters living in Larger Accommodation (2-3 Bedrooms) that are in Rental Stress

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011

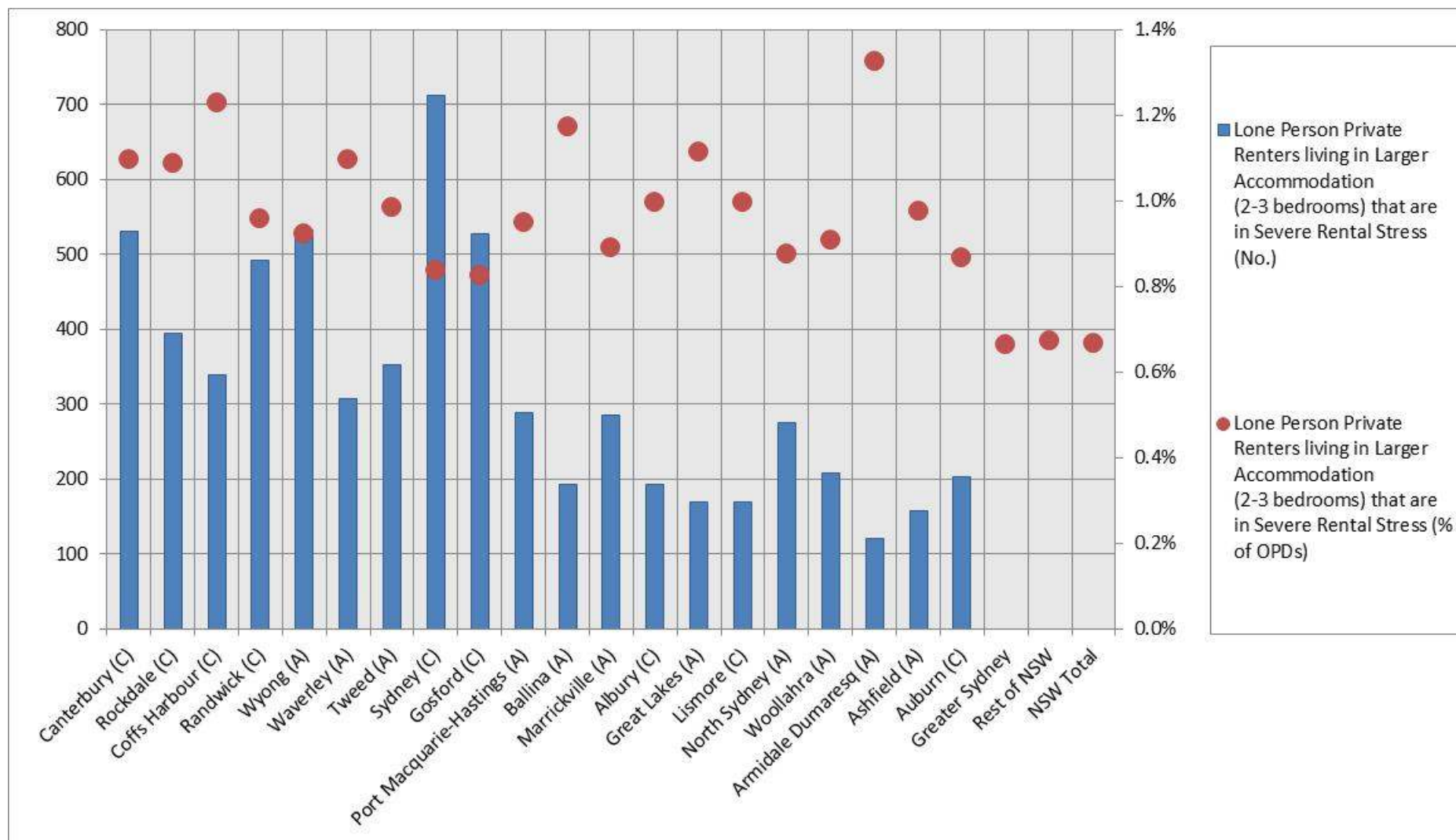


Figure 5-16: Local Government Areas with High Numbers and Proportions of Lone Person Private Renters living in Larger Accommodation (2-3 Bedrooms) that are in Severe Rental Stress

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011

### 5.5.8 Lone Person Private Renters living in Smaller Accommodation by Housing Stress

This section deals with the affordability of Local Government Areas across the state of NSW, particularly with regard to lone person private renters as this is the group for which boarding house style accommodation will be most suitable. One of the best ways to measure the affordability of an area is in terms of housing stress, i.e. very low, low and moderate income households paying 30% or more of their gross income in rent of mortgage repayments.

Of particular interest is the number of lone person private renters living in smaller accommodation (studio and one bedroom units) that are in still housing stress, since this indicates areas where, even if additional smaller dwellings were built it may not help to alleviate housing stress due to the high cost of housing relative to local incomes.

Apart from three LGAs (Newcastle (C), Wollongong (C) and Queanbeyan (C)), all of the LGAs in the top 20 in terms of number of lone persons privately renting smaller accommodation that are in housing stress (both as a number and a proportion of all occupied private dwellings) are in Greater Sydney. The LGA with the largest number and proportion by far is Sydney (C) (3,000 or 3.5%), followed by North Sydney (A) (700 or 2.4%), Waverley (A) (600 or 2.2%) and Marrickville (A) (700 or 2.1%).

The following figures show this graphically, with more detail provides in Appendix A1 for all NSW LGAs.

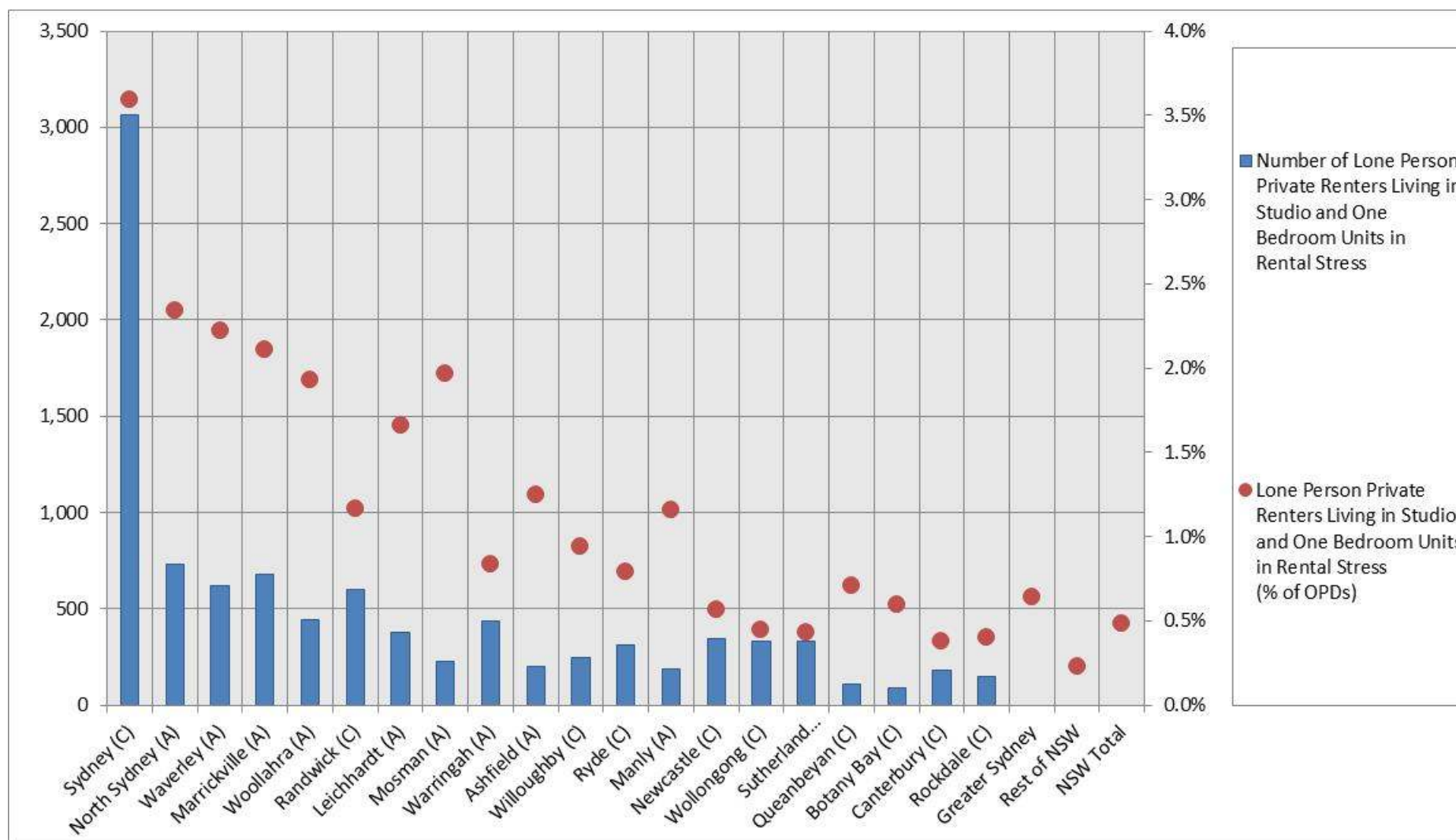


Figure 5-17: Number and Proportion of Lone Person Private Renters living in Studio and One Bedroom Units that are in Rental Stress (Top 20 LGAs)

