

**LGNSW Submission to NSW Department of
Planning, Industry and Environment on
Proposed New Housing Diversity SEPP
*Explanation of Intended Effect***

October 2020

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1.0 Opening

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to make a submission to the Department of Planning, Industry and Environment (DPIE) on the Explanation of Intended Effect (EIE) for the proposed Housing Diversity State Environmental Planning Policy (SEPP).

The submission is informed by LGNSW's Policy Platform, Annual Conference Resolutions and our engagement with members on specific planning and housing issues.

2.0 Background

DPIE is exhibiting an EIE for a proposed new Housing Diversity SEPP that aims to facilitate the delivery of diverse housing that meets the needs of the State's growing population and support the development of a build-to-rent sector.

The proposed Housing Diversity SEPP would consolidate three current SEPPs:

- State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP);
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004 (Seniors SEPP); and
- State Environmental Planning Policy 70 – Affordable Housing (Revised Schemes) (SEPP70).

The proposed Housing Diversity SEPP will also update some planning provisions in the SEPPs in response to community concerns about boarding houses and seniors housing development, introduce three new housing types and make changes to facilitate social housing. These are summarised below.

New definitions

The new SEPP proposes to introduce "built to-rent housing", "student housing" and "co-living" development types into the Standard Instrument – Principal Local Environmental Plan (Standard Instrument LEP).

Amend boarding house provisions to:

- remove the requirement for boarding houses to be mandated in the R2 Low Density Residential zone
- amend the floor space ratio (FSR) bonus for boarding houses to a standard 20%
- include a requirement for affordability of boarding house developments.

Amend ARH SEPP provisions to:

- ensure councils can continue to mitigate the loss of existing affordable housing by requiring monetary contributions
- introduce an exempt and/or complying development pathway to change an existing dwelling to a group home

- allow councils to set the maximum size of secondary dwelling developments in rural zones.

Amend the Seniors SEPP to:

- update definitions of 'height', 'people with a disability' and 'AS 2890' in line with the Standard Instrument LEP
- update Schedule 1 which identifies the "environmentally sensitive land" where the Seniors SEPP provisions do not apply to align with current legislative and planning conditions
- amend the "location and access to facilities" provisions
- extend the validity of a Site Compatibility Certificate (SCC) from 2 years to 5 years, on the condition that a development application is lodged within 12 months of the SCC issue
- clarify how the SEPP applies to land being used for the purposes of a registered club
- clarify that development standards in a Local Environmental Plan (LEP) prevail to the extent of any inconsistency with the SEPP.

Changes to facilitate delivery of social housing

Changes and new provisions to facilitate the delivery of social housing by NSW Land and Housing Corporation (LAHC), including in partnership with the private sector and community housing providers, are also proposed.

3.0 Summary of LGNSW Position

LGNSW welcomes the proposal to consolidate three housing-related SEPPs into a Housing Diversity SEPP and amend a number of existing provisions.

The ARHSEPP, Seniors SEPP and SEPP 70 have been introduced intermittently over decades in response to housing need and planning issues, often with no intrinsic review or monitoring mechanism to measure their effectiveness and impact. In councils' experience these broad-based state planning instruments have often worked at cross purposes and not always delivered the outcomes they have sought to achieve. As the provisions are not able to be varied for local circumstances they have often led to poor planning outcomes.

The boarding house provisions in the ARHSEPP have been a significant concern for councils for some years. Councils have advised that the provisions have resulted in developments that are out of scale with low density residential neighbourhoods and the clustering of an increasing number of boarding houses is placing pressure on local infrastructure. Further, as the accommodation and rents are not regulated, boarding houses are not delivering housing that is affordable.

The following collective resolutions of councils made at the 2019 LGNSW Annual Conference reflect these concerns:

38 LGNSW Board – Review of state policies on housing

That Local Government NSW calls on the NSW Government to:

1. Review all housing-related State Environmental Planning Policies (SEPPs) so they allow for locally based planning to occur in line with the new emphasis on local strategic planning in the Environmental Planning and Assessment Act 1979.
2. Urgently progress its comprehensive review of all state policies, giving priority to the following housing related SEPP's (so that local housing solutions aren't undermined):
 - a) State Environment Planning Policy (Affordable Rental Housing 2009)
 - b) State Environment Planning Policy (Exempt and Complying Development Codes) 2008
 - c) Draft State Environmental Planning Policy (Short-term Rental Accommodation) 2019
 - d) State Environment Planning Policy (Sydney Regional Growth Centres) 2006
 - e) State Environmental Planning Policy (Housing for Seniors People with a Disability) 2004

This issue was also raised by Liverpool City, Penrith City, Hunters Hill, Tamworth Regional, Central Coast and Strathfield Councils

10 Penrith City Council – Boarding houses

That Local Government NSW writes to the Minister for Planning and Environment requesting that the boarding houses division of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (the SEPP) be amended. It is proposed that the amendments include:

- Requirement for a social impact study to be submitted with boarding house applications.
- Enabling councils to refuse development consent in certain circumstances, for example, when boarding houses are proposed in inappropriate locations without adequate access to public transport, services and jobs.
- Removal of the words “not more than” from Division 3, Clause 29 Section 2.e.iii “in the case of any development - not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site.”
- A minimum percentage of affordable rental housing in boarding houses.
- Objectives and actions for monitoring the effectiveness of boarding houses in contributing to the supply of affordable rental housing.

