

---

The Department of Planning, Industry & Environment has prepared this document to help you navigate the Housing SEPP consultation draft.

---

This document provides a quick summary of the elements of the *State Environmental Planning Policy (Housing) 2021 (Housing SEPP consultation draft)* and the associated *Environmental Planning and Assessment (Housing) Regulation 2021 (draft Regulation)*.

Please also refer to the Housing SEPP consultation draft frequently asked questions.

## Background on housing policy changes

Between 29 July and 9 September 2020, the department exhibited an Explanation of Intended Effect (**the EIE**) for a proposed Housing Diversity SEPP (now called **Housing SEPP**) that proposed to:

1. introduce new definitions for build-to-rent housing, student housing and co-living;
2. amend some state-level planning provisions, particularly for boarding house and seniors housing development;
3. amend some state-level planning provisions to support social housing developments undertaken by the NSW Land and Housing Corporation (**LAHC**) on government-owned land; and
4. consolidate three 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**)
  - State Environmental Planning Policy No 70 – Affordable Housing (Revised Schemes) (**SEPP 70**).

We received 277 submissions.

In response to feedback received we made two amendments to the *State Environmental Planning Policy (Affordable Rental Housing) 2009* to:

- facilitate the delivery of social and affordable housing by LAHC; and
- introduce build-to-rent housing into the NSW planning system.

A framework for short-term rental accommodation (STRA) will commence on 1 November 2021.

Most of the other changes that were proposed in the EIE have now been incorporated into the Housing SEPP consultation draft.

## About the Housing SEPP consultation draft

The proposed Housing SEPP will now consolidate 5 SEPPs (the **parent SEPPs**):

- ARHSEPP;
- Seniors SEPP;
- SEPP 70;
- State Environmental Planning Policy No 21—Caravan Parks; and

- State Environmental Planning Policy No 36—Manufactured Home Estates.

The Housing SEPP consultation draft includes existing provisions from these parent SEPPs, other than the provisions for caravan parks and manufactured home estates which will be transferred to the Housing SEPP in their current form. Comprehensive reviews of the regulatory frameworks for group homes, caravan parks and manufactured home estates will be conducted in late 2021 and will include further consultation.

The Housing SEPP consultation draft does not include the newly made provisions relating to LAHC social and affordable housing provisions, secondary dwellings in rural areas and BTR, as a review of these provisions will be undertaken 24 months after the Housing SEPP is made, as part of a broader Housing SEPP review. However, these provisions will be included in the Housing SEPP when it is finalised.

## Affordable housing (very low, low and moderate income households)

The *Environmental Planning and Assessment Act 1979* states that affordable housing means housing for very low income households, low income households or moderate income households, being such households as are prescribed by the regulations or as are provided for in an environmental planning instrument.

Section 11 of the Housing SEPP consultation draft provides a definition of such households in accordance with the *Environmental Planning and Assessment Act 1979*. The proposed definition draws on the existing definitions of these households in the ARHSEPP and SEPP 70. The new definition will apply wherever the Housing SEPP requires the provision of affordable housing.

## Boarding houses

The proposed boarding house provisions include:

- a requirement for rooms to be rented at affordable rates and managed by a registered community housing provider in perpetuity;
- a floor space ratio bonus of 25% on land where residential flat buildings are permitted and on which there are no heritage items;
- new minimum standards for communal living area and communal open space;
- updated bicycle and car parking requirements; and
- new lot size, setbacks, landscaped area and building separation requirements.

Boarding houses will no longer be mandated in the R2 – Low Density Residential zone (**R2 zone**). However, councils can continue to permit the use in their R2 zones if they choose to do so.

A new pathway is being introduced to allow LAHC to self-assess boarding house proposals in the R2 zone, or wherever the use is permitted with consent under the relevant environmental planning instrument.

## Co-living housing

The Housing SEPP consultation draft also includes new planning provisions for ‘co-living housing’. A new land use definition will be included in the Standard Instrument LEP.

