Submission by The Property Owners’ Association of NSW on

**Draft Boarding Houses Regulation 2013 and Regulatory Impact statement 2013**

Prepared by the Private Hotels Boarding House SubCommittee in consultation with members and boarding house operators.

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I. PRELIMINARY STATEMENT

The Property Owners' Association of NSW Inc. (POA NSW) was established in 1950, to represent property owners in NSW. In particular POA NSW is the peak body that represents the interests of general boarding house operators in the State of New South Wales (NSW).

POA NSW makes this submission in relation to the Draft Boarding House Regulations 2013 and the Regulatory Impact Statement.

It should be noted that the POA NSW is not able to comment on "assisted boarding houses", also known as Licenced Residential Care facilities. These are specialist care facilities often for occupants with "additional needs". They operate in an environment more akin to that of a nursing home, and represent a specialist form of housing.

Commentary in this submission relates to general boarding houses only.

II. DRAFT BOARDING HOUSE REGULATIONS 2013.

It is noted that much of the draft boarding house regulations 2013 relate to assisted boarding houses. As stated above the POA NSW is unable to provide commentary on this specialist form of care facility for people with "additional needs".

Commentary in this submission relates to general boarding houses only:

Part 2: Registration of Boarding Houses.

It is noted that the Boarding House registration form requires operators to submit rates and charges.

It is not appropriate for "general" boarding houses, and should be removed from registration requirements for general boarding houses.

Schedule 2: Penalties:

The penalties which apply to general boarding houses are excessive, and should be moderated.

Further penalties should not apply unless operators in breach are given written notice of the breach and if the breach is addressed in a reasonable timeframe, then any penalties should be waived automatically.
III. REGULATORY IMPACT STATEMENT-DRAFT BOARDING HOUSE REGULATIONS 2013.

It is noted that the regulatory impact statement only addresses the regulations relating to the "assisted" boarding house market. This document should also address all the regulatory impacts of the Boarding House reforms contained in the Boarding House Act 2012 and Boarding House Regulations as they impact on the general Boarding House segment of the market.

For example there have been a number of Boarding house reforms which will have an impact on general boarding houses, their viability, compliance requirements, cost structures, and most importantly the supply of commercially available affordable furnished accommodation.

In particular, the general boarding house industry will be affected by changes introduced to:

1. Local Government (general) Regulations 2005

2. Clause 5 definition of a registrable boarding House as per Boarding House Act 2012, will inadvertently capture properties that are not objectively boarding houses. Impacts such as the affordable housing SEPP, development controls and insurance costs could have a punitive impact on these proprietors.

Two examples raised by our members are as follows:

One member owns a small block of furnished units. Each unit is let out with a letting agreement. As per part 1, this building is a premises that provides beds, for a fee or reward, for use by 5 or more residents. Is that whole building now a registrable boarding house? If so will that building become subject to new planning and development controls, insurance costs, and other legislation and regulations. These are significant regulatory impacts that should be addressed.

Another member provides low cost accommodation in block of units under residential leases. They currently obtain the low cost accommodation land tax exemption from Office of State Revenue (Exemption-land used and occupied for low cost accommodation). As per section 5, they would be a registrable boarding house. Under the terms of the OSR low cost accommodation concession, they would lose their land tax exemption if they are a registered boarding house. Further they would not be able to apply for the OSR exemption for land used and occupied primarily for a boarding house as residential tenancy agreements are being used.

Both examples are clearly regulatory impacts that will have a significant impact on the general boarding house industry, and neither has been addressed in the regulatory impact statement.

These regulatory impacts need to be addressed and appropriate changes made to associated regulations, so as to eliminate and clear up the inadvertent impact of the regulatory changes.

3. The capacity of the CTTT tribunal to adequately consider boarding house disputes characterised by non exclusive use, and the needs of the unrepresented "other occupants".

4. The regulatory impact on the supply of general Boarding Houses, and the rehousing of those displaced.

Even the recent (April 2013) draft Discussion paper titled "Potential Incentives for Boarding Houses" produced by the NSW Family & Community Services-Housing NSW recognises the impact the
Boarding House Act and regulations will have on the general boarding house sector and thereby supply of affordable accommodation.

These are important regulatory impacts on the general boarding house market, and they have not been addressed in a Regulatory Impact Statement. They should be addressed so that appropriate changes are made to resolve unnecessary and inadvertent government regulatory impacts.

As noted above, the POA NSW is unable to provide commentary on the Regulatory Impact Statement relating to the specialist care provisions of the "assisted" Boarding House market.

**IV. CONCLUSION**

The appropriate legislative framework for assisted boarding houses is an area of specialist knowledge and the POA NSW is unable to provide a submission on the assisted boarding house industry.

The POA NSW in her submission last August on the draft boarding House Bill 2012 raised serious concerns with the unintended consequences of incorporating general boarding houses into what is effectively legislation and regulations for assisted boarding houses that provide specialist care services for people with ‘additional needs’.

There are a number of significant impacts the regulations will have on the general boarding house market, these have not been addressed in the regulatory impact statement and they should be addressed.

The POA NSW is concerned that these regulatory impacts will only contribute to the ongoing housing supply crisis in Sydney, and thereby will act as an impediment to economic growth in NSW. The decline in the supply of boarding house accommodation is well documented, it has dropped by 27% in NSW (31% reduction Australia wide) from 2001 census to 2006 census.

A healthy supply of flexible accommodation is crucially important to the good and efficient functioning of a modern city. General boarding houses provide the bulk of this alternative to residential tenancy accommodation at affordable rates in NSW.

Excessive legislative and regulatory provisions for general boarding houses will create unnecessary regulatory burdens and further uncertainty for operators. This will act to the detriment of this essential supply of legitimate affordable housing.

Further, The POA NSW and boarding house operators eagerly await the promised announcement of genuine and effective incentives so as to promote existing and new supply of affordable accommodation. We have presented a long list of areas that need to be addressed in the POA NSW submission on the draft boarding house bill 2012.

In particular insurance cost are, and are likely to cause further havoc for legitimate operators. Insurance costs are almost doubled artificially by stamp duties, FSL and other government charges. These government charges need to be rebated to legitimate operators that meet the OSR Boarding House tariff criteria as outlined in our submission in August 2012.
If you require further information the Private Hotel Boarding House Sub Committee can be contacted at the following details:

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Yours faithfully, on behalf of the Private Hotels Boarding House Sub Committee of the Property Owners Association Of NSW.

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