This issue was also raised by Cumberland, Willoughby City, and Wingecarribee Shire Councils.

LGNSW's advocacy on boarding house developments led to DPIE establishing the Council Boarding House Working Group in 2019. The Working Group, comprising DPIE, LGNSW and council representatives reviewed the boarding house provisions in the ARHSEPP and made 14 recommendations¹ to the Minister for Planning and Public Spaces to address their concerns.

¹ [Report to the Minister from the Council Boarding House Working Group August 2019](#)

Overall support for proposed Housing Diversity SEPP

LGNSW welcomes the Government's commitment to improving and streamlining the operation of housing related SEPPs. Consolidation of the ARHSEPP, Seniors Living and SEPP 70 SEPPs is supported by LGNSW because it will help clarify and streamline application of the SEPPs for councils and other stakeholders.

LGNSW also strongly supports most of the amendments proposed. These address many concerns councils have raised for some years. The proposed amendments to boarding house provisions, informed by the Boarding House Working Group's recommendations, demonstrate the importance of state and local government working together to develop effective and workable planning policies.

LGNSW's detailed comments and recommendations on all the proposed amendments are set out in the table at **Appendix 1**.

Proposals that are not supported or require further consideration

While LGNSW broadly supports the consolidation of the SEPPs and the amendments outlined in the EIE, there are some exceptions to this support. These are summarised below.

Build-to rent housing

The EIE proposes changes to the planning system to support new investment in build-to-rent housing. LGNSW is concerned that there has been no engagement or discussion with councils about this form of housing and its role in supporting housing needs.

The rationale for specific provisions for this form of accommodation is not clear and there does not appear to be any consideration given to the number and location of build-to-rent developments and the significant impact they will have beyond providing additional dwellings. Councils will be concerned that the proposed changes could lead to a rapid increase in housing stock without proper consideration and delivery of the necessary infrastructure to match the additional demand.

Councils are opposed to build-to-rent housing being permitted in B3 commercial zones. This is not consistent with the intent of the zone and will undermine the role of strategic centres and undermine broader Regional and District Plan priorities for economic development and job growth. Concentrations or clusters of build-to-rent in particular locations would exacerbate these issues. Further, the proposal that they be assessed as State significant development (SSD) (where over specified capital investment value) gives councils no opportunity to consider these developments, thus removing local decision-making. LGNSW strongly opposes both of these build-to-rent provisions.

Regional areas

A concern raised by councils in regional areas is that the state-wide policies contained in SEPP provisions are often based on the housing markets and development pressures attributed to metropolitan areas. LGNSW requests that further consideration be given to how provisions relate to and support housing diversity in regional areas. There needs to be some flexibility to tailor the standards to suit the different conditions in regional locations, for example where accessibility to public transport and services can be vastly different from metropolitan settings.

Streamlining SEPP 70

LGNSW notes that there are no changes proposed to SEPP 70. While councils support the changes providing for all councils to be able to develop an affordable housing scheme, the process set out in DPIE's *Guideline for Developing an Affordable Housing Contribution Scheme* is lengthy and duplicative. LGNSW considers there is an opportunity to streamline the process for councils to develop schemes in support of affordable housing targets set out in District and Regional Plans.

LAHC self-assessment LGNSW's policy platform supports local government retaining control over the determination of locally appropriate development. The expansion of LAHC self-assessment from 20 to 60 dwellings is of concern as it would further remove local decision making. LAHC self-assessment must be contingent on appropriate consideration of councils' input for each project. This will ensure that LAHC projects are appropriate to the local context, an important outcome for both social housing residents and local communities.

Review and monitoring program

The EIE is silent on how the proposed Housing Diversity SEPP will be monitored to measure its effectiveness in delivering diverse and affordable housing. A monitoring program, developed from the outset with input from councils, is needed to ensure the proposed changes deliver the outcomes sought.

The Council Boarding House Working Group identified some possible considerations that could be used to measure housing delivered under these policies. The Working Group also noted that e-Planning initiatives, such as DA Online, may be able to be used in the future to measure the contribution of different numbers and types of affordable dwellings.²

Measurement and monitoring is critical to inform the 2-yearly review of the SEPP. It will also enable assessment of whether the SEPP (and other strategic plans and policies) strikes the right balance between providing a supporting framework and allowing for locally based plans as local councils complete their Local Housing Strategies and Local Environmental Plans.

Further consultation and exhibition of a draft Housing Diversity SEPP

Given these concerns and that further work is required (such as development of design guidelines for new housing types), LGNSW considers it is critical that councils can review and provide comment on a draft of the Housing Diversity SEPP before it is made.

² [Report to the Minister from the Council Boarding House Working Group, August 2019, p 17 & 24](#)

4.0 Recommendations

The following recommendations are based on the issues outlined in the above discussion and some of the key matters contained in Appendix 1. Please refer to Appendix 1 for more detailed comments and recommendations.