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011

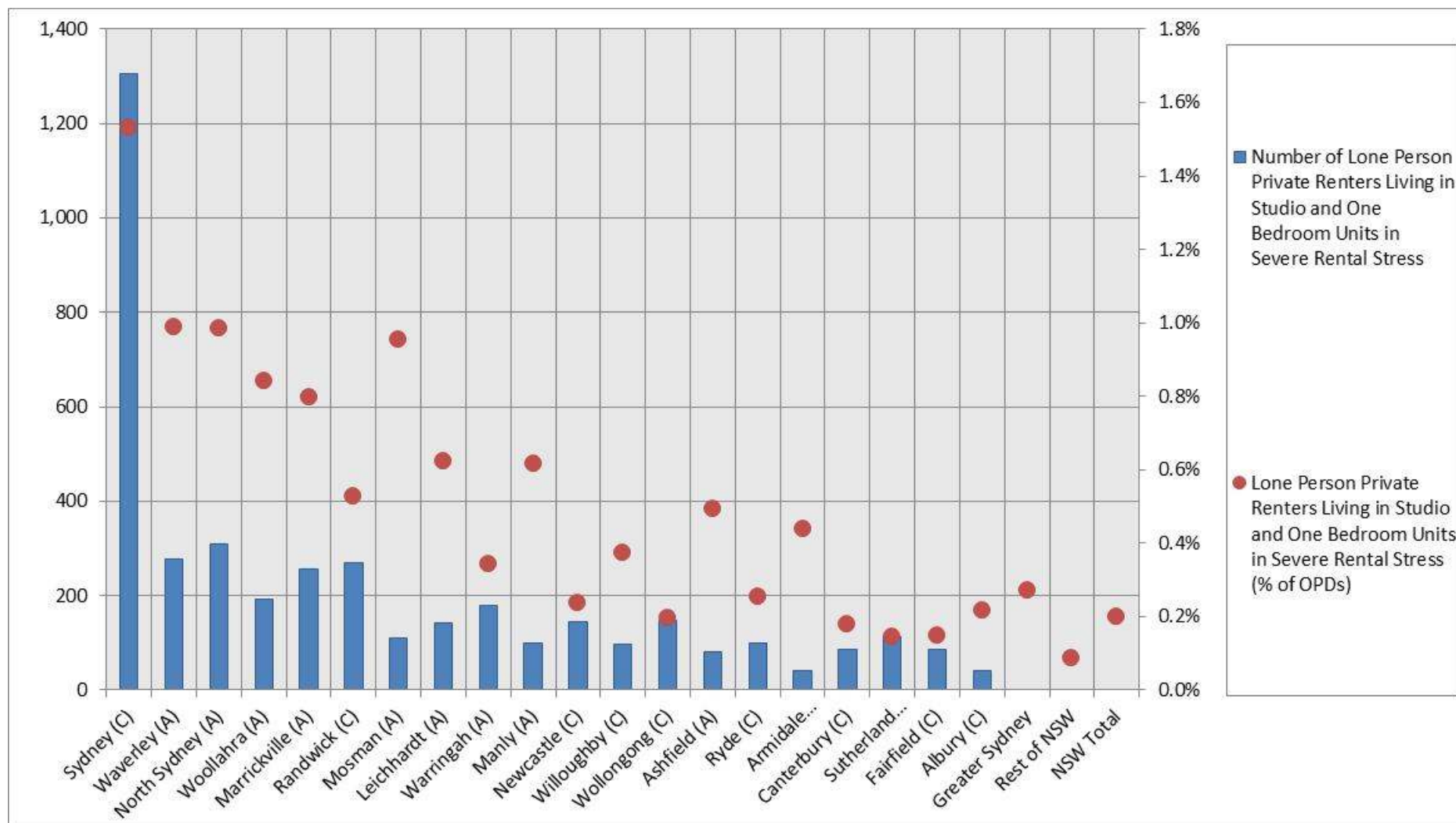


Figure 5-18: Number and Proportion of Lone Person Private Renters living in Studio and One Bedroom Units that are in Severe Rental Stress (Top 20 LGAs)

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011

### 5.5.9 Very Low and Low Income Lone Person Private Renters by Affordability of Rental Properties

Another way to measure the affordability of an area is to look at the proportion of properties that are affordable to various income groups (i.e. cost less than 30% of their gross household income). In particular, we are interested in low and very low income households, since from our experience these are the most likely income groups to be in housing stress. In our rankings, we have weighted the rankings by the proportion of OPDs that are lone person private renters, since we are mainly interested in areas with high proportions of people in this main target group.

Unsurprisingly, all LGAs in the top 20 for this measure are located in Greater Sydney, with North Sydney (A) and Waverley (A) ranking first and second respectively in terms of low proportions of private rental properties affordable to low and very low income households. Also ranked highly are Willoughby (C), Canada Bay (A), Sydney (C) and Woollahra (A).

See the following figures for more detail.



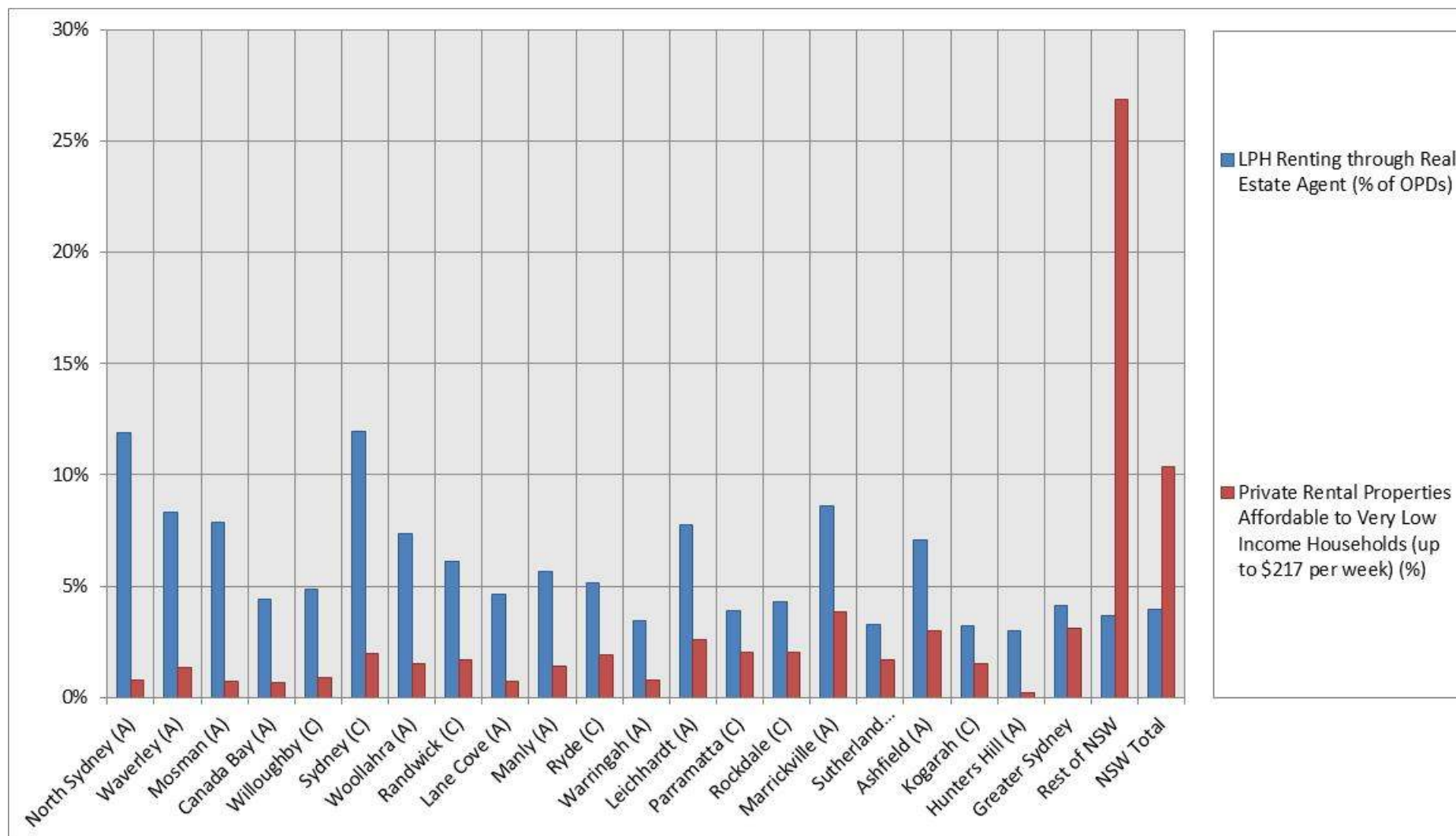


Figure 5-19: Local Government Areas with Small Proportions of Private Rental Properties Affordable to Very Low Income Households, weighted by Number and Proportion of Lone Person Private Renters (Top 20)

