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Explanation of Intended Effect for a new Housing Diversity SEPP

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Introduction

As NSW recovers from the COVID-19 pandemic the planning system has an important role to play.

Changes have already been made to fast-track planning projects and allow for new construction jobs and construction work to continue where possible.

Moving forward, there will be a focus on ensuring that the planning system supports the recovering economy, particularly through facilitating new projects which make a significant contribution to the retention and creation of jobs.

With a growing and ageing population, the housing needs and preferences of the community have changed over time and will continue to change. The Government is committed to ensuring that there is an adequate supply of new dwellings that are affordable, well-designed and located in places that people want to live. To deliver on this commitment we need to provide more certainty for all stakeholders in the planning system and ensure that there is a strong social housing sector to provide for the State's most vulnerable residents.

Currently, in NSW, around 400,000 people are directly employed in building and construction industries. More broadly, the work of almost 1 in 4 workers in NSW is linked to jobs in construction, in planning and in development processes. As NSW recovers from the COVID-19 pandemic, it will be important to ensure that the planning policies that support construction jobs, including for housing construction jobs, are fit-for-purpose.

The Government has three State environmental planning policies (SEPPs) in place to facilitate the delivery of diverse housing types that meet the needs of the people of NSW. These SEPPs (the Seniors SEPP, the Affordable Rental Housing SEPP and SEPP 70) have been in place for some time and some provisions need to be amended or updated to reflect current conditions and community expectations. Additionally, the housing needs and preferences of the community have changed over time and will continue to change. It is important to ensure that planning policies facilitate housing types in response to these changes.

The Department of Planning, Industry and Environment (the Department) is proposing to prepare a new SEPP to consolidate and update the Government's housing-related policies. It is proposed to introduce three new land use terms to help facilitate housing projects that will stimulate economic recovery. Build-to-rent (BTR) housing in particular has been identified as an opportunity for stimulus, and this policy establishes a planning pathway to support developments of this type. In addition, it is proposed to amend some planning provisions, particularly relating to boarding house and seniors housing development.

These changes are being introduced as part of the NSW Government's response to the COVID-19 pandemic in order to accelerate projects that support employment and economic development. The changes to the planning system will also provide greater certainty for all stakeholders.

Executive Summary

The following information is provided as an Explanation of the Intended Effect under section 3.30 of the Environmental Planning and Assessment Act 1979 (the Act) for the proposed draft State Environmental Planning Policy (Housing Diversity) 2020 (the new SEPP).

This Explanation of Intended Effect (EIE) provides an overview and background into what is proposed to be included in the new SEPP.

In summary it is proposed that the new SEPP will:

- Consolidate three existing, housing-related SEPPs:
 - *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP);
 - *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* (Seniors SEPP); and
 - *State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes)* (SEPP 70).
- Introduce new definitions into the Standard Instrument – Principal Local Environmental Plan (Standard Instrument LEP) for build-to-rent housing, student housing and co-living developments.
- Amend the boarding house provisions to:
 - remove the requirement for boarding houses to be mandated within the R2 – Low Density Residential zone;
 - amend the floor space ratio (FSR) bonus for boarding house development to a standard 20%; and
 - include a requirement for affordability of boarding house developments.
- Amend the provisions of the ARHSEPP to:
 - ensure that councils can continue to mitigate the loss of existing affordable housing by requiring monetary contributions;
 - provide a quicker and easier process to allow an existing dwelling to be used as a group home; and
 - allow councils to set the maximum size for a secondary dwelling in a rural zone.
- Amend the Seniors SEPP to:
 - clarify how the SEPP applies to land being used for the purposes of a registered club;
 - update the provisions of Schedule 1 – Environmentally sensitive land to align with current legislative and planning conditions;
 - 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;
 - extend the validity of a SCC to 5 years, provided that a development application is lodged within 12 months of the date on which the SCC is issued; and
 - clarify that development standards in a local environmental plan prevail to the extent of any inconsistency with the SEPP.
- Amend the Seniors SEPP, the ARHSEPP and the *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP) to support the delivery of social housing by the NSW Land and Housing Corporation (LAHC) on government-owned land.

Background

Changing housing needs in NSW

In 2016, the population of NSW was 7.7 million and this is expected to increase to 10.5 million by 2041. In Greater Sydney, the population is expected to grow to 7.1 million by 2041. This population growth will need to be matched with increased housing supply so that all members of the community have access to accommodation that meets their needs.

The population of NSW is ageing as well as growing. In 2016, over 2 million people in NSW were aged 55 or over. By 2036, the number of over 55s is projected to increase to more than 3.1 million.¹ This means that demand for seniors housing in well-located areas, as well as the demand for smaller and more accessible homes, will continue to grow.

Housing affordability is another major issue across NSW, but particularly in the Sydney metropolitan area. Home ownership rates in NSW are falling and there is a widening gap between dwelling prices and incomes. In the rental sector, households are needing to spend a greater proportion of their income on housing.

It is clear the housing needs and preferences of the community have changed over time and will continue to change. The Government's housing-related SEPPs have been in place for some time and some provisions need to be amended or updated to reflect current conditions and community expectations.

In recent months, many people have found themselves unexpectedly out of work due to the COVID-19 health and economic crisis. This has led to increased housing insecurity for many people.

The Department is reviewing the Government's housing-related SEPPs to ensure they are fit-for-purpose. It is proposed that the new SEPP will incorporate updated planning provisions for boarding houses, group homes, and seniors housing.

As part of its response to the COVID-19 crisis, the Department also is planning to introduce new land use terms to ensure that the residential development industry is well-placed to lead the State's economic recovery.

The new housing types that are proposed to be introduced as part of the new SEPP are designed to attract institutional investment and provide for a more stable rental sector. Additionally, they would also support a significant number of jobs during the planning and construction phases and lead to long lasting community benefits as a result of increased housing supply and diversity.

Current State environmental planning policies that facilitate diverse and affordable types of housing

The key State policies that currently facilitate the supply of diverse and affordable housing types are:

- *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP);
- *State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004* (Seniors SEPP); and
- *State Environmental Planning Policy - Affordable Housing (Revised Schemes)* (SEPP 70).

Further detail about how these SEPPs work, as well as a summary of recent reviews into the effectiveness of certain provisions of these SEPPs, is set out in **Attachment A**.

¹Department of Planning and Environment (2016), *2016 New South Wales State and Local Government Area population and household projections*. Sydney, NSW.