Recommendation 1

LGNSW opposes the use of the B3 – Commercial Core zone for BTR housing and recommends that the SEPP be drafted to prohibit BTR housing in this zone.

Recommendation 2

LGNSW recommends that the SEPP be drafted to allow councils to assess and decide all development applications for BTR housing regardless of the capital investment value of the development.

Recommendation 3

LGNSW recommends that a lower number of self-contained dwellings be included in the definition for BTR housing for regional areas to also encourage smaller-scale BTR housing in these areas.

Recommendation 4

LGNSW strongly supports the proposal to allow councils to determine the appropriate height and FSR controls through their LEPs for BTR housing, student housing and co-living housing developments, and recommends that these provisions be carried through into the SEPP to ensure that these forms of housing are consistent with the character of the local area.

Recommendation 5

LGNSW recommends that consideration be given to how provisions in the new SEPP will relate to and support housing diversity in regional areas – flexibility should be built in to tailor the standards to suit the different conditions in regional locations.

Recommendation 6

In relation to car parking provisions, LGNSW recommends that:

- Flexibility in car parking standards in the proposed SEPP is necessary to accommodate the unique needs of regional locations, which do not always have the same levels of public transport access as in metropolitan locations.
- The car parking rate for BTR housing, student housing and co-living housing developments be determined by councils rather than imposing potentially inappropriate blanket car parking rates for these forms of housing across the State.

Recommendation 7

LGNSW recommends that design guidelines for BTR housing, student housing and co-living housing be prepared, to assist in creating high quality developments and liveable

accommodation and that they have regard to the varying contexts in both metropolitan and regional locations.

Recommendation 8

LGNSW strongly supports a requirement that boarding houses are rented at an affordable rate and recommends the inclusion of a provision that boarding house rooms permitted under the Housing Diversity SEPP remain affordable in perpetuity i.e. do not convert back to market rates.

Recommendation 9

LGNSW recommends the inclusion of a provision in the new SEPP to clarify that boarding house development in the R2 Low Density Residential Zone is not mandated.

Recommendation 10

In relation to group homes, LGNSW recommends that:

- group home conversions should be complying development at the very least, to ensure that they meet minimum requirements; and
- prior to finalising the Housing Diversity SEPP, DPIE consult with councils when developing complying provisions for conversion of existing dwellings to group homes.

Recommendation 11

The proposed expansion of LAHC self-approval from 20 to 60 dwellings is of concern as it would further remove local decision making. LGNSW recommends that LAHC self-assessment be contingent on appropriate consideration of councils' input for each project. This will ensure alignment with council plans and strategies and that projects are appropriate to local conditions.

Recommendation 12

LGNSW considers that the private components within LAHC developments should in general be required to meet the council's local provisions for example, car parking standards. There is no justification in the EIE for applying a lower rate of car parking for private dwellings in LAHC developments. Car parking standards should be determined by councils according to the proximity of sites to services, employment and public transport.

Recommendation 13

In updating the LAHC Design guidelines, LGNSW recommends that LAHC introduce construction methods and technologies that help reduce energy (heating and cooling) costs for tenants, recognising that some good examples exist in the far north of the state that show how significant savings could be achieved.

Recommendation 14

LGNSW recommends that DPIE considers convening a group of councils, in a similar model to the Council Boarding House Working Group, to look at ways to streamline the process for councils to develop affordable housing schemes under SEPP 70.

Recommendation 15

LGNSW recommends that DPIE establishes a monitoring program, with input from councils, which would measure the delivery of diverse and affordable housing under the new SEPP from its commencement date.

Recommendation 16

LGNSW recommends that councils have the opportunity to review and provide comment on a draft of the Housing Diversity SEPP before it is made.

5.0 Conclusion

LGNSW commends DPIE for responding to council concerns in developing the Housing Diversity SEPP.

Some of the proposed consolidation and amendments, if implemented, would address many of the issues that councils have raised about the impact of the ARHSEPP and Seniors Living SEPP in their communities. In contrast, the proposal to introduce new build-to-rent housing provisions, developed without input from councils is problematic, and local government strongly opposes some elements of these provisions. Given the potential impacts that councils have identified, further engagement with local government is critical before progressing with provision for this form of housing.

As councils have responsibility under the *Environmental Planning & Assessment Act 1979* for local strategic planning, it is important that the Housing Diversity SEPP (and other SEPPs) do not undermine Local Housing Strategies and Local Environmental Plans. Implementation of the Housing Diversity SEPP must therefore include a commitment to an effective monitoring program and review in conjunction with local councils.

Finally, the proposed Housing Diversity SEPP will include the key planning system provisions for delivering affordable housing in NSW. LGNSW suggests that incorporating affordable housing into the title of the SEPP would better reflect its aims and purpose.