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011

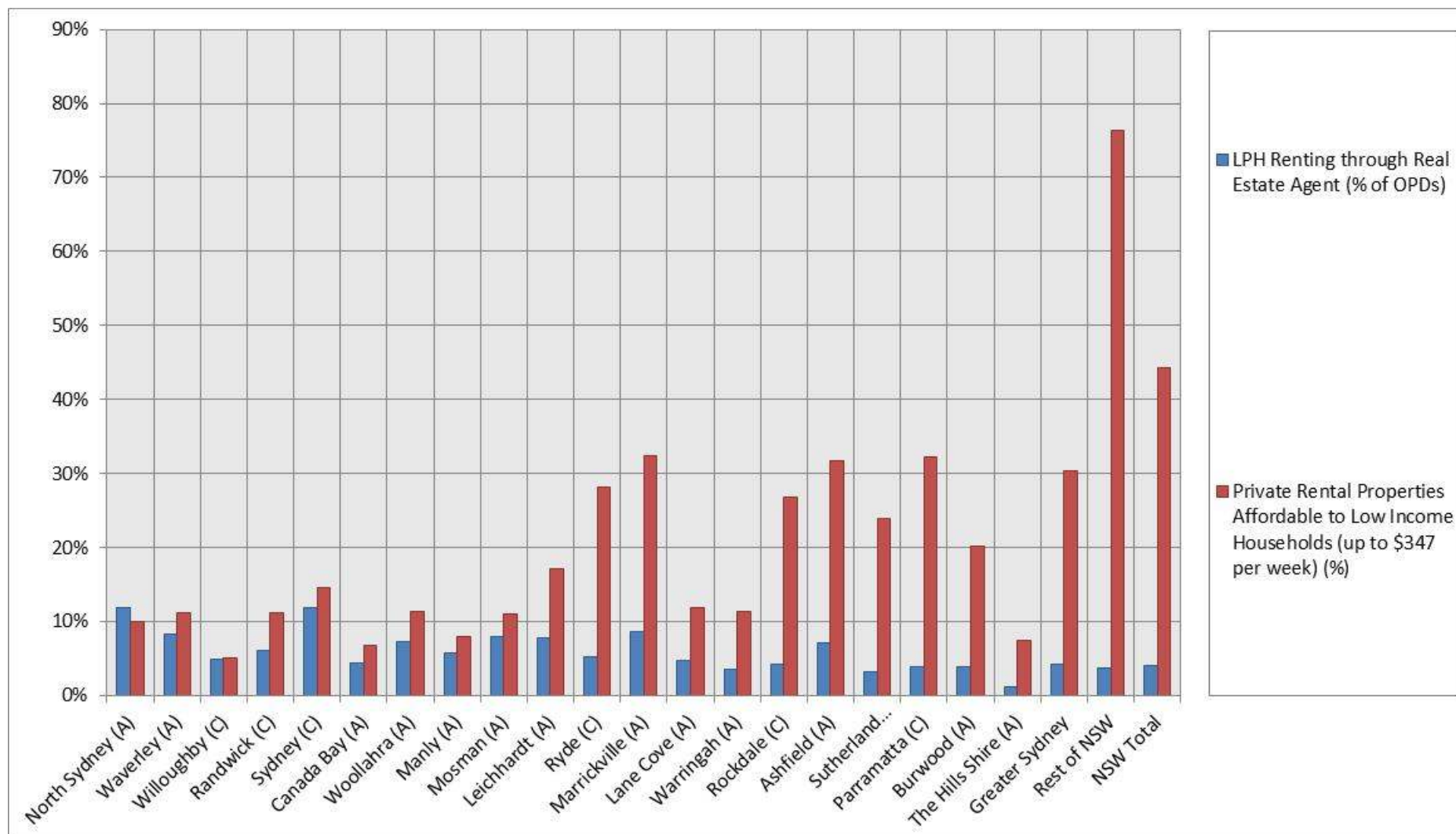


Figure 5-20: Local Government Areas with Small Proportions of Private Rental Properties Affordable to Low Income Households, weighted by Number and Proportion of Lone Person Private Renters (Top 20)

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011

### 5.5.10 Smaller Accommodation Affordable to Very Low and Low Income Households

More specifically, we are interested in the affordability of smaller private rental accommodation of a size similar to boarding house style accommodation, i.e. studio and one bedroom units. Again, the top 20 LGAs in NSW have been ranked in terms of low proportions of smaller accommodation affordable to very low and low income households, with all of these being in Greater Sydney (see the following figure).

The highest ranked LGAs (weighted by proportion of lone person private renters) are Sydney (C) (around 15% affordable to low income households), North Sydney (A) (8%), Waverley (A) (15%) and Mosman (A) (8%). Comparatively, across Greater Sydney overall around 25% of smaller private rental dwellings are affordable to low income households, while for Regional NSW over 90% are affordable. Note that the proportion of smaller private rental dwellings for each of the LGAs in the top 20, as well as across Greater Sydney, is negligible.

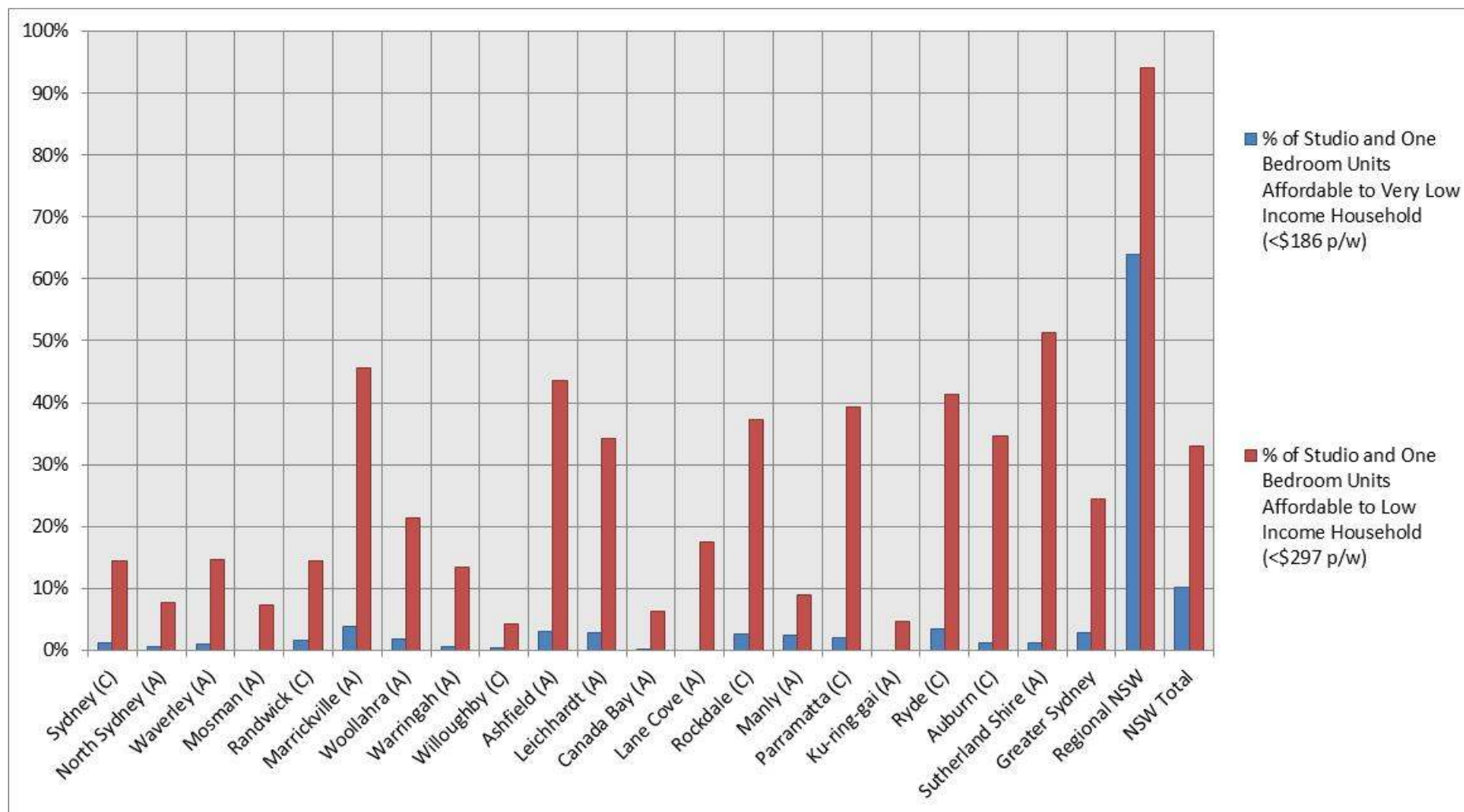


Figure 5-21: Proportion of Studio and One Bedroom Units Rented through Real Estate Agent that are Affordable to Low and Very Low Income Households, weighted by Demand (i.e. Low and Very Low Income Lone Person Households Renting through Real Estate Agent, Number and Proportion of OPDs)

Source: JSA 2015, based on data from ABS Census of Population and Housing 2011

### 5.5.11 Spatial Distribution of Key Indicators of Unmet Need for Smaller Rental Accommodation

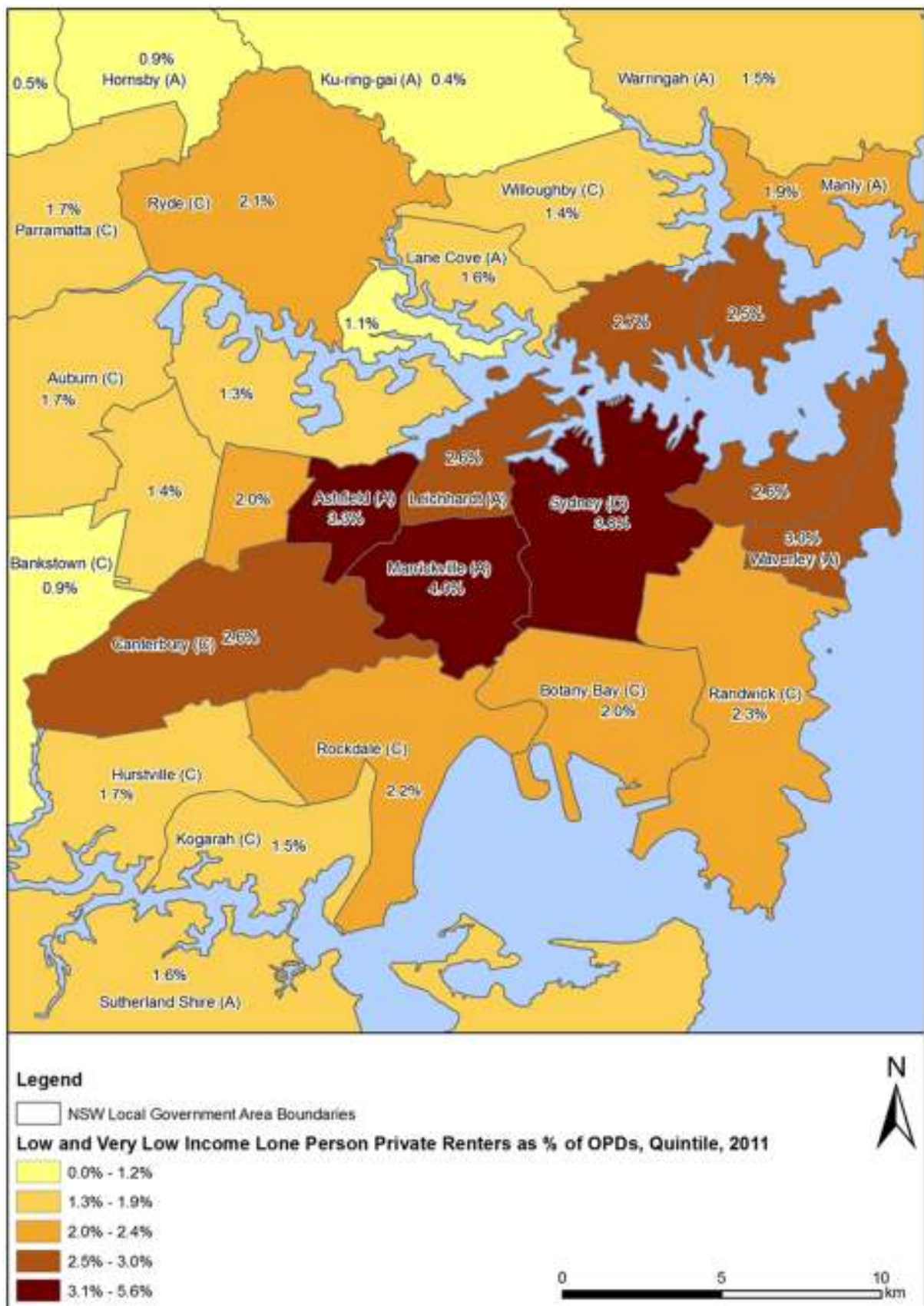
The following selected maps provide a spatial dimension to the above analysis of the likely need and demand for smaller accommodation across the State. Detailed data for these maps is again provided in Appendix A1.