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)

The ARHSEPP was introduced in 2009 to facilitate the increased supply and diversity of affordable rental and social housing in NSW. The ARHSEPP also aims to maintain and mitigate the loss of existing affordable housing.

The ARHSEPP provides a consistent assessment regime (including expanded permissibility, FSR bonuses and reduced car parking rates) to facilitate delivery of the following types of affordable rental housing:

- in-fill affordable housing which must be used for affordable housing for 10 years;
- secondary dwellings;
- boarding houses;
- supportive accommodation;
- residential flat buildings developed by social housing providers, public authorities and joint ventures with the Land and Housing Corporation (LAHC);
- residential development carried out by the LAHC; and
- group homes.

State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)

The Seniors SEPP aims to increase the supply and diversity of residences that meet the needs of seniors or people with disability. It defines seniors as people aged 55 or over, people living at a facility where residential care under the meaning of the *Aged Care Act 1997* (Cth) is provided, or people assessed as eligible to occupy aged housing.

Under the Seniors SEPP, seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability and includes:

- residential care facilities (high-care accommodation with on-site services);
- hostels (low-care accommodation with on-site services);
- self-contained dwellings (serviced self-care housing);
- self-contained dwellings (un-serviced in-fill self-care housing); or
- a combination of the above.

The Seniors SEPP facilitates new seniors housing development by setting permissibility at the State level and providing less stringent planning requirements than would otherwise apply to other forms of housing.

The Seniors SEPP also incorporates provisions for the issue of a site compatibility certificate (SCC) in a range of different situations. If an SCC is issued, a developer can submit a development application for seniors housing to the local council where it would otherwise be prohibited on the site.

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) (SEPP 70)

SEPP 70 identifies local government areas (LGAs) that have a need for affordable housing. According to section 7.32 of the Act, identification in a SEPP is required before a council can implement an affordable housing contribution scheme.

In February 2019, SEPP 70 was amended to include all NSW councils. This amendment effectively removed the requirement of entering an LGA into SEPP 70, thereby expediting implementation of affordable housing contribution schemes across the State. Affordable housing contribution schemes

are council-led documents that set out how, where and at what rate affordable housing contributions may be collected by councils.

New Housing Diversity SEPP

Aims of the new Housing Diversity SEPP

The proposed new SEPP aims to deliver a planning framework that:

- will assist the State's economic recovery following COVID-19;
- consolidates existing State level housing-related planning provisions into a single instrument;
- is in a format capable of being expanded and amended as future needs may require; and
- facilitates the delivery of housing that meets the needs of the State's growing population.

Key components of the new Housing Diversity SEPP

The EIE sets out a proposal for the new SEPP that will provide greater clarity and certainty for the residential development sector in the context of the post-pandemic recovery.

The first element of the EIE is a proposal to consolidate the ARHSEPP, the Seniors SEPP and SEPP 70. This is part of the NSW Government's program to streamline the planning system by reducing the number of state policies.

It is proposed that the new SEPP will introduce definitions and planning provisions for three new types of housing, being:

- build-to-rent housing;
- purpose built student housing; and
- co-living.

This will provide new opportunities for institutional investment in residential development in NSW, creating jobs in planning, construction, and on-going management.

In the context of feedback from councils and communities, as well as in the context of recent review of some provisions of the Government's housing-related SEPPs, this EIE also sets out a number of changes that are proposed to be made to the ARHSEPP and Seniors SEPP provisions, including:

- requiring boarding houses to be affordable;
- removing the requirement for boarding houses to be mandated within the R2 – Low Density Residential zone;
- amending the FSR bonus for boarding house development to 20%;
- updating the provisions relating to retention of existing affordable housing;
- clarify how the SEPP applies to land being used for the purposes of a registered club;
- update the provisions of Schedule 1 – Environmentally sensitive land of the Seniors SEPP to align with current legislative and planning conditions;
- 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 requirement;
- amend the SEPP provisions to clarify that development standards in a local environmental plan prevail to the extent of any inconsistency with the SEPP; and
- introduce provisions in the new SEPP so that a SCC is valid for 5 years, provided that a development application is lodged within 12 months of the date on which the SCC is issued.

It is also proposed to make a number of changes to the ARHSEPP and Seniors SEPP to facilitate the delivery of new housing by or on behalf of LAHC on government-owned land. The proposed changes include:

- facilitating the redevelopment of government-owned land for two storey residential development, that may comprise elements of social, affordable and private housing, by increasing the number of dwellings in a development that LAHC can self-assess from 20 to 60;
- extending density bonuses and car parking concessions, that currently apply under the ARHSEPP 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 of the ARHSEPP to include more land outside the Sydney region; and
- allowing LAHC to self-assess applications for subdivision of government-owned land.

It is also proposed to further streamline the assessment of LAHC projects by simplifying the pathway for major projects, such as those within the Communities Plus program, to become State Significant Development (SSD) under the SRD SEPP.

The existing provisions of SEPP 70 are proposed to be transferred to the new SEPP in their current form.

It is proposed to review the provisions of the new SEPP within 24 months of its introduction to ensure they are functioning as intended.

Introducing new housing types

The Department is proposing to introduce three new definitions in the Standard Instrument LEP that will improve stability in the rental sector and provide more clarity for all stakeholders. Build-to-rent housing will provide large scale apartment developments with long term leases and on-site management. A new definition and planning provisions for student housing will ensure that there is adequate, appropriately designed and located accommodation for tertiary students. Co-living developments will provide studio-type accommodation, supplemented by access to communal facilities.

The following table sets out key requirements for the new housing types, as well as the requirements for boarding houses.

Table 1 Comparison of development standards for new housing types

	Build-to-rent housing	Co-living	Student housing	Boarding houses
Tenant	No restriction for market rent dwellings	No restriction	Students	Eligibility based on income
Affordable	Local provisions apply	No minimum requirement	No minimum requirement	Yes – 100%
Tenancy	3 years or more	Minimum 3 months	No minimum	Minimum 3 months
Communal living area	New design guidance will be developed	Required	Required	Required
Room/Apartment size	New design guidance will be developed	30 - 35 m ²	10 m ²	12 - 25 m ²
Minimum car parking provision	0.5 spaces per dwelling	0.5 spaces per room	No minimum requirement	0.5 spaces per room, or 0.2 spaces for social housing providers

Build-to-rent housing

Introduction

In recognition of the growing need for secure, long term rental options and support new investment, especially in the recovery phase of COVID-19, the Government is proposing to incentivise the delivery of build-to-rent (BTR) housing through the NSW planning system.