LGNSW would welcome the opportunity to assist with further consideration of the proposed provisions and development of relevant guidelines for the Housing Diversity SEPP. To discuss this submission further, please contact Jane Partridge, Strategy Manager, Planning at Jane.Partridge@lgnsw.org.au

Appendix 1 - Comments & LGNSW position on proposed Housing Diversity SEPP provisions

1. Introducing new housing types

Proposed Provisions					LGNSW Comment
New Definitions					Proposed New Housing Types
<p>The Department is proposing to introduce three new definitions in the Standard Instrument LEP.</p> <p>The following table sets out key requirements for the new housing types, as well as the requirements for boarding houses.</p>					
Table 1 Comparison of development standards for new housing types					
	Build to rent	Co-living	Student housing	Boarding houses	Specific comments on the provisions for each housing type are set out below. In relation to car parking LGNSW considers that car parking provisions should be able to be set by each council according to local conditions. For example, in some metropolitan areas councils may seek to reduce rates of car parking to ease traffic congestion, while in outer areas, where access may be more limited, higher rates of car parking may be sought.
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	

Proposed Provisions	LGNSW Comment
0.2 spaces for social housing providers	
<p>Build to Rent</p> <p>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:</p> <ul style="list-style-type: none"> 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. 	<p>Proposed Definition</p> <p>See comments regarding the proposed definition below in the section “BTR housing in regional areas”.</p>
<p>Proposed planning provisions</p>	
<p><i>Locational requirements</i></p> <p>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.</p>	<p>Location</p> <p>The use of B3 – Commercial Core zoned land for BTR housing as proposed in the EIE is inconsistent with the objectives of this zone. Under the Standard Instrument – Principal Local Environmental Plan, the objectives of the B3 - Commercial Core zone are as follows:</p> <p><i>To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.</i></p> <ul style="list-style-type: none"> <i>To encourage appropriate employment opportunities in accessible locations.</i> <i>To maximise public transport patronage and encourage walking and cycling.</i> <p>Generally, councils do not allow any type of residential accommodation in the B3 commercial core; the aim is to reduce land use conflicts and limit the loss of employment-generating floor space in commercial cores. The proposal to include BTR housing as a permissible use in the B3 zone is likely to have adverse economic and land use impacts and will compromise the objectives sought by councils for their business and commercial centres. The protection of the commercial core is important for the long-term economic sustainability and amenity of these areas. Residential development within strategic commercial centres can have negative impacts on the commercial area and erode the commercial</p>

Proposed Provisions	LGNSW Comment
	<p>character and the desirability of centres for businesses. This proposal is also inconsistent with the strategic outcomes contained in Regional and District Plans of creating strategic centres, and may undermine job targets and the growth of employment centres. The following extract from Eastern City District Plan relates to the planning priority of growing investment, business opportunities and jobs in strategic centres and highlights the importance of retaining strategic centres for commercial development:</p> <p><i>Employment growth is the principal underlying economic goal for metropolitan and strategic centres. Therefore the designation of a commercial core within a strategic centre, for economic and employment uses, may be necessary to manage the impact of residential developments in crowding out commercial activity. A balance must be struck in providing adequate mixed-use or residential zoned land around the commercial core zone to ensure new residential developments can benefit from access and services in centres.³</i></p> <p>Many commercial centres are not well served by schools, open space and other services required by residents. Allowing residential development within commercial centres creates demand for new infrastructure to support the new residents and is likely to present significant challenges in delivering an appropriate and timely level of infrastructure.</p> <ul style="list-style-type: none"> • LGNSW opposes the use of the B3 – Commercial Core zone for BTR housing and recommends that the SEPP be drafted to prohibit BTR housing in this zone.
<p><i>State significant development</i></p> <p>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.</p>	<p>State Significant Development</p> <p>In line with LGNSW’s policy platform, LGNSW does not support the proposal for BTR housing to be assessed as SSD and strongly advocates that councils should be empowered to make decisions on local development applications.</p>

³ Eastern City District Plan, Greater Sydney Commission, March 2018, p.77

Proposed Provisions	LGNSW Comment
<p>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.</p>	<ul style="list-style-type: none"> LGNSW recommends that the SEPP be drafted to allow councils to assess and decide all development applications for BTR housing regardless of the capital investment value of the development.
<p><i>Design Guidance</i> 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.</p>	<p>Design Guidance LGNSW supports the proposal to clearly outline design guidance for BTR housing to assist in creating high quality developments and liveable accommodation. Regardless of tenure, as a form of apartment designed for long-term occupancy, BTR residents should have the same access to well-designed apartments with good amenity as those in other forms of residential apartment. This is particularly important given the potential for strata-subdivision of BTR some years down the track.</p> <p>The design guidelines for BTR housing should have regard to development in both metropolitan and regional locations.</p> <ul style="list-style-type: none"> Design guidance for BTR housing should be subject to the same design considerations as under SEPP65 and the Apartment Design Guide (ADG). and they have regard to development in both metropolitan and regional locations.
<p><i>Development standards</i> 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</p>	<p>Height and Floor Space Ratio As proposed BTR housing developments are likely to impact the character of an area, LGNSW strongly supports the proposal to allow councils to determine the appropriate height and FSR controls through their LEPs. LGNSW questions what regulatory measures will be used in the SEPP to ensure that BTR housing will not be available for short-term rental accommodation, and how these will be enforced.</p> <ul style="list-style-type: none"> LGNSW strongly supports the proposal for provisions to be included in the SEPP that allow councils to determine the appropriate height and FSR controls for BTR housing developments through their LEPs. LGNSW recommends the inclusion of these provisions in the new SEPP to ensure that this new form of housing is consistent with the character of the local area.