The first set of maps show the distribution of very low and low income private renters as a proportion of OPDs; whilst the second set of maps show rental stress among lone person households in studio and one bedroom apartments.

Again, this indicates priority areas for the development of smaller, more affordable rental accommodation, in particular, studio, one bedroom and boarding house accommodation. For many of these lone person households, the only option that has any possibility of affordability provided through the market is boarding house accommodation.

Although often most severe in Greater Sydney, the problem extends well beyond metropolitan markets and is clearly not just a Sydney issue.

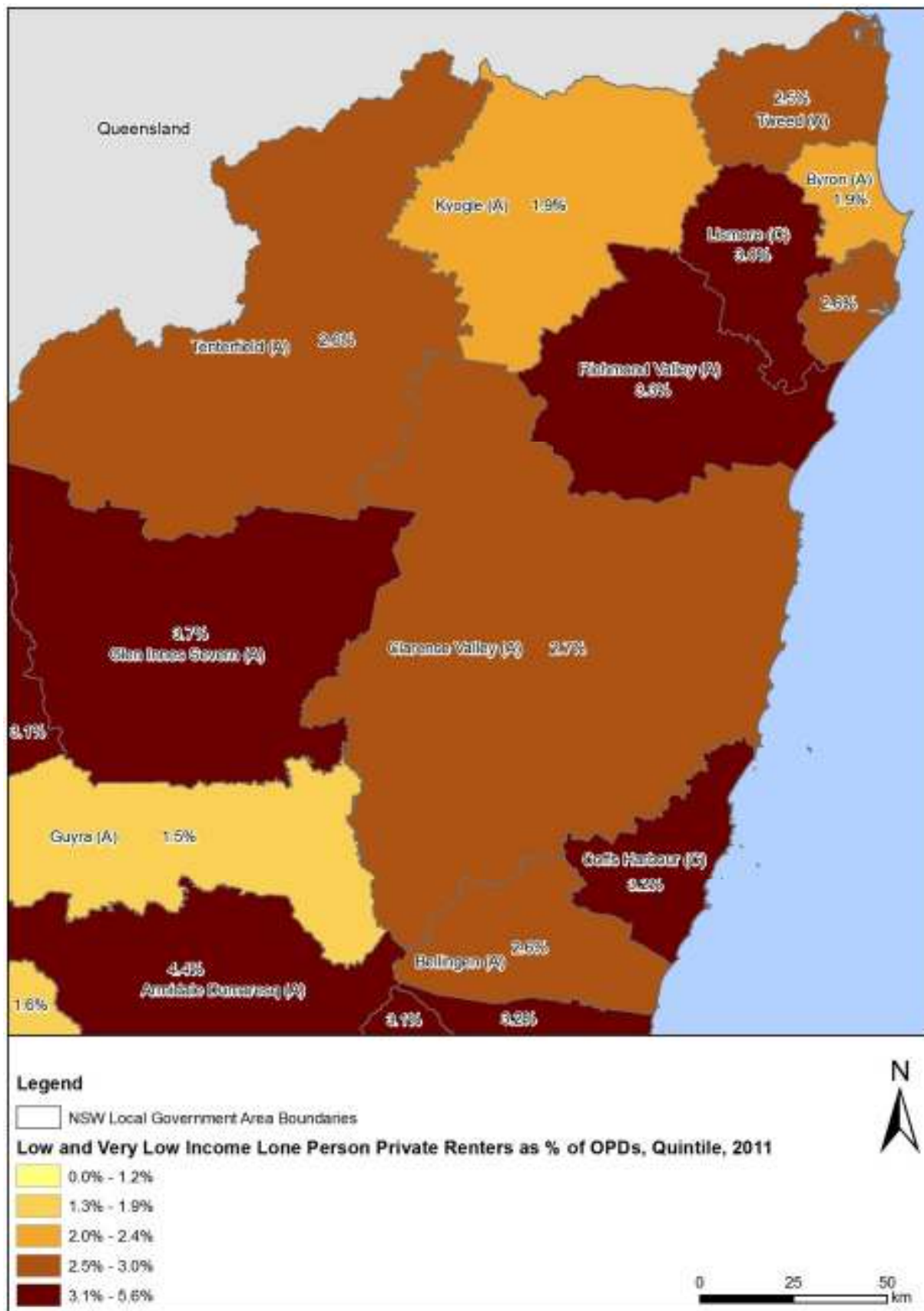
A full range of maps are also provided with an **Atlas of Housing Indicators** that accompanies this report.



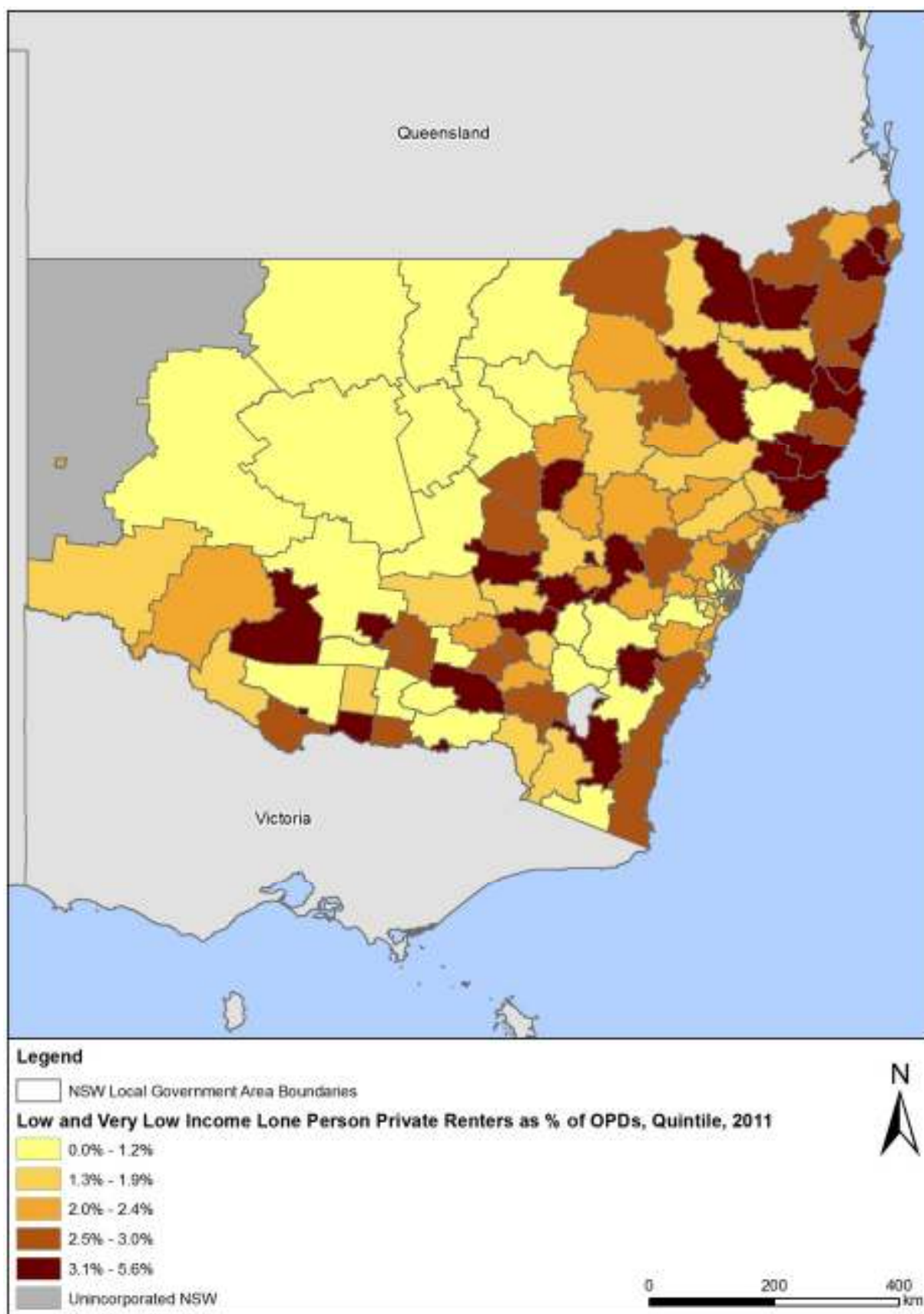
Map 5.5: Very Low and Low Income Private Renters as % of ODPs (Inner Sydney Zoom 1)