BTR housing is purpose-built rental housing, held in single ownership and professionally managed. It is designed to attract institutional investment and provide for a more stable rental sector.

BTR housing has been an established sector in the United States over several decades. It has also recently experienced rapid growth in the United Kingdom.

BTR housing is generally:

- high density development;
- situated in well-located areas, close to transport and amenity;
- funded by larger-scale institutional investors; and
- focused on providing a good experience for tenants through the provision of on-site services and facilities, professional management and long-term leases.

BTR housing has the potential to provide long lasting community benefits, with greater housing choice for tenants who would have access to high-quality dwellings, in a stable rental environment. Increased rental security may also have wider social and economic benefits, with tenants better able to establish themselves in a community.

There are currently no impediments in the NSW planning system to the development of new housing for rental purposes. However, given the potential social and economic benefits of expanding the local BTR industry, the NSW Government is seeking to provide more certainty for this type of development with a proposed new definition and specific planning provisions. The Government is encouraging the development of build-to-rent housing as it responds to the need for more rental housing during the recovery from COVID-19 and would generate more construction jobs.

Proposed definition

It is proposed that the definition for '*Build-to-rent housing*' would be contained within the Standard Instrument – Principal Local Environmental Plan and would refer to a building or place that:

- contains at least 50 self-contained dwellings that are offered for long term private rent;
- is held within a single ownership;
- is operated by a single management entity; and
- includes on-site management.

Proposed planning provisions

Locational requirements

It is proposed to make BTR housing a compulsory permitted use in the R4 - High Density Residential, B3 – Commercial Core, B4 - Mixed Use and B8 – Metropolitan Centre zones. It will also be permitted in R3 – Medium Density Residential where residential flat buildings are permitted. Councils could make BTR housing permissible in other land use zones through amendments to their LEPs.

State significant development

It is proposed that BTR housing would be assessed as State significant development (SSD) where the development has a capital investment value of \$100 million or more. It is proposed that developments within the City of Sydney local government area would be excluded from the SSD designation and would continue to be assessed by the City.

It is proposed that BTR housing in regional areas would be assessed as SSD where the development has a capital investment value of \$50 million or more.

Design Guidance

Generally, consent authorities, when assessing development applications for BTR housing projects, should be guided by the design quality principles in *State Environmental Planning Policy No 65 - (Design Quality of Residential Apartment Development)* (SEPP 65). The Department will develop specific advice about those parts of SEPP 65 that are particular to the build-to-rent typology.

Development standards

It is proposed to allow councils to determine the relevant height and Floor Space Ratio (FSR) controls for BTR housing through their LEPs.

It is proposed to apply a minimum 0.5 car parking spaces per dwelling for BTR housing. Where a lower maximum parking rate applies under a council's development control plan, this rate could be applied to BTR housing.

BTR housing would be subject to minimum lease terms and would not be available for short-term rental accommodation.

BTR housing is a different investment product to traditional residential flat buildings. Because it is held in single ownership, it will be much easier for the asset to be recycled at a later date. With this in mind, it is proposed that it would not be possible to strata subdivide a BTR housing development for the first 15 years and to prohibit subdivision in a B3 – Commercial Core zone, in perpetuity.

The Government is seeking feedback on the appropriate mechanisms that could be incorporated into the SEPP to manage the transition from BTR housing to a strata-subdivided apartment development. For example, long-term residents could be offered a right of first refusal to acquire a unit at a fair market price or a minimum percentage of dwellings for sale could be required to be retained as affordable housing.

BTR housing in regional areas

The Government is seeking feedback on appropriate provisions for BTR housing in regional areas. It is expected that these developments would generally be of a smaller scale and could take the form of multi-dwelling housing or terraces rather than apartments.

Purpose-built student housing

Introduction

Having an adequate supply of well-located and purpose-built student housing is critical in supporting the higher education sector in NSW. It can also assist in alleviating demand on other affordable housing types in proximity of major universities. This type of housing could also provide emergency accommodation in a situation such as COVID-19 when there is significantly reduced demand from international students.

Under the current planning framework, student housing does not have a separate definition and the boarding house provisions of the ARHSEPP, including their incentives, are used to develop student housing. Councils and communities have raised concerns with the use of boarding house provisions in the ARHSEPP to facilitate student housing developments. The issues raised include the parking rates, compatibility with local character and lack of affordability.

Meanwhile, demand for specialised student accommodation continues to grow in line with the expansion of the international student population. Over the past decade the number of international students studying at Australian universities has increased significantly, and tertiary education has become one of Australia's largest exports. A number of student housing providers have advised the Department that the planning system does not currently facilitate the type of accommodation required to meet the needs of the international students.

In response to council and industry feedback, the Government is proposing to introduce a new definition and planning provisions for student housing.

Proposed definition

It is proposed that the definition for ‘*student housing*’ would be contained within the Standard Instrument LEP and would refer to a building that:

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

It is noted that under the *State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017* (Education SEPP), development for the purpose of residential accommodation for students associated with a school or university may be carried out within the boundaries of an existing school or university respectively.

To improve consistency across environmental planning instruments, it is proposed that both the new SEPP and the Education SEPP would rely on the proposed new Standard Instrument LEP definition of ‘student housing’ in the future.

Proposed planning provisions

It is not proposed to make student housing a compulsory permitted use in any of the land use zones. Universities across the State have widely varying land use contexts and it is proposed that councils will be able to determine permissibility for this use through their LEPs. The Government is seeking feedback from stakeholders about the best way to incorporate locational requirements for student housing in environmental planning instruments.

The new SEPP could include development standards for student housing to apply across the State. The proposed key development standards are set out in the following table.

Table 2 Proposed key development standards for student housing

Development standard	Proposed standard	Comment
Height of buildings	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.
Floor space ratio	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.
Car parking	No minimum spaces required	Developers can choose to provide on-site car parking but there will be no minimum number of spaces required and a consent authority will not be able to refuse an application on the basis of car parking. It is expected that councils will permit student housing in areas that are in close proximity to educational establishments and the demand for on-site parking will be minimal.
Bicycle parking	1 space minimum per 3 bedrooms	The minimum bicycle parking rate will be a non-discretionary, ‘must not refuse’ provision.
Motorcycle parking	1 space minimum per 5 bedrooms	The minimum motorcycle parking rate will be a non-discretionary, ‘must not refuse’ provision.