Proposed Provisions	LGNSW Comment
<p>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.</p>	<ul style="list-style-type: none"> Further clarification is required on provisions to prevent short term rental accommodation in BTR developments and how this will be enforced. <p>Car Parking</p> <p>The imposition of a blanket car parking rate of 0.5 per dwelling in BTR housing across the State is considered inappropriate. Car parking standards should be flexible and determined according to the proximity of the site to services, employment and public transport.</p> <p>In some locations, particularly regional areas, access to required services, employment and public transport is not within suitable walking distance, then higher car parking rates may be more appropriate. If there is a shortfall in on-site car parking, the development is likely to have wider impacts on the surrounding neighbourhood.</p> <ul style="list-style-type: none"> LGNSW recommends that the car parking rate be determined by councils rather than imposing a potentially inappropriate blanket car parking rate of 0.5 spaces per dwelling for BTR housing developments across the State. <p>Strata Title Subdivision</p> <p>LGNSW is concerned about the proposal to allow strata subdivision of BTR housing after 15 years and no rationale or justification has been provided in the EIE for this proposal. If subdivision of the units for individual sale is to be allowed after 15 years, LGNSW considers that the initial development should comply with the relevant local development provisions for residential apartments (e.g. carparking rates) rather than BTR housing.</p> <p>As BTR housing is not typically considered to be an affordable housing product, LGNSW seeks clarification on the proposed option of retaining a proportion of dwellings as affordable housing if subdivision by strata title occurs and dwellings are sold.</p>

Proposed Provisions	LGNSW Comment
	<ul style="list-style-type: none"> • More information and evidence are required to justify the proposal to strata subdivide BTR after 15 years. In addition, if strata subdivision is to be permitted, BTR developments should comply with the relevant local development provisions for residential apartments and be subject to SEPP 65 design guidelines for apartments. • As discussed above, LGNSW opposes BTR in the B3 Commercial Core zones; no BTR - subdivided or otherwise - should be permitted in this zone.
<p><i>BTR housing in regional areas</i></p> <p>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.</p>	<p>BTR housing in regional areas</p> <p>The threshold of 50 dwellings included in the proposed definition for BTR housing may be too high and inappropriate for regional areas. It is recommended that consideration be given to including a lower threshold to encourage smaller-scale BTR housing developments in regional areas. LGNSW suggests that DPIE convene a group of regional councils to discuss the opportunities for smaller scale BTR.</p> <ul style="list-style-type: none"> • LGNSW recommends that a lower number of self-contained dwellings be included in the definition for BTR housing for regional areas to also encourage smaller-scale BTR housing in these areas.
<p>Purpose-built student housing</p> <p><i>Proposed definition</i></p> <p>It is proposed that the definition for ‘student housing’ would be contained within the Standard Instrument LEP and would refer to a building that:</p> <ul style="list-style-type: none"> • 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. <p>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.</p> <p>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.</p>	<p>Proposed Student Housing Definition</p> <p>Due to the proposed changes which will require boarding houses to be affordable housing, LGNSW welcomes this new definition for student housing to facilitate the development of this district type of accommodation in appropriate locations.</p> <p>The definition is unclear in regard to the following matters:</p> <ul style="list-style-type: none"> • Would this definition apply to all educational establishments? e.g. TAFE, universities, schools. • What does “some” fully self-contained dwellings mean? What if a proposal includes mostly self-contained dwellings? <ul style="list-style-type: none"> • LGNSW recommends that the definition be amended to clarify whether the definition applies to all educational establishments and to