Source: JSA 2016, derived from ABS (2011) Census



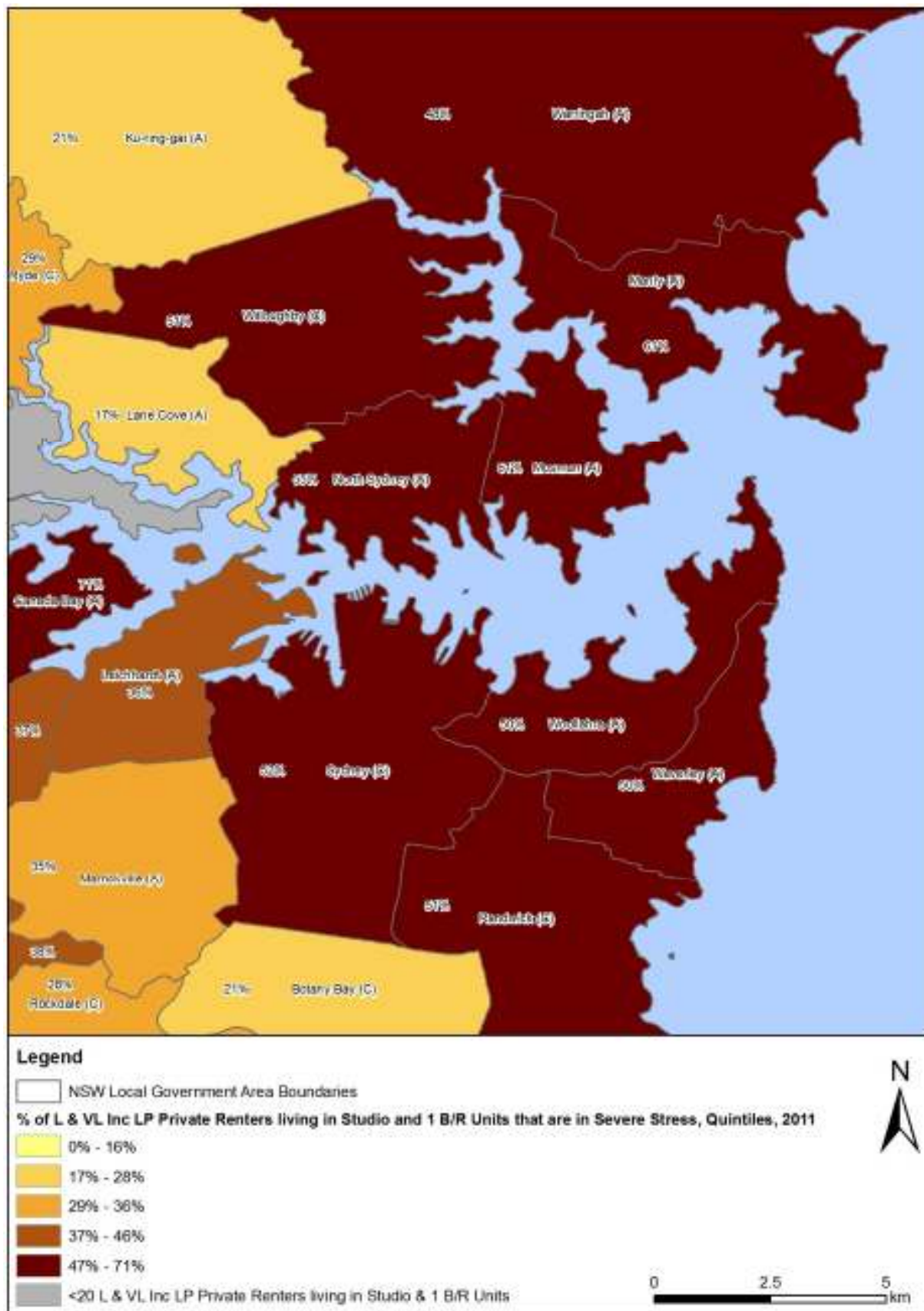


Map 5.6: Very Low and Low Income Private Renters as % of ODPs (North Eastern NSW Zoom)  
Source: JSA 2016, derived from ABS (2011) Census



Map 5.7: Very Low and Low Income Private Renters as % of ODPs (NSW Zoom)

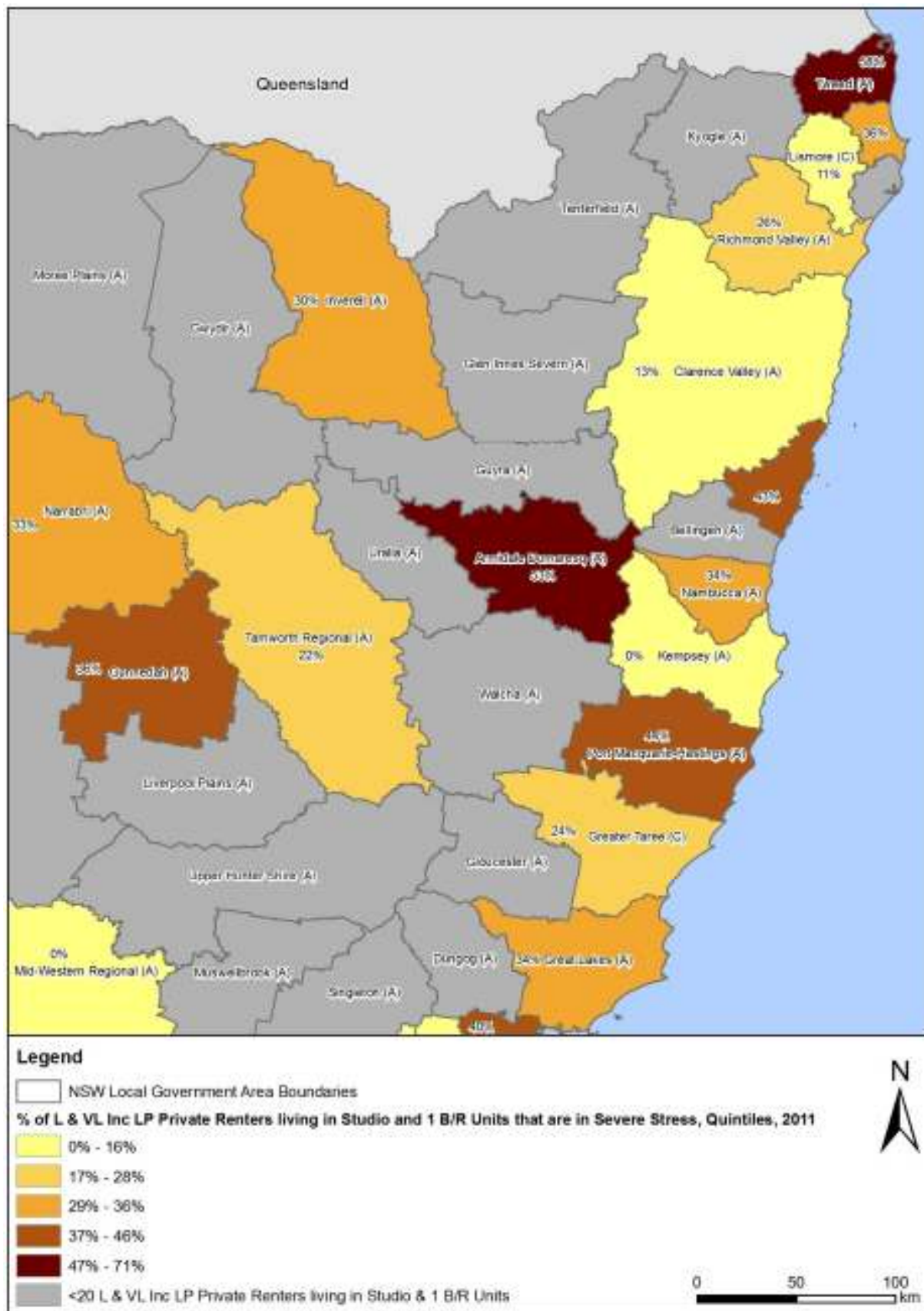
Source: JSA 2016, derived from ABS (2011) Census







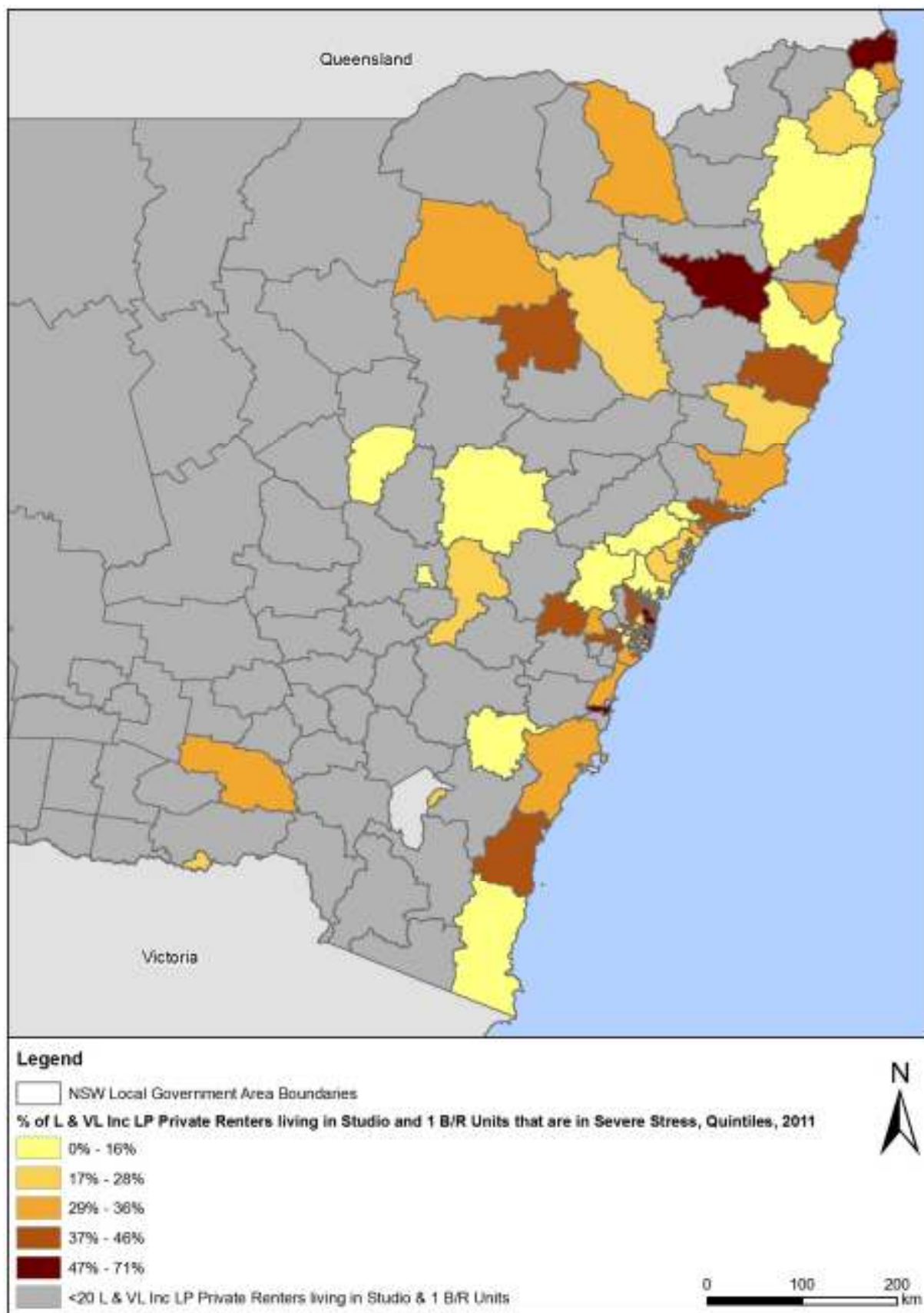




Map 5.11: Very Low and Low Income Private Renters in Studio and 1 b/r apartments in severe housing stress (North Eastern NSW Zoom)