Room size	Minimum 10 m ²	<p>The minimum room size is based on similar standards in other jurisdictions and reflects current industry practice, which is to provide a range of room options in a single development, including rooms that have an area of less than 10 m²</p> <p>The proposed 10 m² standard will be a discretionary standard. This will allow developers that wish to, to demonstrate that a smaller area has adequate internal amenity and that shared facilities are available to compensate for the smaller room size.</p>
Communal area (indoor)	15 m ² per 12 students	High quality indoor communal space must be provided to meet the study, social, and religious needs of students. Depending on the size of the development, multiple rooms could be appropriate.
Communal area (outdoor)	Consider access to open space	In locations that are within 400 m of the relevant university, it may be possible to rely on the open space that is provided on campus. In other locations the new SEPP will recommend 2.5 m ² of outdoor space per student.

Design guidelines for student housing could also be developed to accompany the new SEPP. The design guidelines would address issues such as built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy.

The Department will carefully monitor outcomes from the introduction of this new use, and the associated development standards, to ensure that new developments are meeting the needs of the student population and that local impacts are acceptable.

Co-living

Introduction

As with student housing, the boarding house provisions of the ARHSEPP are currently being used to develop co-living developments, otherwise known as 'new generation' boarding houses. These are developments that share many features with traditional boarding houses, such as small private rooms for one or two people and access to communal living areas and other facilities. However, new generation boarding rooms are typically self-contained, with private bathroom and kitchenette facilities. The proposed introduction of an affordability requirement for boarding house development as set out above in this EIE would mean that this type of housing is no longer facilitated by the planning system.

Evidence suggests that there is demand for this type of small and self-contained dwelling – particularly when located in close proximity to reliable public transport and services. The demand for co-living is driven by affordability issues and growth in single person households. The demand is also driven by changing preferences, with many people willing to trade size of living spaces for access to desirable locations.

In the current context, it is critical that the planning system continues to facilitate the delivery of diverse rental housing options to support people who are facing accommodation insecurity as a result of COVID-19. To ensure the availability and diversity of rental housing options, the Government is proposing to introduce a new definition and planning provisions for co-living developments.

Proposed definition

It is proposed to introduce a new definition for co-living in the Standard Instrument LEP would refer to a building held in single ownership that:

- provides tenants with a principal place of residence for 3 months or more;
- includes on-site management;
- includes a communal living room and may include other shared facilities, such as a communal bathroom, kitchen or laundry; and
- 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.

Proposed planning provisions

It is proposed to make co-living apartments a mandatory permitted use wherever residential flat buildings are currently permitted. This would generally include the R4 – High Density Residential, and B4 – Mixed Use zones, and would also include R3 – Medium Density Residential zones in some LGAs. The new SEPP would include development standards for co-living developments to apply across the State. The proposed key development standards are set out in the following table:

Table 3 Proposed key development standards for co-living

Development standard	Proposed standard	Comment
Height of buildings	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.
Floor space ratio	In accordance with the relevant LEP	Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.
Car parking	0.5 spaces per room	<p>It is proposed to include car parking as a non-discretionary ‘must not refuse’ provision. This would allow councils to approve a co-living development with less parking when appropriate.</p> <p>In addition, should councils choose to prepare local plans with reduced car parking for co-living developments, it is intended these would prevail.</p> <p>It is noted that the demand for car parking varies significantly between different areas and it may be appropriate to have different car parking rates depending on the locational context, such as proximity to a train station.</p> <p>Stakeholder feedback is sought on appropriate car parking rates for this land use.</p>

Room size	30-35 m ²	It is proposed that co-living development would contain rooms would sit between boarding rooms and studio apartments in terms of size.
Strata subdivision	Not permitted	Co-living developments would be held in single ownership like a new generation boarding house.
Communal living space	Minimum 20 m ² , + 2 m ² per room above 10 rooms	This would provide for adequate internal communal spaces based on the number of rooms in a development.
Private open space	4 m ² per room	This is the same as the ADG requirement for studio apartments.
Communal open space	25% of site area	It is proposed to provide for a reduction in communal open space where all dwellings have private open space that exceeds the minimum requirements.

Building envelope controls for residential flat buildings under the relevant DCP could apply.

Design guidelines for co-living may be developed to accompany the new SEPP. The design guidelines could address issues such as built form, internal and external amenity, storage, solar access, natural ventilation, visual and acoustic privacy.

The Department would carefully monitor outcomes from the introduction of this new land use, and the associated development standards to ensure that new developments are meeting the needs of occupants and that local impacts are acceptable.

Updating existing provisions

Proposed changes to the boarding house provisions of the ARHSEPP

The boarding house definition is to be amended to require boarding house development to be affordable

The boarding house provisions introduced by the ARHSEPP in 2009 were intended to provide for both traditional boarding houses as well as 'new generation' boarding houses with self-contained rooms in a compact and affordable form. It was expected that 'new generation' boarding rooms would be more affordable than other similar residential development in the same area, due to their small size and shared facilities.

The ARHSEPP has facilitated both traditional, and 'new generation' boarding houses as well as large numbers of boarding house rooms for student housing, particularly in areas close to tertiary education facilities.

Since the introduction of the ARHSEPP, councils and communities have raised concerns about the boarding house provisions in the ARHSEPP. Key community and council concerns have centred around the lack of affordability of boarding house rooms; the use of the boarding house provisions to develop student housing; the excessive scale and bulk of some boarding house developments; the compatibility of boarding house development with low-density residential areas; and the clustering of boarding house development in certain areas.

In response to on-going concerns regarding 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 ARHSEPP. The report prepared by the Council Boarding House Working Group made 14 recommendations. The report is now available on the Department's website.

The key recommendation of the Working Group was that the definition of 'boarding house' should be amended to include a requirement that boarding house rooms are affordable.

The existing and proposed definitions are set out in the following table:

Table 4 Existing and proposed definitions for boarding house

Existing definition	Proposed definition
<p>boarding house means a building that—</p> <ul style="list-style-type: none"> (a) is wholly or partly let in lodgings, and (b) provides lodgers with a principal place of residence for 3 months or more, and (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, 	<p>boarding house means an affordable rental building that—</p> <ul style="list-style-type: none"> (a) provides lodgers with a principal place of residence for 3 months or more, and (b) is managed by a registered not-for-profit community housing provider (CHP), and (c) has some shared facilities, such as a communal living room, bathroom, kitchen or laundry, and (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or two adult lodgers,

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note. **Boarding houses** are a type of **residential accommodation**—see the definition of that term in this Dictionary.

but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note. *Boarding houses* are a type of *residential accommodation*.