Proposed Provisions			LGNSW Comment																		
			clarify the proportion of fully self-contained dwellings considered appropriate for student housing developments.																		
<p><i>Proposed planning provisions</i></p> <p>It is not proposed to make student housing a compulsory permitted use in any of the land use zones</p> <table border="0"> <tr> <td>Height of buildings</td> <td>In accordance with the relevant LEP</td> <td>Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.</td> </tr> <tr> <td>Floor space ratio</td> <td>In accordance with the relevant LEP</td> <td>Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.</td> </tr> <tr> <td>Car parking</td> <td>No minimum spaces required</td> <td>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.</td> </tr> <tr> <td>Bicycle parking</td> <td>1 space minimum per 3 bedrooms</td> <td>The minimum bicycle parking rate will be a non-discretionary, 'must not refuse' provision.</td> </tr> <tr> <td>Motorcycle parking</td> <td>1 space minimum per 5 bedrooms</td> <td>The minimum motorcycle parking rate will be a non-discretionary, 'must not refuse' provision.</td> </tr> <tr> <td>Room size</td> <td>Minimum 10 m²</td> <td>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. The proposed 10 m² standard will be a discretionary standard. This will allow developers that wish to, to demonstrate that a</td> </tr> </table>			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	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 m ² . The proposed 10 m ² standard will be a discretionary standard. This will allow developers that wish to, to demonstrate that a	<p>Location</p> <p>LGNSW supports the proposal that student housing will not be a compulsory permitted use in any of the land use zones and to allow councils to determine appropriate locations for student housing.</p> <ul style="list-style-type: none"> LGNSW recommends that councils be empowered to determine appropriate locations for student housing and supports the EIE's proposal to not include student housing as a compulsory permitted use in any of the land use zones. <p>Height and Floor Space Ratio</p> <p>LGNSW strongly supports the proposal to allow councils to determine the appropriate height and FSR controls through their LEPs to ensure that student housing developments are consistent with the character of the local area.</p> <ul style="list-style-type: none"> LGNSW strongly supports the proposal to draft the SEPP to allow councils to determine the appropriate height and FSR controls for student housing developments through their LEPs. LGNSW recommends that provisions are included in the new SEPP to ensure that this new form of housing is consistent with the character of the local area. <p>Car Parking</p> <p>The proposal to not require any car parking spaces for student housing developments across the State is considered inappropriate and a concern for councils.</p> <p>The car parking rate should be flexible and determined based on the proximity of the site to services and public transport. In some locations, and particularly regional areas, access to required services and public transport is not within suitable walking distance, then car parking spaces are likely to be required by students residing in student housing developments and by visitors. If there is a shortfall in on-site car parking,</p>
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.																			
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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	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 m ² . The proposed 10 m ² standard will be a discretionary standard. This will allow developers that wish to, to demonstrate that a																			

Proposed Provisions			LGNSW Comment
		smaller area has adequate internal amenity and that shared facilities are available to compensate for the smaller room size.	the development is likely to have wider impacts on the surrounding neighbourhood.
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.	<ul style="list-style-type: none"> LGNSW recommends that the car parking rate for student housing developments be determined by councils rather than the proposal in the EIE to not require any car parking spaces for developments across the State.
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.	<p>Room Size</p> <p>LGNSW is concerned that the minimum room size of 10 m² is proposed to be discretionary and may be relaxed. In order to create accommodation that is liveable and healthy, particularly given the recent Covid-19 requirements for and experience with self-isolation, it is recommended that 10 m² be the absolute minimum size of rooms without scope for variation.</p> <ul style="list-style-type: none"> LGNSW recommends that the absolute minimum size of rooms within student accommodation be 10 m² and that this size not be subject to any relaxations.
<p><i>Design Guidelines</i></p> <p>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.</p>			<p>Design Guidelines</p> <p>LGNSW supports the development of design guidelines for student housing to assist in creating high quality developments and liveable accommodation. The design guidelines should have regard to development in both metropolitan and regional locations.</p> <ul style="list-style-type: none"> LGNSW recommends that design guidelines for student housing be prepared to assist in creating high quality developments and liveable accommodation and that they have regard to development in both metropolitan and regional locations.
Co-living			
<p><i>Proposed definition</i></p> <p>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:</p> <ul style="list-style-type: none"> provides tenants with a principal place of residence for 3 months or more; includes on-site management; 			<p>Proposed Co-living Definition</p> <p>Due to the proposed changes which will require boarding houses to be affordable housing, LGNSW welcomes this new definition for co-living to</p>

Proposed Provisions	LGNSW Comment									
<ul style="list-style-type: none"> 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. 	<p>facilitate the development of this type of accommodation in appropriate locations.</p> <p>LGNSW seeks clarification on the following aspects of the definition:</p> <ul style="list-style-type: none"> Why does the development need to include at least 10 private rooms? What would the use be defined as if the proposal includes less than 10 private rooms? 									
<p><i>Proposed planning provisions</i></p> <p>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.</p> <table border="0"> <tr> <td style="vertical-align: top;">Height of buildings</td> <td style="vertical-align: top;">In accordance with the relevant LEP</td> <td style="vertical-align: top;">Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.</td> </tr> <tr> <td style="vertical-align: top;">Floor space ratio</td> <td style="vertical-align: top;">In accordance with the relevant LEP</td> <td style="vertical-align: top;">Maintaining LEP standard will ensure that new development is compatible with local character and consistent with community expectations.</td> </tr> <tr> <td style="vertical-align: top;">Car parking</td> <td style="vertical-align: top;">0.5 spaces per room</td> <td style="vertical-align: top;">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. In addition, should councils choose to prepare local plans with reduced car parking for co-living developments, it is intended these would prevail. 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. Stakeholder feedback is sought on appropriate car parking rates for this land use.</td> </tr> </table>	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	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. In addition, should councils choose to prepare local plans with reduced car parking for co-living developments, it is intended these would prevail. 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. Stakeholder feedback is sought on appropriate car parking rates for this land use.	<p>Height and Floor Space Ratio</p> <p>LGNSW strongly supports the proposal to allow councils to determine the appropriate height and FSR controls through their LEPs to ensure that co-living housing developments are consistent with the character of the local area.</p> <ul style="list-style-type: none"> LGNSW strongly supports the proposal to draft the SEPP to allow councils to determine the appropriate height and FSR controls for co-living housing developments through their LEPs. LGNSW recommends the inclusion of these provisions in the new SEPP to ensure that this new form of housing is consistent with the character of the local area. <p>Car Parking</p> <p>The imposition of a blanket car parking rate across the State is considered inappropriate. The car parking rate should be flexible and determined according to the proximity of the site to services, employment and public transport. In some locations, and particularly regional areas, access to required services, employment and public transport is not within suitable walking distance, then higher car parking rates of 1 parking space per room may be more appropriate. If there is a shortfall in on-site car parking, the development is likely to have wider impacts on the surrounding neighbourhood. It is suggested that the car parking rate be determined by councils rather than imposing a potentially inappropriate blanket rate.</p> <ul style="list-style-type: none"> LGNSW recommends that the car parking rate be determined by councils rather than imposing a potentially inappropriate blanket car
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.								
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Car parking	0.5 spaces per room	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. In addition, should councils choose to prepare local plans with reduced car parking for co-living developments, it is intended these would prevail. 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. Stakeholder feedback is sought on appropriate car parking rates for this land use.								

