

July 2020

Explanation of intended effect for proposed Housing Diversity State Environmental Planning Policy

The Department of Planning, Industry and Environment is exhibiting an explanation of intended effect that sets out its proposal to prepare a new Housing Diversity State Environmental Planning Policy (SEPP).

What is the Housing Diversity SEPP?

The department is proposing to prepare a new SEPP to consolidate and update state-level planning provisions for diverse and affordable housing types. The key elements of the proposed Housing Diversity SEPP are as follows:

1. consolidation of three housing-related SEPPs
 - State Environmental Planning Policy (Affordable Rental Housing) 2009 (Affordable Rental Housing SEPP)
 - State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)
 - State Environmental Planning Policy No 70–Affordable Housing (Revised Schemes) (SEPP 70)
2. introduction of new definitions for build-to-rent housing, student housing and co-living
3. amending some state-level provisions, particularly regarding boarding house and seniors housing development
4. updates to social housing provisions to support redevelopment of government-owned land with a mixture of social, affordable and private dwellings on a single site. This will involve clarifying and expanding the self-assessment provisions for development carried out by NSW Land and Housing Corporation.

Why is the department releasing the explanation of intended effect now?

The NSW Government is committed to facilitating the delivery of housing that meets the needs of our current and future communities by maintaining supply and increasing housing choice and diversity.

The Seniors SEPP, Affordable Rental Housing SEPP and SEPP 70 have been in place for some time. Some provisions need to be amended or updated to reflect current conditions and community expectations.

The proposed updates to the planning system as set out in the explanation of intended effect (EIE) are also being introduced as part of the NSW Government's response to the COVID-19 pandemic. This is to accelerate projects that support employment and economic development.

Within 24 months of the introduction of the new SEPP, the department will review the provisions to ensure they are functioning as intended.

What are the proposed new land use definitions?

The department is proposing to introduce new definitions into the Standard Instrument—Principal Local Environmental Plan (Standard Instrument LEP) for build-to-rent housing, student housing and co-living. We propose including the development standards for these new housing types in the proposed Housing Diversity SEPP.

What is build-to-rent housing?

Build-to-rent (BTR) housing is large-scale, purpose-built rental housing that is held in single ownership and professionally managed. BTR housing is generally:

- high-density development
- situated in well-located areas, close to transport and services
- funded by large-scale institutional investors.

What are the benefits of BTR housing?

Potential benefits of BTR housing include:

- attracting institutional investment, which may provide a more stable housing supply throughout the property cycle
- creating better security of tenure for tenants, as owners seek to maintain cashflows with long lease terms
- giving tenants more housing choices in desirable locations, with access to employment and education opportunities.

What is student housing?

Student housing is accommodation that is developed and managed specifically or exclusively for students of universities or other education facilities. While most universities provide some accommodation on-campus for their students, large numbers of students rely on off-campus accommodation options provided either in purpose-built student accommodation facilities, or in the private rental market.

We propose to introduce a new definition for student housing in the Standard Instrument LEP. The new definition would refer to a building that:

- provides accommodation and communal facilities principally for students enrolled to study at an education establishment during teaching periods
- may incorporate some fully self-contained dwellings.

Why does student housing need a new definition?

Under the current planning framework, student housing does not have a separate definition and the boarding house provisions of the Affordable Rental Housing SEPP, including their incentives, are used to develop student housing.

The proposal to introduce an affordability requirement for boarding houses could reduce the supply of new housing for students. The department is seeking to ensure that there is ongoing supply of

appropriate accommodation for students. We are also looking to ensure that councils can plan for this type of development in their local areas.

What is co-living?

Co-living type developments are currently being delivered under the boarding house provisions of the Affordable Rental Housing SEPP and are also known as 'new-generation boarding houses'. These developments generally have self-contained private rooms that are supplemented with access to communal living areas and other facilities.

With the proposal to introduce an affordability requirement for boarding houses, this type of housing would no longer be facilitated by the planning system.

We propose to introduce a new definition for co-living in the Standard Instrument LEP, which would refer to a building held in single ownership that:

- provides tenants with a principal place of residence for three months or more
- includes a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry
- has at least 10 private rooms, some or all of which may have private kitchen and/or bathroom facilities, with each private room accommodating not more than two adults.