The Government is seeking feedback on whether it would be more appropriate to require rooms in new boarding houses to be rented at affordable rates for a minimum of 10 years, after which they could revert to market rates.

Boarding house development will not be mandated in the R2 Low Density Residential Zone

The ARHSEPP permits boarding houses in the following zones:

- R1 General Residential;
- R2 Low Density Residential zone (only in 'accessible areas');
- R3 Medium Density Residential;
- R4 High Density Residential;
- B1 Neighbourhood Centre;
- B2 Local Centre; and
- B4 Mixed Use.

Boarding houses are also mandated in these zones in the Standard Instrument LEP, regardless of whether they are in an accessible area or not.

Some councils and communities consider that boarding houses are fundamentally incompatible with other development in the R2 Low Density Residential zone due to their bulk, scale and nature of use. In February 2019, in response to these concerns, the ARHSEPP was amended so boarding houses are limited to a maximum of 12 boarding rooms per site within the R2 zone to better reflect the scale and built form of the surrounding area.

In response to ongoing community concern about boarding houses in low density residential zones, it is now proposed that boarding houses will not be mandated within the R2 zone. While many councils will support this proposal, it is expected that some councils and communities would support the continued permissibility of boarding house development in all or part of the R2 zone in their local areas. If boarding houses are no longer mandated as permissible uses in the R2 zone, these councils would, should they choose to do so, be able to amend their local environmental plans (LEPs) to make boarding houses permissible in the R2 zone in their local areas.

It is proposed that provisions will be included in the new SEPP to ensure LAHC will be able to develop boarding houses on government-owned land in the R2 zone, regardless of whether an LEP allows or prohibits boarding houses in that zone. Where boarding houses are permitted in the R2 zone under an environmental planning instrument, the 12-room limit will continue to apply.

Proposed 20% FSR bonus for boarding house development

Currently, clause 29 of the ARHSEPP includes a floor space ratio (FSR) bonus on land within a zone in which residential flat buildings are permitted of:

- 0.5:1 if the existing maximum floor space ratio is 2.5:1 or less, or

- 20% of the existing maximum floor space ratio (FSR), if the existing maximum floor space ratio is greater than 2.5:1.

A maximum floor space ratio sets out the total amount of floor area that is permitted, compared to the size of the site. For example, if a site has a total area of 500 m² a 0.5:1 FSR would allow for a maximum of 250 m² of floor area.

Stakeholders have advised that, in the case of an existing maximum FSR of 2.5:1 or less, when the existing FSR is low, for example 0.5:1, the 0.5:1 bonus effectively doubles the allowable FSR and can contribute to excessive bulk and scale of boarding house development. For example, in an R3 zone where residential flat buildings are permissible with an existing maximum 0.7:1 FSR, the current bonus would allow boarding house development to have an FSR of 1.2:1, which is significantly higher than that of other development. In response to this issue, the Council Boarding House Working Group recommended that the existing FSR bonus be changed to a flat 10% (or potentially another percentage) bonus above existing maximum FSR, regardless of whether the existing maximum FSR is above or below 2.5:1.

The Department has considered the impact of the proposed reduction in FSR bonus to 10% on the viability of boarding house development. It is proposed to introduce a flat 20% FSR bonus above existing maximum FSR, regardless of whether the existing maximum FSR is above or below 2.5:1.

The proposed amendment will not have any impact on land with an existing maximum FSR greater than 2.5:1, as the ARHSEPP currently provides a 20% FSR bonus for such land. The proposed amendment will affect land with an existing maximum FSR of 2.5:1 or less, as it is proposed to reduce the FSR bonus from 0.5:1 to a flat 20% for such land. It should be noted that the bonus only applies in zones where residential flat buildings are permissible.

Car parking

The ARHSEPP currently provides reduced minimum car parking rates for boarding house development applications lodged by or on behalf of a social housing provider. It is proposed to maintain these provisions in the new SEPP. It is noted that the car parking rate is a standard that cannot be used to refuse consent. Therefore, a council would be able to accept a lower rate proposed under a development application if it was considered appropriate in the circumstances.

Proposed amendments to ARHSEPP provisions

It is proposed to update some provisions of the ARHSEPP when they are transferred to the new SEPP, including provisions relating to group homes and provisions relating to Part 3 – Retention of existing affordable housing.

Group homes

Group homes are an important accommodation choice for people with a disability or people who are socially disadvantaged. One of the aims of the ARHSEPP is to facilitate the development of this type of housing. The ARHSEPP includes a complying development pathway for development of new group homes. However, there is currently no exempt or complying pathway for converting an existing dwelling to a group home. A change of use from an existing dwelling to a group home currently requires development consent from the local council. This adds additional cost and can cause lengthy delays due to varying development assessment timeframes.

The Government is proposing to introduce a quicker and easier process to allow an existing dwelling to be used as a group home.

Amendment to Part 3 of the ARHSEPP

Part 3 of the ARHSEPP requires a council to consider whether there will be or is likely to be any reduction in affordable housing as a result of a proposed development. A reduction in the availability of affordable housing could occur through the demolition or strata subdivision of an existing building that contains low-rental dwellings.

Low rental dwelling is defined in the SEPP as follows:

***low-rental dwelling** means a dwelling that (at any time in the 24 month period prior to the lodgment of a development application to which this Part applies) was let at a rental not exceeding the median rental level for that time (as specified in the Rent and Sales Report) in relation to a dwelling of the same type, having the same number of bedrooms and located in the same local government area.*

Part 3 of the ARHSEPP also permits a council to levy monetary contributions as a condition of consent if they consider that approval of a proposed development would result in a loss of affordable housing on the land that is the subject of the application.

Part 3 of the ARHSEPP relates to one of the key aims of the ARHSEPP which is to facilitate the retention and mitigate the loss of existing affordable rental housing.

Remove reference to 28 January 2000

Clause 49 of the ARHSEPP states that Part 3 of the ARHSEPP only applies to buildings that were low-rental residential buildings as at 28 January 2000. This date was transferred directly from *SEPP 10 – Retention of Low-Cost Rental Accommodation* (SEPP 10), when its provisions were rolled into the ARHSEPP in 2009.

Councils and industry groups have advised the Department that some 20 years later, it can be difficult to establish whether a building was a low-rental residential building as at the 28 January 2000 date because rental data from that period is not readily available.