Proposed Provisions			LGNSW Comment
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.	<p>parking rate of 0.5 spaces per room for co-living housing developments across the State.</p> <p>Strata Title Subdivision LGNSW seeks clarification and the rationale for the proposal to not allow strata title subdivision for co-living housing developments whilst allowing BTR housing to be subdivided after 15 years.</p>
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			
<i>Design Guidelines</i>			Design Guidelines
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.			<p>LGNSW supports the development of design guidelines for co-living housing to assist in creating high quality developments and liveable accommodation. The design guidelines for co-living housing should have regard to development in both metropolitan and regional locations.</p> <ul style="list-style-type: none"> • LGNSW recommends that design guidelines for co-living housing be prepared to assist in creating high quality developments and liveable accommodation and that they have regard to development in both metropolitan and regional locations.

2. Updating existing provisions

Proposed provisions	LGNSW Comment
<p>Boarding House</p> <p>definition of 'boarding house' should be amended to include a requirement that boarding house rooms are affordable.</p>	<p>LGNSW supports a requirement that boarding house rooms are affordable. This addresses council concerns that planning incentives provided under the ARHSEPP for new generation boarding houses are not delivering housing that is affordable in accordance with the ARHSEPP aims which include "...<i>facilitate the effective delivery of new affordable rental housing..</i>", (Clause 3(b)).</p> <ul style="list-style-type: none"> LGNSW strongly supports a requirement that boarding house rooms are affordable.
<p>Existing definition boarding house means a building that— (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> <p>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.</p>	<p>Proposed definition boarding house means an affordable rental building that— (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,</p> <p>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.</p> <p>LGNSW notes that the proposed definition includes the term "affordable rental building" and a requirement that the boarding house is managed by a registered not-for-profit community housing provider.</p> <p>The EIE does not include a definition of "affordable rental building" or discuss how 'affordable' will be defined for the purposes of boarding houses. Further while management by CHPs was recommended by the Boarding House Working Group, the rationale for this is also not discussed in the EIE.</p> <ul style="list-style-type: none"> LGNSW requests that DPIE provide further information on how the boarding house provisions will work when drafting the Housing Diversity SEPP and provide councils with an opportunity to review and comment on them.

Proposed provisions	LGNSW Comment
<p>Feedback is sought on whether it would be more appropriate to require rooms to be rented at affordable rates for a minimum of 10 years.</p>	<p>The rationale for limiting the time that rooms are rented at an affordable rate is not discussed in the EIE.</p> <p>Given the significant shortage of affordable housing in all areas, LGNSW considers that boarding house rooms should be affordable in perpetuity. Boarding houses should remain an affordable housing form and not revert to market rates without, at the very least, a separate assessment process which evaluates the impact of a potential loss of affordable housing in the locality.</p> <ul style="list-style-type: none"> LGNSW recommends the inclusion of a provision that boarding house rooms permitted under the Housing Diversity SEPP should be rented at affordable rates in perpetuity i.e. do not convert back to market rates.
<p>Boarding house development will not be mandated in the R2 Low Density Residential Zone</p>	<p>LGNSW supports this change. Many new generation boarding houses built in the R2 Low Density Residential Zone are out of scale with surrounding development.</p> <ul style="list-style-type: none"> LGNSW recommends the inclusion of a provision in the new SEPP to clarify that boarding house development in the R2 Low Density Residential Zone is not mandated.
<p>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. When boarding houses are permitted in the R2 zone under an environmental planning instrument, the 12-room limit will continue to apply.</p>	<p>LGNSW understands that enabling LAHC to develop boarding houses contributes to the supply of social and affordable housing.</p> <p>It is not clear whether the 12-room limit will apply to LAHC developments on government-owned land in the R2 zone where boarding houses are otherwise prohibited under the LEP.</p> <ul style="list-style-type: none"> LGNSW recommends that there is provision for adequate consultation with the relevant council when LAHC develops boarding houses on government-owned land.
<p><i>Proposed 20% FSR bonus for boarding house development</i></p> <p>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:</p> <ul style="list-style-type: none"> 0.5:1 if the existing maximum floor space ratio is 2.5:1 or less, or 	<p>LGNSW supports the adoption of a flat FSR bonus to help remove inconsistencies with the current arrangement for FSR bonuses under the ARHSEPP. This is higher than the 10% bonus recommended by the</p>