Source: JSA 2016, derived from ABS (2011) Census





Map 5.12: Very Low and Low Income Private Renters in Studio and 1 b/r apartments in severe housing stress (NSW Zoom)

## 6 The Economics of Redevelopment

### 6.1 Overview

A preliminary assessment of economics of redevelopment for smaller rental dwellings has been undertaken to further understand likely demand and affordability issues across LGAs in NSW for the key target groups.

The dwelling type examined in this section of the report is purpose built **New Generation Boarding Houses**. As noted above, these are one of the only forms of rental accommodation in many high need areas that can be affordable to low and moderate income households when provided through the market.

The modelling indicates that **rates of return on investments (ROIs)** are likely to be favourable for the redevelopment of a separate house to a purpose built boarding house in much of NSW, and that it can be broadly affordable under some assumptions modelled (the 5% ROI). The more favourable ROIs compared with houses in some areas also indicates that there is likely to be ongoing pressure for redevelopment, and that rents would be expected to be affordable to low and moderate income households in particular in a wide range of areas as supply constraints decrease.

Modelling assuming **estimated market rents** and a voluntary cap on rental to capture land tax are also favourable in a range of areas, though less so in inner Sydney, although pressure for redevelopment in these and other areas is likely to be significant. The modelling of estimated market rents *without* rental capped to capture land tax is generally much less favourable for low and very low income households in high value areas, where higher rents make rent capping less attractive. Again, however, the pressure for development is considerable in many areas modelled.

Regardless of ‘affordability’, the likelihood that rents on boarding house rooms will on average be around 75% that of a studio or one bedroom apartment (and probably less for a smaller single room) still provides for a ‘lower cost’ housing options for smaller households in more expensive markets.

Nonetheless, the fact that there remains **significant affordability gaps** for very low and low income households related to even this lowest cost form of accommodation indicates that market intervention through the planning system and direct funding remain critical in high value markets, and for very low income households in particular, as well as for low income families.

The economics of redevelopment of **other apartment types** have been considered using a similar methodology specifically in relation to Urban Growth NSW urban renewal areas in Parts 2 and 3 of this study and reporting.

## 6.2 Costing on Boarding House Options

We have considered a purpose built boarding house for the purpose of comparative modelling.<sup>179</sup>

The model is based on drawings prepared for a recent proposed boarding house in the Sydney area. The development has a high standard of fitout, with ensuite bathrooms and cooking facilities in each room, underground parking providing 0.4 parking spaces per room, lifts, a mix of one and two bedroom rooms and a unit for a manager.

We have estimated the cost of construction using rates in Rawlinsons Australian Construction Handbook 2012, adjusted for inflation to 2015, and with 30% added for GST, overheads and profit. The proposal had a gross floor area of 34 m<sup>2</sup> per boarding room, with the average boarding room providing 1.125 beds.

Based on that estimate, the cost per room was calculated at \$166,000 and the cost per bed at \$148,000.

The cost of land will vary across each area. We have assumed that land purchase will be the median sales price for the LGA, that the lot is 800 m<sup>2</sup>, typical of larger suburb lots and that the FSR is 0.5, allowing for 12 rooms and a total construction cost of \$2,000,000.

Hence the total development cost will be the purchase price of a median non strata property for the LGA plus the cost of development. The basis of costing is set out below.

Demolition 200 m <sup>2</sup> @ \$56 (Rawlinsons Brick and tile house)	\$ 11,200
Residential area 580 m <sup>2</sup> @ \$2,285 (Rawlinsons 13.5.2)	\$1,325,300
Garage space 417 m <sup>2</sup> @ \$1,290 (Rawlinsons 9.3.2)	\$ 537,930
Balconies and stairs 54m <sup>2</sup> @ \$635 (Rawlinsons 13.3.1.6)	\$ 34,290
Landscaping 200 m <sup>2</sup> @ \$28 (Rawlinsons average of 11.13)	\$ 5,600
<b>Total</b>	<b><u>\$1,914,320</u></b>
Plus 30% (GST, profit, OHs) and 9% (inflation)	\$2,660,904
Cost per room	\$ 166,307
Cost per bed	\$ 147,828

The following rental benchmarks, set out in more detail in Section 5.2 above, have been used for the purpose of affordability calculations.

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<sup>179</sup> Options are based on reasonable assumptions, however preliminary architectural design would be required on a typical lot to confirm these assumptions.

Table 6.1: Relevant Affordable Housing Income and Cost Benchmarks

	Very low-income household	Low-income household	Moderate-income household
Affordable Rental Benchmarks	<\$236 per week	\$237-\$378 per week	\$379-\$567 per week

Source: JSA 2015, based on data from ABS (2011) Census indexed to September Quarter 2015 dollars

## 6.3 Estimates of Boarding House Rentals for Scenarios

### 6.3.1 Is affordability possible in redevelopment for boarding houses?

The table below shows the rental required to return a 5% and a 10% gross return on investment for the purpose of redevelopment for a purpose build boarding house, ignoring capital gain, as this is assumed to be the same as for residential accommodation. The analysis assumes that the cost of ownership and maintenance of a boarding house is similar to that for private rental. We have assumed that one room is provided free of charge to a 'lead tenant' who undertakes the range of management tasks associated with the boarding house.

Our preliminary analysis indicates that affordable boarding house rentals for this type of redevelopment are possible, and likely to be affordable under 5% ROI to very low and low income households in a wide range of areas, including for inner Sydney areas (low income households).

The areas where boarding houses would be affordable to relevant target groups under a 10% ROI are far more constrained, but still provide a wide range of opportunities for moderate income households, and opportunities for low income households in some regional areas. Importantly, under this analysis, very low income households are excluded from affordable rental in all areas, even in the low cost form of accommodation.

However, it should be noted that in many areas of Greater Sydney, the rental return (excluding capital gain) on separate housing is below the 5% threshold modelled for boarding house return. One way of interpreting this is that, in a rational market, one would expect to see investment in boarding houses, with increased supply resulting in downward pressure on rentals to level shown in the 5% ROI column below.

We would thus anticipate that an increasing supply of boarding house accommodation is likely in a range of areas while they continue to provide a better rate of ROI than houses in some areas, and that rents will become more affordable over time with increased supply.

Limitations to this analysis include possible constraints on redevelopment opportunities in inner Sydney areas (e.g. related to size of lots available), and the assumptions that capital gains on a boarding house will reflect those on separate housing.

The following table shows the outcomes of the analysis in more detail.

Table 6-2: Estimated rental for purpose built boarding house to provide 5% and 10% ROI

Local Government Area / Rural SA3	Median purchase \$'000s	3 BR Median Rent (\$)	Gross Rental ROI	Assumed investment BH \$'000s	BH rent (12 tenants) (5% ROI)	BH rent (12 tenants) (10% ROI)
Broken Hill and Far West	117	250	11.2%	2117	\$ 170	\$ 339
Bourke - Cobar - Coonamble	130	225	9.0%	2130	\$ 171	\$ 341
Lower Murray	180	205	5.9%	2180	\$ 175	\$ 349
Inverell - Tenterfield	202	250	6.4%	2202	\$ 176	\$ 353
Tumut - Tumbarumba	213	255	6.2%	2213	\$ 177	\$ 355
Lachlan Valley	225	230	5.3%	2225	\$ 178	\$ 357
Upper Murray exc. Albury	228	255	5.8%	2228	\$ 178	\$ 357
Griffith - Murrumbidgee (West)	228	270	6.2%	2228	\$ 178	\$ 357
Moree - Narrabri	270	300	5.8%	2270	\$ 182	\$ 364
Wagga Wagga	278	283	5.3%	2278	\$ 183	\$ 365
Lithgow - Mudgee	280	280	5.2%	2280	\$ 183	\$ 365
Dubbo	280	290	5.4%	2280	\$ 183	\$ 365
Kempsey - Nambucca	285	320	5.8%	2285	\$ 183	\$ 366
Albury	292	290	5.2%	2292	\$ 184	\$ 367
Cessnock	295	300	5.3%	2295	\$ 184	\$ 368
Tamworth - Gunnedah	303	300	5.2%	2303	\$ 184	\$ 369
Snowy Mountains	313	280	4.7%	2313	\$ 185	\$ 371
Richmond Valley - Hinterland	313	300	5.0%	2313	\$ 185	\$ 371
Goulburn - Yass	314	290	4.8%	2314	\$ 185	\$ 371
Orange	320	300	4.9%	2320	\$ 186	\$ 372
Clarence Valley	320	300	4.9%	2320	\$ 186	\$ 372
Upper Hunter	320	255	4.1%	2320	\$ 186	\$ 372
Lower Hunter	322	300	4.8%	2322	\$ 186	\$ 372
Bathurst	339	300	4.6%	2339	\$ 187	\$ 375
<b>REST OF NSW</b>	<b>349</b>	<b>310</b>	4.6%	2349	\$ 188	\$ 376
Taree - Gloucester	355	290	4.2%	2355	\$ 189	\$ 377
Armidale	356	320	4.7%	2356	\$ 189	\$ 378
Great Lakes	373	350	4.9%	2373	\$ 190	\$ 380
Maitland	380	340	4.7%	2380	\$ 191	\$ 381
South Coast	380	330	4.5%	2380	\$ 191	\$ 381
Shoalhaven	380	320	4.4%	2380	\$ 191	\$ 381
Coffs Harbour	429	375	4.5%	2429	\$ 195	\$ 389
Wyang	430	380	4.6%	2430	\$ 195	\$ 389
Port Stephens	435	350	4.2%	2435	\$ 195	\$ 390
Port Macquarie	436	395	4.7%	2436	\$ 195	\$ 390
Newcastle	455	400	4.6%	2455	\$ 197	\$ 393
Lake Macquarie	456	380	4.3%	2456	\$ 197	\$ 394
<b>Rest of GMR</b>	<b>463</b>	<b>380</b>	4.3%	2463	\$ 197	\$ 395
Shellharbour	484	413	4.4%	2484	\$ 199	\$ 398
Tweed Valley	495	423	4.4%	2495	\$ 200	\$ 400
Blue Mountains	500	400	4.2%	2500	\$ 200	\$ 401
Campbelltown	510	400	4.1%	2510	\$ 201	\$ 402
Wollongong	530	440	4.3%	2530	\$ 203	\$ 405
<b>NEW SOUTH WALES</b>	<b>540</b>	<b>385</b>	3.7%	2540	\$ 204	\$ 407
Queanbeyan	540	380	3.7%	2540	\$ 204	\$ 407
Hawkesbury	558	425	4.0%	2558	\$ 205	\$ 410
Gosford	560	445	4.1%	2560	\$ 205	\$ 410