To respond to these issues and to ensure that Part 3 of the ARHSEPP can be applied as intended to retain or mitigate the loss of existing affordable housing, it is proposed to amend the provisions by removing the reference to the 28 January 2000 date. The proposed SEPP will instead allow a council to levy monetary contributions to offset the loss of dwellings that were low-rental at any time within the 5 years preceding the lodgement of the development application.

Providing a reference point that is linked to the date of lodgement of the development application will ensure the ongoing currency of the clause, limiting the need for it to be updated again in the future.

Developers to demonstrate whether a building is low-rental

The Department is also aware of concerns with the application of Part 3 of the ARHSEPP following a 2016 court case² which found that the onus of proving that a building contained a low-rental dwelling at the relevant date rests with the local council.

To address this concern, it is proposed to clarify in the new SEPP that the onus for providing evidence that a building did not contain a low-rental dwelling at the relevant time rests with the applicant.

Secondary dwellings in rural zones

The ARHSEPP currently permits secondary dwellings in the residential zones (R1, R2, R3, R4, R5) and does not allow secondary dwelling in any rural zones.

² Hampstead Home Units Pty Limited v Woollahra Municipal Council [2016] NSWLEC 169

Councils can, if they choose to, permit secondary dwellings in rural zones under their local environmental plans. The maximum size of a secondary dwelling is set by Clause 5.4(9) under the Standard Instrument LEP, as follows:

(9) Secondary dwellings

If development for the purposes of a secondary dwelling is permitted under this Plan, the total floor area of the dwelling (excluding any area used for parking) must not exceed whichever of the following is the greater —

(a) 60 square metres,

(b) [insert number] % of the total floor area of the principal dwelling.

Clause 5.4(9) is a compulsory provision under the Standard Instrument LEP and means the maximum size of a secondary dwelling is limited to the greater of 60 square metres or a percentage of the total floor area of the principal dwelling. It is noted that under the Standard Instrument LEP, Council has discretion to set the maximum percentage within the clause.

Some councils have raised concerns that these controls don't work well in rural zones and would like to be able to set a maximum size (say 120 square metres) that is not linked to the size of the principal dwelling and would be more appropriate for the rural character of these areas.

It is proposed to amend the ARHSEPP so that councils have the discretion to set a maximum size for secondary dwellings in rural zones.

Proposed amendments to seniors housing provisions

A Greater Sydney Commission (GSC) investigation into challenges relating to seniors housing development in parts of the metropolitan rural area of Greater Sydney raised concerns with some of the provisions of the Seniors Housing SEPP. It is proposed to incorporate some of the recommendations from the GSC's investigation into the new SEPP as set out below.

Update definitions in the Seniors SEPP

The definitions in the Seniors SEPP have not been updated in line with the Standard Instrument LEP. This has led to inconsistency in the interpretation and application of the SEPP by developers and consent authorities.

It is considered that a number of definitions should be updated or amended in line with the Standard Instrument LEP to provide a consistent approach with other environmental planning instruments.

It is proposed that the following definitions be updated:

- the definition of 'height';
- the definition of 'people with a disability'; and
- the definition of 'AS 2890'.

Update Schedule 1 – Environmentally Sensitive Land of the Seniors SEPP

The Seniors SEPP does not apply to land identified in Schedule 1 – Environmentally Sensitive Land. Schedule 1 has not been comprehensively updated since the commencement of the Seniors SEPP in 2004. Over time, especially with the introduction of the Standard Instrument LEP across all councils in NSW, some Schedule 1 terms have become obsolete and others have been the subject of significant debate in the Land and Environment Court.

It is proposed that Schedule 1 will be updated, to be better aligned with current legislation and planning conditions.

Location and access to facilities provisions

It is proposed to amend the provisions for 'location and access to facilities' in the Seniors SEPP so that point-to-point transport, including taxis, hire cars and ride share services, cannot be used for the purpose of meeting the accessibility requirement.

Site Compatibility Certificates

Validity of Site Compatibility Certificates

A site compatibility certificate (SCC) is usually valid for 24 months. Once a SCC has been issued, development consent is sought through a development application lodged with the consent authority, which is usually the local council.

Because of the 24 month timeframe for the validity of a SCC, and the time needed to prepare and assess seniors housing proposals, SCCs sometimes expire before a development application has been determined.

It is proposed to introduce provisions in the new SEPP so that a SCC is valid for 5 years, provided that a development application is lodged within 12 months of the date on which the SCC is issued.

The 5 year timeframe is consistent with the current timeframe for SCCs in Division 5 of the ARHSEPP for development of residential flat buildings by public authorities or social housing providers.

Registered clubs

Currently, a SCC application can be made on land that is used as an existing registered club. Over the years, there have been a number of SSC applications made on land on which a registered club is no longer viable.

To improve certainty for all stakeholders, it is proposed to reinforce the requirement that if a SCC application is being made on the basis that the land is being used for the purpose of a registered club, the club must be a registered club at the time the SCC application is made.

Application of local development standards

Currently, the Seniors SEPP allows development for the purpose of seniors housing to be carried out 'despite the provisions of any other environmental planning instrument'. It is proposed to amend the SEPP provisions to clarify that development standards in an LEP prevail to the extent of any inconsistency with the SEPP.

It is proposed that the development standards in the Seniors SEPP could be varied using clause 4.6 of the Standard Instrument LEP, but only to a maximum of 20%.

Amending the ARHSEPP and Seniors SEPP to support the delivery of social housing

Social housing is secure and affordable rental housing for people on low incomes who are unable to access suitable accommodation in the private rental market. It includes public, community and Aboriginal housing that is managed by Government agencies or community housing providers.

With a growing and ageing population in NSW, the number of people in the community that rely on social housing is expected to increase over the coming years. It is also likely that the COVID-19 pandemic will accelerate the demand for social housing.

The ARHSEPP and the Seniors SEPP contain provisions to facilitate the development of social housing by the NSW Land and Housing Corporation (LAHC) and other social housing providers. The Department has reviewed these provisions to ensure they are fit-for-purpose and aligned with wider Government priorities set out in *Future Directions for Social Housing in NSW* (Future Directions) and the draft Discussion Paper on the NSW Housing Strategy.

Under Future Directions, it is proposed that LAHC will partner with the private sector and community housing providers to deliver new housing projects. This will allow for legacy estates and concentrated areas of disadvantage to be redeveloped as modern and accessible developments containing a mixture of private, affordable and social housing. This approach has been found to reduce the concentration of social housing and stigma, as well as improve community benefits and tenant wellbeing.