The co-living housing provisions are similar to those that apply to boarding houses. However, there is no affordability requirement and this use will be permitted in locations where councils are planning for higher density residential development. A floor space ratio bonus of 10% is proposed on land where residential flat buildings are permitted and on which there are no heritage items, until 1 August 2024. The proposed approach acknowledges that developers have been building “new generation” boarding houses under the existing boarding house provisions of the ARHSEPP and that this contributes to housing diversity. Defining co-living housing as a separate housing type provides developers with a pathway for development of a similar product but introduces some new standards to ensure resident amenity and to differentiate this housing type from boarding houses, residential flat buildings, and serviced apartments.

## Seniors housing

The seniors housing provisions have been reviewed to ensure that they align with current industry standards and community expectations.

The Housing SEPP consultation draft introduces prescribed zones where senior housing will be permissible. A council can choose to permit seniors housing in additional zones by including it as a permissible use in their LEPs. As prescribed zones have been included in the Housing SEPP consultation draft, the site compatibility certificate process has been removed. This framework provides certainty to industry, councils and community regarding where seniors’ housing is permissible.

The requirements for vertical villages have been updated, including new FSR bonuses to incentivise this form of development.

The Metropolitan Rural Area (MRA) exclusion is still in place; however, it is proposed to allow seniors housing in business and residential zones within MRA.

The moratorium on seniors housing in heritage conservation areas has been extended to 1 July 2022.

It is proposed to amend the State and Regional Development SEPP to provide a State Significant Development (SSD) pathway for residential care facilities (RCFs), with proposed capital investment value (CIV) thresholds being:

- \$30 million for Greater Sydney Region; or
- \$20 million for all other areas.

Land which is defined as environmentally sensitive land has been updated. The provisions for environmentally sensitive lands have significantly improved since the commencement of the Seniors SEPP in 2004, but the provisions in the SEPP have not been updated. The new changes align the seniors housing provisions with the most recent environmental sensitive land constraint tools and mapping, including coastal protection, wetlands, flooding, and bushfire prone land.

## Student housing

The EIE proposed the introduction of student housing as a new housing type, to facilitate the delivery of certain types of development currently being delivered under the boarding house provisions and rented predominantly or exclusively to students.

It is proposed to no longer introduce a separate SILEP definition or development standards for student housing. Instead, on campus student accommodation will continue to be facilitated through the State Environmental Planning Policy (Educational Establishments and Child Care Facilities)

2017, and off campus accommodation can be delivered under the proposed co-living housing provisions.

This approach recognises the similarities between co-living housing and student housing in terms of built form and responds to concerns about impacts of a new definition on university owned accommodation, as well as council concerns about how they could ensure this housing type could be restricted to genuine students.

## Secondary dwellings in rural zones

A new optional clause 5.5 was introduced into the SILEP last year to give councils options to set a maximum size for secondary dwellings in a rural zone and the maximum distance a secondary dwelling in a rural zone can be located from the principal dwelling.

The local environmental plans for councils that have elected to adopt optional clause 5.5 will be updated accordingly when the Housing SEPP is made.

Councils that have not chosen to adopt clause 5.5 at this time, or that want to change their adopted settings will be able to do so later through the planning proposal process.

## Group homes

The EIE proposed amendments to the group homes provisions to allow for conversion of an existing dwelling to a group home. The existing group home provisions will be transferred in their current form to the proposed Housing SEPP, with a comprehensive review of these provisions to take place later in 2021.

## Manufactured home estates and caravan parks

The existing SEPP provisions for caravan parks, camping grounds and manufactured home estates will be transferred to the proposed Housing SEPP generally in their current form. The consultation draft does not include the existing provisions. A comprehensive review of the regulatory system for caravan parks, camping grounds and manufactured home estates will also be carried out in late 2021.

## Next steps

Stakeholders are encouraged to provide feedback on the Housing SEPP consultation draft via the NSW Planning Portal by **11:59pm on 29 August 2021**.

Submissions received during the consultation period will be considered before the Housing SEPP is finalised.

---

© State of New South Wales through Department of Planning, Industry and Environment 2021. The information contained in this publication is based on knowledge and understanding at the time of writing (July 2021). However, because of advances in knowledge, users should ensure that the information upon which they rely is up to date and to check the currency of the information with the appropriate departmental officer or the user's independent adviser.