Local Government Area / Rural SA3	Median purchase \$'000s	3 BR Median Rent (\$)	Gross Rental ROI	Assumed investment BH \$'000s	BH rent (12 tenants) (5% ROI)	BH rent (12 tenants) (10% ROI)
Penrith	560	410	3.8%	2560	\$ 205	\$ 410
Richmond Valley - Coastal	595	440	3.8%	2595	\$ 208	\$ 416
Southern Highlands	605	400	3.4%	2605	\$ 209	\$ 417
Wollondilly	610	405	3.5%	2610	\$ 209	\$ 418
Blacktown	615	410	3.5%	2615	\$ 210	\$ 419
Camden	621	443	3.7%	2621	\$ 210	\$ 420
<b>Outer Ring</b>	<b>625</b>	<b>430</b>	3.6%	2625	\$ 210	\$ 421
Liverpool	650	450	3.6%	2650	\$ 212	\$ 425
Fairfield	661	440	3.5%	2661	\$ 213	\$ 426
Kiama	665	450	3.5%	2665	\$ 214	\$ 427
Holroyd	751	460	3.2%	2751	\$ 220	\$ 441
<b>GREATER SYDNEY</b>	<b>752</b>	<b>460</b>	3.2%	2752	\$ 221	\$ 441
Bankstown	798	495	3.2%	2798	\$ 224	\$ 448
Parramatta	860	495	3.0%	2860	\$ 229	\$ 458
Auburn	900	500	2.9%	2900	\$ 232	\$ 465
Canterbury	955	550	3.0%	2955	\$ 237	\$ 474
Sutherland	1003	630	3.3%	3003	\$ 241	\$ 481
Hurstville	1073	570	2.8%	3073	\$ 246	\$ 492
The Hills Shire	1096	550	2.6%	3096	\$ 248	\$ 496
Rockdale	1100	600	2.8%	3100	\$ 248	\$ 497
Marrickville	1123	750	3.5%	3123	\$ 250	\$ 500
Hornsby	1140	600	2.7%	3140	\$ 252	\$ 503
<b>Middle Ring</b>	<b>1150</b>	<b>550</b>	2.5%	3150	\$ 252	\$ 505
Kogarah	1210	580	2.5%	3210	\$ 257	\$ 514
Botany Bay	1281	735	3.0%	3281	\$ 263	\$ 526
Pittwater	1303	820	3.3%	3303	\$ 265	\$ 529
Warringah	1318	795	3.1%	3318	\$ 266	\$ 532
Sydney	1380	880	3.3%	3380	\$ 271	\$ 542
Leichhardt	1385	850	3.2%	3385	\$ 271	\$ 542
Burwood	1400	605	2.2%	3400	\$ 272	\$ 545
Ryde	1400	620	2.3%	3400	\$ 272	\$ 545
Ashfield	1410	715	2.6%	3410	\$ 273	\$ 546
Strathfield	1476	620	2.2%	3476	\$ 278	\$ 557
<b>Inner Ring</b>	<b>1585</b>	<b>850</b>	2.8%	3585	\$ 287	\$ 575
Canada Bay	1600	750	2.4%	3600	\$ 288	\$ 577
Randwick	1650	870	2.7%	3650	\$ 292	\$ 585
Ku-ring-gai	1705	810	2.5%	3705	\$ 297	\$ 594
Hunters Hill	1820	-		3820	\$ 306	\$ 612
Manly	1865	1000	2.8%	3865	\$ 310	\$ 619
Willoughby	1903	930	2.5%	3903	\$ 313	\$ 625
Lane Cove	1910	875	2.4%	3910	\$ 313	\$ 627
Waverley	1910	1100	3.0%	3910	\$ 313	\$ 627

Source: Housing NSW *Rent and Sales Report*; JSA modelling, JSA calculation

	Very low income household <\$235 per week
	Low income household \$236-\$376 per week
	Moderate income household \$377-\$565 per week



### 6.3.2 What is the likely affordability and development potential of boarding houses under market rental arrangements?

The second set of modelling takes a ‘real world’ approach and examines the likely affordability and development potential of boarding houses under market rental arrangements (as distinct from ROI approaches above, which should what *could* be achieved if there were no supply constraints).

This modelling sets out the expected market rent for a boarding house room based on an assumed 75% of median market rent for a one bedroom apartment (estimated from other data where there was an insufficient supply of such accommodation in some areas). The first table shows the rents capped to attract the land tax concession, while the second table ignores this, noting that in some areas the likely rents are so high as to make the land tax unattractive.

The tables show those areas where there is the greatest difference between boarding house ROI and those related to a separate house; and ranks areas in terms of the likelihood of experiencing pressure for redevelopment for boarding houses (from highest to lowest).

For the purpose of modelling boarding house ROIs in LGAs across NSW, and in line with the objectives of the project, a number of assumptions have been made. These are as follows:

- The developer will seek to capture the maximum benefit under the Land Tax Exemptions, which would cap the rent for a single room at \$244 per week, and for a double room at \$405 per week (noting that in some premium areas developers may seek to maximise rent, which will be more profitable than the tax concessions);
- There will be an equal proportion of single and double rooms, so that an average land tax-capped rent would be \$325 per week per room;
- Rents are tied to market rents for a studio and one bedroom apartment in each LGA, and are assumed to be 75% on average of such accommodation, noting that there will be variability and a lack of properties in some areas for the basis of comparison;
- Rents are capped at the maximum average rent to attract the land tax concession in premium areas (where 75% of market rent would be higher than \$325 per week).

Our preliminary analysis points to several key findings. First, in much of rural and regional NSW, expected rents are too low to support redevelopment for boarding houses. It is likely that this would also be the case for studio and one bedroom apartments given the significant supply constraints identified earlier in this report.

Secondly, there are areas of Greater Sydney and regional NSW where there is likely to be pressure for boarding houses, and that redevelopment will provide affordable accommodation for very and low income households. These areas include some lower cost middle and outer ring suburbs of Sydney, and peri-urban regions such as Wollondilly, Southern Highlands, and Hawkesbury.

Thirdly, for much of inner Sydney and higher value middle ring areas, boarding house redevelopment is more strongly favoured. The modelling that include the land cap tax indicates that a range of areas in Greater Sydney, including inner areas, would be affordable to low income households. However, removing the assumption of such rent capping makes this form of accommodation much less affordable, and much inner Sydney only affordable to moderate income household.

This is shown in more detail in the two tables below.

Table 6-3: Comparison of rental return from boarding house investment with residential property investment (capped to attract land tax concession)