The approach articulated in Future Directions was not contemplated at the time the existing housing-related State planning policies were made and it is proposed that changes to the planning provisions used by LAHC will be made as part of the new SEPP to support the new approach.

Proposed changes to the social housing provisions of the ARHSEPP

Increase maximum number of dwellings that LAHC can self-assess

LAHC currently uses the ARHSEPP provisions to deliver small scale redevelopments with up to 20 dwellings with a maximum height of 8.5 m (two storeys). The SEPP provides for LAHC to self-assess these types of developments without the need to obtain consent from the local council.

The ARHSEPP currently restricts the maximum number of dwellings on one site that LAHC can self-assess to 20. LAHC has advised that, in order to make its projects socially and economically feasible, the number of dwellings that it can self-assess needs to increase.

To facilitate LAHC's new model, which will contain a mixture of private, affordable and social housing, it is proposed to increase the maximum number of dwellings that LAHC can self-assess to 60. The maximum height of 8.5 m (two storeys) will continue to apply.

Design guidelines for LAHC development

When self-assessing proposals under the ARHSEPP, LAHC is currently required to consider the *Seniors Living Policy: Urban Design Guidelines for Infill Development*. In addition, LAHC also uses its own design guidelines and standards to assess applications. It is proposed to update these guidelines to better reflect contemporary practice.

Car parking requirements for LAHC development

It is proposed to apply a minimum car parking rate of 0.5 spaces per dwelling to all dwellings, including social, affordable and private dwellings, in a development undertaken by or on behalf of LAHC, on government-owned land. In so doing, it is proposed that car parking spaces will be distributed across all dwelling types in a development to ensure they are available to social, affordable and private dwellings.

If a lower car parking rate is proposed in a LAHC development, there would be an option to lodge a development application with the relevant local council for a merit-based assessment. In addition, should councils choose to prepare local plans with reduced car parking for LAHC developments, it is intended these would prevail.

Expand the range of affordable dwelling types that attract a density bonus

Division 1 of Part 2 of the ARHSEPP provides for a density bonus for infill affordable housing. The provisions are currently limited to dual occupancies, multi-dwelling housing and residential flat buildings.

It is proposed to increase the range of development that can be carried out under Division 1 to include other types of residential accommodation, such as manor houses and terraces, where these uses are permitted under another environmental planning instrument. These are dwelling types that were introduced with the Low-Rise Medium Density Housing Code in July 2018.

Clarify the types of development that LAHC can self-assess

It is proposed to clarify that LAHC can self-assess proposals for any type of residential accommodation that is permitted with consent under another environmental planning instrument. This will include dwellings and dual occupancies permitted under an LEP, as well as manor houses and terraces that are facilitated under the Codes SEPP.

The self-assessment will be limited to development with a height of 8.5m or less.

It is also proposed to clarify that LAHC can self-assess boarding house developments where they are permissible with consent. As noted above, it is proposed to no longer mandate boarding house in the R2 zone. However, boarding houses developed by or on behalf of LAHC with a maximum of 12 rooms would still be permitted in the R2 zone, on Government owned land.

Update self-approval provisions for social housing

The self-assessment provisions in the ARHSEPP are currently limited to residential development undertaken 'by or on behalf of the Land and Housing Corporation'.

The Government is proposing to include provisions in the new SEPP that will facilitate LAHC's development model, which includes a mixture of social, affordable and private housing. The amended provisions would allow LAHC to self-assess all residential development, including social, affordable and private housing components, proposed to be undertaken by or on behalf of LAHC, on any land owned by the State Government.

These developments would still be limited to the 8.5 m maximum height and the proposed 60 dwelling limit as discussed above.

Expand density bonus outside the Sydney metropolitan region

Division 1 of Part 2 of the ARHSEPP currently provides a density bonus for new infill affordable housing in well-located, or 'accessible' areas. The SEPP currently distinguishes between land in the Sydney region, and land elsewhere in the State in terms of how to determine which sites are accessible and therefore eligible for the density bonus.

In the Sydney region, the density bonus applies to any land that is in an 'accessible area' as defined in the SEPP. The ARHSEPP defines accessible area as follows:

accessible area means land that is within –

- (a) 800 metres walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or
- (c) 400 metres walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.

For areas outside the Sydney region the density bonus only applies to land that is within 400 m of land zoned B2 – Local Centre, or B4 – Mixed Use.

There is a significant amount of land in centres outside Sydney that satisfies the definition of ‘accessible area’ within the SEPP but is not located within 400 metres of land zoned B2 – Local Centre, or B4 – Mixed Use. It is therefore proposed to apply the infill affordable housing bonus to all ‘accessible areas’ across the State.

Subdivision of Government-owned land

To support the delivery of the Government’s social housing program, it is proposed to allow subdivision of Government-owned land without consent.

Proposed changes to the social housing provisions of the Seniors SEPP

Approximately 20% of LAHC’s property portfolio is housing for seniors and people with a disability, and demand for this type of accommodation is growing. The Seniors SEPP includes planning concessions for social housing, and LAHC has advised that these provisions are critical to the future pipeline of projects that LAHC needs to deliver its housing targets as set out in Future Directions.

Parking concessions for seniors housing

The Seniors SEPP currently provides reduced minimum car parking rates for development applications lodged by or jointly with a social housing provider.

It is proposed to clarify that the reduced parking rates also apply to the private dwelling component of a seniors housing development carried out by or on behalf of LAHC on government-owned land. It is noted that the car parking rate is a standard that cannot be used to refuse consent. Therefore, a council would be able to accept a lower rate if it was considered appropriate in the circumstances.

The intention of these proposed amendments is to improve the feasibility of delivering new communities under the development model of a mixture of social, affordable and private housing.

Clarify application of lift access exemption

The Seniors SEPP includes a requirement that new self-contained dwellings for seniors located on or above the second floor must have lift access. However, there is an exemption from the lift access requirement for development applications made by, or jointly with a social housing provider. The lift access exemption provides significant savings in terms of up-front construction and ongoing maintenance costs for LAHC.

It is proposed to clarify that the lift access exemption applies to all seniors housing delivered by or on behalf of LAHC, including any dwellings that are not proposed to be used for the purpose of social housing.

Clarifying this exemption will ensure that LAHC can utilise a diverse range of delivery pathways and maintain flexibility to house people with varying degrees of mobility.