Will there be development incentives for student housing, co-living or BTR housing?

We propose to provide reduced car parking rates for student housing, co-living and BTR housing.

The department proposes that the floor space ratio (FSR) and height standards that apply under the relevant local environmental plan would apply to each of these new development types.

What changes are proposed to the existing Affordable Rental Housing SEPP provisions?

The department is proposing to make the following amendments to existing provisions of the Affordable Rental Housing SEPP:

- introduce an affordability requirement for boarding houses
- remove the requirement for boarding houses to be mandated in the R2 Low Density Residential zone
- amend the floor space ratio (FSR) bonus for new boarding houses to a maximum 20%
- introduce a simplified process to allow for an existing dwelling to be used as a group home
- update the provisions of Part 3 to ensure that councils can mitigate the loss of affordable housing by levying monetary contributions
- allow councils to set the maximum size for a secondary dwelling in a rural zone.

Why are changes being made to boarding house provisions?

Since the introduction of the Affordable Rental Housing SEPP, councils and communities have raised concerns about the boarding house provisions. Key concerns have centred around the:

- lack of affordability of boarding house rooms
- use of the boarding house provisions to develop student housing
- excessive scale and bulk of some boarding house developments
- compatibility of boarding house development with low-density residential areas
- clustering of boarding house development in certain areas.

In response to ongoing concerns about boarding house developments, the department worked with a group of councils during July and August 2019, to prepare advice to the minister on issues associated with the boarding house provisions of the Affordable Rental Housing SEPP. The report prepared by the Council Boarding House Working Group included 14 recommendations. The report is now available on the department's website.

The changes proposed as part of the Housing Diversity SEPP EIE seek to address stakeholder feedback on the existing provisions and respond to a number of recommendations made by the Council Boarding House Working Group report.

What are the proposed changes to the Seniors SEPP provisions?

The department is proposing to make the following amendments to the existing provisions of the Seniors SEPP:

- update the provisions of Schedule 1—Environmentally Sensitive Land to align with current legislative and planning conditions
- extend the validity of a site compatibility certificate (SCC) to five years, provided that a development application is lodged within 12 months of the date on which the SCC is issued.
- clarify how the SEPP applies to land being used for the purposes of a registered club
- amend the 'location and access to facilities' provisions so that point-to-point transport such as taxis, hire cars and ride share services cannot be used for the purpose of meeting the accessibility requirements;
- clarify that development standards in a local environmental plan prevail to the extent of any inconsistency with the SEPP.

What changes are proposed to social housing provisions?

The new Housing Diversity SEPP will also contain updated provisions to better support the delivery of social housing by the Land and Housing Corporation (LAHC), to allow for a combination of social, affordable, and private housing dwellings on a single site. The proposed changes include:

- increasing the number of dwellings in a two-storey residential development that LAHC can self-assess from 20 to 60
- extending density bonuses and car parking concessions, which currently apply under the Affordable Rental Housing SEPP and Seniors SEPP, to all components, including the

private housing components, of a residential development undertaken by or on behalf of LAHC

- clarifying that LAHC can carry out any type of residential accommodation, including manor houses and terraces, that is permissible under an environmental planning instrument
- extending the density bonus for in-fill affordable housing under Division 1, Part 2 of the Affordable Rental Housing SEPP to include more land outside the Sydney region
- allowing LAHC to self-assess applications for subdivision of government-owned land.

How does the Housing Diversity SEPP relate to the proposed NSW Housing Strategy?

The NSW Housing Strategy will set a unified vision and future directions for all policy and actions related to housing in NSW. The Housing Diversity SEPP is aligned with the proposed strategy, as an example of government-led action to ensure state-level planning policies support the delivery of diverse and affordable housing.

Together, the Housing Diversity SEPP and the Housing Strategy reflect the NSW Government's commitment to supporting housing that meets the needs of our current and future communities.

How can I be involved?

We encourage you to make a submission in response to the EIE during the exhibition period. The comments on the EIE from this public exhibition will inform the preparation of the proposed Housing Diversity SEPP.

How long will the EIE be on exhibition?

The EIE will be on exhibition for six weeks from 29 July 2020 to 9 September 2020.

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