Local Government Area / Rural SA3	3 BR median rental (\$)	Gross Rental ROI	75% of 1 BR Median Rent (\$)	Estimated BH rent	Return on BH rent	Margin on Gross Rental ROI
<b>NEW SOUTH WALES</b>	<b>385</b>	3.7%	334	325	8.0%	4.3%
<b>GREATER SYDNEY</b>	<b>460</b>	3.2%	360	325	7.4%	4.2%
Auburn	500	2.9%	338	325	7.0%	4.1%
<b>Middle Ring</b>	<b>550</b>	2.5%	345	325	6.4%	4.0%
Rockdale	600	2.8%	338	325	6.5%	3.7%
Kogarah	580	2.5%	317	317	6.2%	3.7%
Ryde	620	2.3%	338	325	6.0%	3.7%
Hornsby	600	2.7%	308	308	6.1%	3.4%
Hurstville	570	2.8%	300	300	6.1%	3.3%
Burwood	605	2.2%	300	300	5.5%	3.3%
The Hills Shire	550	2.6%	291	291	5.9%	3.3%
Botany Bay	735	3.0%	398	325	6.2%	3.2%
Canada Bay	750	2.4%	386	325	5.6%	3.2%
Strathfield	620	2.2%	295	295	5.3%	3.1%
Ku-ring-gai	810	2.5%	364	325	5.5%	3.0%
Warringah	795	3.1%	323	323	6.1%	2.9%
<b>Inner Ring</b>	<b>850</b>	2.8%	383	325	5.7%	2.9%
Randwick	870	2.7%	368	325	5.6%	2.8%
Lane Cove	875	2.4%	364	325	5.2%	2.8%
Parramatta	495	3.0%	263	263	5.7%	2.7%
Leichhardt	850	3.2%	321	321	5.9%	2.7%
Sydney	880	3.3%	413	325	6.0%	2.7%
Willoughby	930	2.5%	390	325	5.2%	2.7%
Marrickville	750	3.5%	300	300	6.0%	2.5%
<b>Outer Ring</b>	<b>430</b>	3.6%	255	255	6.1%	2.5%
Manly	1000	2.8%	398	325	5.2%	2.5%
Ashfield	715	2.6%	278	278	5.1%	2.4%
Holroyd	460	3.2%	246	246	5.6%	2.4%
Pittwater	820	3.3%	299	299	5.6%	2.4%
Canterbury	550	3.0%	248	248	5.2%	2.2%
Woollahra	1100	2.5%	360	325	4.7%	2.2%
North Sydney	1100	2.7%	375	325	4.9%	2.2%
Waverley	1100	3.0%	385	325	5.2%	2.2%
Sutherland	630	3.3%	263	263	5.5%	2.2%
Kiama	450	3.5%	241	241	5.6%	2.1%
Richmond Valley - Coastal	440	3.8%	235	235	5.7%	1.8%
Wollondilly	405	3.5%	215	215	5.1%	1.7%
Southern Highlands	400	3.4%	212	212	5.1%	1.6%
Hawkesbury	425	4.0%	227	227	5.5%	1.6%
Camden	443	3.7%	221	221	5.3%	1.6%
Bankstown	495	3.2%	208	208	4.6%	1.4%
Blacktown	410	3.5%	203	203	4.8%	1.4%
Queanbeyan	380	3.7%	200	200	4.9%	1.2%
Tweed Valley	423	4.4%	226	226	5.6%	1.2%
Fairfield	440	3.5%	199	199	4.7%	1.2%
Liverpool	450	3.6%	203	203	4.8%	1.2%
Shellharbour	413	4.4%	220	220	5.5%	1.1%
Campbelltown	400	4.1%	203	203	5.0%	1.0%
Penrith	410	3.8%	188	188	4.6%	0.8%
Port Macquarie	395	4.7%	209	209	5.4%	0.6%

Local Government Area / Rural SA3	3 BR median rental (\$)	Gross Rental ROI	75% of 1 BR Median Rent (\$)	Estimated BH rent	Return on BH rent	Margin on Gross Rental ROI
Gosford	445	4.1%	195	195	4.8%	0.6%
Newcastle	400	4.6%	203	203	5.1%	0.6%
Blue Mountains	400	4.2%	188	188	4.7%	0.5%
Coffs Harbour	375	4.5%	197	197	5.1%	0.5%
Port Stephens	350	4.2%	181	181	4.6%	0.4%
Wollongong	440	4.3%	188	188	4.6%	0.3%
<b>Rest of GMR</b>	<b>380</b>	<b>4.3%</b>	<b>180</b>	<b>180</b>	<b>4.6%</b>	<b>0.3%</b>
South Coast	330	4.5%	167	167	4.4%	-0.1%
Great Lakes	350	4.9%	181	181	4.8%	-0.1%
Shoalhaven	320	4.4%	161	161	4.2%	-0.2%
Wyang	380	4.6%	169	169	4.3%	-0.3%
Armidale	320	4.7%	161	161	4.3%	-0.4%
Lake Macquarie	380	4.3%	152	152	3.9%	-0.5%
<b>REST OF NSW</b>	<b>310</b>	<b>4.6%</b>	<b>154</b>	<b>154</b>	<b>4.1%</b>	<b>-0.5%</b>
Taree - Gloucester	290	4.2%	140	140	3.7%	-0.5%
Bathurst	300	4.6%	147	147	3.9%	-0.7%
Lower Hunter	300	4.8%	147	147	4.0%	-0.9%
Orange	300	4.9%	147	147	4.0%	-0.9%
Clarence Valley	300	4.9%	147	147	4.0%	-0.9%
Richmond Valley - Hinterland	300	5.0%	147	147	4.0%	-1.0%
Goulburn - Yass	290	4.8%	140	140	3.8%	-1.0%
Upper Hunter	255	4.1%	115	115	3.1%	-1.1%
Snowy Mountains	280	4.7%	133	133	3.6%	-1.1%
Maitland	340	4.7%	135	135	3.5%	-1.1%
Tamworth - Gunnedah	300	5.2%	147	147	4.0%	-1.2%
Albury	290	5.2%	140	140	3.8%	-1.4%
Kempsey - Nambucca	320	5.8%	161	161	4.4%	-1.4%
Cessnock	300	5.3%	137	137	3.7%	-1.6%
Dubbo	290	5.4%	140	140	3.8%	-1.6%
Lithgow - Mudgee	280	5.2%	133	133	3.6%	-1.6%
Wagga Wagga	283	5.3%	135	135	3.7%	-1.6%
Moree - Narrabri	300	5.8%	147	147	4.0%	-1.7%
Upper Murray exc. Albury	255	5.8%	115	115	3.2%	-2.6%
Lachlan Valley	230	5.3%	96	96	2.7%	-2.6%
Griffith - Murrumbidgee (West)	270	6.2%	126	126	3.5%	-2.6%
Tumut - Tumbarumba	255	6.2%	115	115	3.2%	-3.0%
Inverell - Tenterfield	250	6.4%	111	111	3.2%	-3.3%
Lower Murray	205	5.9%	77	77	2.2%	-3.7%
Bourke - Cobar - Coonamble	225	9.0%	92	92	2.7%	-6.3%
Broken Hill and Far West	250	11.2%	111	111	3.3%	-7.9%
Very low income household <\$235 per week						
Low income household \$236-\$376 per week						
Moderate income household \$377-\$565 per week						

Table 6-4: Comparison of rental return from boarding house investment with residential property investment

Local Government Area / Rural SA3	3 BR median rental (\$)	Gross Rental ROI	75% of 1 BR Median Rent (\$)	Return on BH rent	Margin on Gross Rental ROI
<b>GREATER SYDNEY</b>	<b>460</b>	3.2%	<b>360</b>	8.2%	5.0%
Botany Bay	735	3.0%	<b>398</b>	7.6%	4.6%
<b>NEW SOUTH WALES</b>	<b>385</b>	3.7%	<b>334</b>	8.2%	4.5%
Auburn	500	2.9%	<b>338</b>	7.3%	4.4%
<b>Middle Ring</b>	<b>550</b>	2.5%	<b>345</b>	6.8%	4.3%
Sydney	880	3.3%	<b>413</b>	7.6%	4.3%
Canada Bay	750	2.4%	<b>386</b>	6.7%	4.3%
Rockdale	600	2.8%	<b>338</b>	6.8%	4.0%
Ryde	620	2.3%	<b>338</b>	6.2%	3.9%
<b>Inner Ring</b>	<b>850</b>	2.8%	<b>383</b>	6.7%	3.9%
Willoughby	930	2.5%	<b>390</b>	6.2%	3.7%
Kogarah	580	2.5%	<b>317</b>	6.2%	3.7%
Ku-ring-gai	810	2.5%	<b>364</b>	6.1%	3.7%
Manly	1000	2.8%	<b>398</b>	6.4%	3.6%
Randwick	870	2.7%	<b>368</b>	6.3%	3.5%
Lane Cove	875	2.4%	<b>364</b>	5.8%	3.4%
Hornsby	600	2.7%	<b>308</b>	6.1%	3.4%
Hurstville	570	2.8%	<b>300</b>	6.1%	3.3%
Burwood	605	2.2%	<b>300</b>	5.5%	3.3%
The Hills Shire	550	2.6%	<b>291</b>	5.9%	3.3%
Waverley	1100	3.0%	<b>385</b>	6.1%	3.1%
Strathfield	620	2.2%	<b>295</b>	5.3%	3.1%
North Sydney	1100	2.7%	<b>375</b>	5.7%	3.0%
Warringah	795	3.1%	<b>323</b>	6.1%	2.9%
Woollahra	1100	2.5%	<b>360</b>	5.2%	2.7%
Parramatta	495	3.0%	<b>263</b>	5.7%	2.7%
Leichhardt	850	3.2%	<b>321</b>	5.9%	2.7%
Marrickville	750	3.5%	<b>300</b>	6.0%	2.5%
<b>Outer Ring</b>	<b>430</b>	3.6%	<b>255</b>	6.1%	2.5%
Ashfield	715	2.6%	<b>278</b>	5.1%	2.4%
Holroyd	460	3.2%	<b>246</b>	5.6%	2.4%
Pittwater	820	3.3%	<b>299</b>	5.6%	2.4%
Canterbury	550	3.0%	<b>248</b>	5.2%	2.2%
Sutherland	630	3.3%	<b>263</b>	5.5%	2.2%
Kiama	450	3.5%	<b>241</b>	5.6%	2.1%
Richmond Valley - Coastal	440	3.8%	<b>235</b>	5.7%	1.8%
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Tweed Valley	423	4.4%	<b>226</b>	5.6%	1.2%
Fairfield	440	3.5%	<b>199</b>	4.7%	1.2%
Liverpool	450	3.6%	<b>203</b>	4.8%	1.2%

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Gosford	445	4.1%	195	4.8%	0.6%
Newcastle	400	4.6%	203	5.1%	0.6%
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Wollongong	440	4.3%	188	4.6%	0.3%
<b>Rest of GMR</b>	<b>380</b>	<b>4.3%</b>	<b>180</b>	<b>4.6%</b>	<b>0.3%</b>
South Coast	330	4.5%	167	4.4%	-0.1%
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Wyong	380	4.6%	169	4.3%	-0.3%
Armidale	320	4.7%	161	4.3%	-0.4%
Lake Macquarie	380	4.3%	152	3.9%	-0.5%
<b>REST OF NSW</b>	<b>310</b>	<b>4.6%</b>	<b>154</b>	<b>4.1%</b>	<b>-0.5%</b>
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Maitland	340	4.7%	135	3.5%	-1.1%
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Lower Murray	205	5.9%	77	2.2%	-3.7%
Bourke - Cobar - Coonamble	225	9.0%	92	2.7%	-6.3%
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	Very low income household <\$235 per week
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