Proposed changes to the social housing provisions of SRD SEPP

It is proposed to further streamline the assessment of LAHC projects by simplifying the pathway for major projects, such as those within the Communities Plus program, to become State Significant Development (SSD).

It is proposed to amend the SRD SEPP so that projects will become SSD if:

- they are carried out by or on behalf of LAHC; and
- they have a capital investment value of more than \$100 million (increased from \$30 million).

It is proposed to remove the current requirement under the SRD SEPP that LAHC sites need to be mapped on the State Significant Development Sites Map in order to be SSD. This requirement is not providing the flexibility required to deliver projects within the Communities Plus program and creates resources implications for the Department in maintaining the accuracy of the map.

It is proposed that for Government-owned land within the City of Sydney, the Minister for Planning would be the consent authority for projects over \$100 million, with the power to delegate to the City of Sydney, if deemed appropriate.

Making a submission

The Department welcomes your feedback on this EIE. Your feedback will help us better understand the views of the community and will inform the development of the new SEPP.

You can make a submission on the EIE by completing the online feedback form at:

www.planningportal.nsw.gov.au/draftplans/on-exhibition

Submissions may address the issues raised in this EIE or provide additional input regarding the proposed SEPP. The Department will publish a response to submissions following the close of the exhibition period.

You may also contact the Department at any time with feedback on the existing housing-related SEPPs through our website.

ATTACHMENT A - Current planning policies that facilitate diverse housing

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)

The Government introduced the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) in 2009 to facilitate the increased supply and diversity of affordable rental and social housing in NSW.

The aims of the ARHSEPP include:

- a) to provide a consistent planning regime for the provision of affordable rental housing; and
- b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, FSR bonuses and non-discretionary development standards.

The types of affordable rental housing for which the ARHSEPP provides a consistent assessment regime are listed in divisions in Part 2 of the ARHSEPP as:

- in-fill affordable housing which must be used for affordable housing for 10 years;
- secondary dwellings;
- boarding houses;
- supportive accommodation;
- residential flat buildings developed by social housing providers, public authorities and joint ventures with the LAHC;
- residential development carried out by the LAHC; and
- group homes.

Since the introduction of the ARHSEPP, councils and communities have raised concerns about the boarding house provisions in Division 3 of Part 2 of the ARHSEPP. In response to these concerns, the boarding house provisions in Division 3 of Part 2 of the ARHSEPP have been amended 3 times in the past 8 years.

In 2011, Clause 30A of the ARHSEPP was added to the boarding house provisions in Division 3 of Part 2 in response to concerns about the compatibility of boarding house development in the local context. Clause 30A requires a consent authority to consider whether the design of a proposed boarding house development is compatible with the character of the local area.

In June 2018, Clause 29 of the ARHSEPP was amended to increase car parking requirements for boarding house development. Car parking standards for boarding houses, except where provided by a social housing provider, are now 0.5 spaces per room in all locations. This standard is a 'standard which cannot be used to refuse consent'.

In February 2019, Clause 30AA of the ARHSEPP was added to Division 3 of Part 2 to limit boarding house development to 12 boarding rooms within the R2 Low Density Residential zone to ensure boarding house development better reflects the scale, local character and built form of development in this zone.

In response to on-going concerns regarding boarding house developments in certain areas, 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 ARHSEPP. The report prepared by the Working Group made 14 recommendations regarding the existing boarding house provisions, including five recommendations relating to a possible local approach to planning for

boarding houses. The key recommendation of the Working Group was that boarding houses developed under the provisions of the ARHSEPP should be affordable.

State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP)

The Seniors SEPP aims to increase the supply and diversity of residences that meet the needs of seniors or people with disability. It defines seniors as people 55 or over, people living at a facility where residential care under the meaning of the *Aged Care Act 1997* (Cth) is provided, or people assessed as eligible to occupy aged housing.

The aims are to be achieved by:

- setting aside local planning controls that prevent appropriate seniors housing development;
- setting out design principles; and
- ensuring applicants provide adequate support services in fringe areas.

The Seniors SEPP applies to land zoned primarily for urban purposes or land that adjoins land zoned primarily for urban purposes provided dwelling houses, residential flat buildings or hospitals are permitted on the land. It also applies to some land zoned for special uses and existing registered club sites.

Under the Seniors SEPP, seniors housing is residential accommodation that is, or is intended to be, used permanently for seniors or people with a disability and includes:

- residential care facilities (high-care accommodation with on-site services);
- hostels (low-care accommodation with on-site services);
- self-contained dwellings (serviced self-care housing);
- self-contained dwellings (un-serviced in-fill self-care housing); or
- a combination of the above.

Where seniors housing is proposed to be developed on land adjoining urban land, a SCC is required. SCCs were introduced to ensure proposed seniors housing development is broadly compatible with surrounding land uses before a development application can be lodged.

Subject to certain criteria, a SCC allows a development application for seniors housing to be considered on land where it would otherwise be prohibited.

Stakeholders have raised concerns about the SCC process and the outcomes from this process in the metropolitan rural area on Sydney's fringe. The GSC recently conducted an investigation into the planning challenges and cumulative impacts of seniors housing in the rural areas of The Hills and Hornsby LGAs.

The GSC's final report, *Investigation into the cumulative impacts of Seniors Housing in rural areas of The Hills and Hornsby* (available on the Department's website), was developed in consultation with officers from the Department and council officers from The Hills and Hornsby Councils.

In response to the GSC's findings, the Seniors SEPP has been amended so that applications for SCCs for seniors housing can no longer be lodged for land within the metropolitan rural area, as identified in the Greater Sydney Region Plan.

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) (SEPP 70)

State Environmental Planning Policy No 70—Affordable Housing (Revised Schemes) (SEPP 70) identifies LGAs that have a need for affordable housing. Under section 7.32 of the Act, identification in a SEPP is required before a council can implement an affordable housing contribution scheme.

In February 2019, SEPP 70 was amended to include all NSW councils. This amendment effectively removed the requirement of entering an LGA into SEPP 70, thereby expediting implementation of affordable housing contribution schemes across the State. Affordable housing contribution schemes are council-led documents that set out how, where and at what rate affordable housing contributions may be collected by councils.

The GSC's district plans for Sydney support the development of affordable housing contribution schemes as a mechanism to implement the Commission's housing related objectives. A number of councils have started preliminary work on affordable housing studies that will inform their future housing contribution schemes.