Proposed provisions	LGNSW Comment
<ul style="list-style-type: none"> 20% of the existing maximum floor space ratio (FSR), if the existing maximum floor space ratio is greater than 2.5:1. <p>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.</p> <p>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.</p>	<p>Council Working Group⁴. The impact of the 20% rate should be reviewed over time to determine whether it is working effectively and does not have unintended amenity impacts.</p> <ul style="list-style-type: none"> LGNSW supports the adoption of a flat FSR bonus of 20% for boarding house development and considers that its impact be reviewed as part of a broader monitoring framework for implementation of the Housing Diversity SEPP.
<p><i>Car parking</i></p> <p>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.</p>	<p>LGNSW supports this approach.</p> <ul style="list-style-type: none"> LGNSW supports maintenance of the current rates of car parking for boarding house development applications lodged by or on behalf of a social housing provider.
<p>Proposed amendments to ARHSEPP provisions</p> <p><i>Group Homes</i></p> <p>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.</p> <ul style="list-style-type: none"> 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. The Government is proposing to introduce a quicker and easier process to allow an existing dwelling to be used as a group home. 	<p>LGNSW understands the importance of group homes in helping to meet the housing needs of people with disability or who are socially disadvantaged.</p> <p>The EIE states that the Government proposes to introduce a quicker and easier process to allow an existing dwelling to be converted to a group home. Currently this requires development consent from local council.</p> <p>LGNSW understands that some councils consider the provisions for new group homes are generous and when built in R2 low density zones can result in development that is out of character. Development provisions for converting existing dwellings to group homes must ensure that group homes are safe, provide appropriate amenity and care for the occupants and are not out of scale or character with surrounding development.</p> <ul style="list-style-type: none"> Group home conversions should be complying development at the very least, to ensure that they meet minimum requirements.

⁴ [Report to the Minister from the Council Boarding House Working Group, August 2019, p 21](#)

Proposed provisions	LGNSW Comment
	<ul style="list-style-type: none"> DPIE should consult with councils when developing complying provisions for conversion of existing dwellings to group homes prior to finalising the Housing Diversity SEPP.
<p><i>Amendment to Part 3 of the ARHSEPP</i></p> <ul style="list-style-type: none"> 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. 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. 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 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. <p>It is proposed to amend the provisions by removing the reference to the 28 January 2000 date.</p> <p><i>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.</i></p> <p>The onus for providing evidence that a building did not contain a low-rental dwelling at the relevant time will also rest with the applicant (rather than the local Council)</p>	<p>LGNSW supports this change. There are significant resource implications for councils in establishing whether a building was a low-rental residential building as at 28 January 2000.</p> <p>LGNSW also welcomes the onus for providing evidence resting with the applicant.</p> <ul style="list-style-type: none"> LGNSW supports the proposal to change the provisions that allow a council to levy monetary contributions to offset the loss of dwellings that were low-rental to within the 5 years preceding the lodgement of the development application and remove the reference to as at 28 January 2000.
<p><i>Secondary dwellings in rural zones</i></p> <p>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.</p> <p>Councils can, if they choose to, permit secondary dwellings in rural zones under their local environmental plans with maximum size of a secondary dwelling is set by Clause</p>	<p>LGNSW supports the proposal to allow councils to set the maximum size for secondary dwellings in rural zones where they are permitted under the Local Environmental Plan.</p> <p>This will ensure that where permitted secondary dwellings are appropriate in the local context.</p>

Proposed provisions	LGNSW Comment
<p>5.4(9) under the Standard Instrument LEP of 60sqm or a % of the total floor area of the principal dwelling</p> <p><i>It is proposed to amend the ARHSEPP so that councils have the discretion to set a maximum size for secondary dwellings in rural zones.</i></p>	<ul style="list-style-type: none"> • LGNSW supports the proposal to allow for councils to have the discretion to set a maximum size for secondary dwellings in rural zones.
Proposed amendments to seniors housing provisions	
<p><i>Update definitions in the Seniors SEPP</i></p> <p>The definitions in the Seniors SEPP have not been updated in line with the Standard Instrument LEP.</p> <p>It is proposed that the following definitions be updated:</p> <ul style="list-style-type: none"> • the definition of 'height'; • the definition of 'people with a disability'; and • the definition of 'AS 2890'. 	<p>LGNSW supports the updating of these provisions as they provide for consistency with council LEPs.</p>
<p><i>Update Schedule 1 – Environmentally Sensitive Land of the Seniors SEPP</i></p> <p>The Seniors SEPP does not apply to land identified in Schedule 1 – Environmentally Sensitive Land.</p> <p>Schedule 1 has not been comprehensively updated since the commencement of the Seniors SEPP in 2004.</p> <p>It is proposed that Schedule 1 will be updated, to be better aligned with current legislation and planning conditions.</p>	<ul style="list-style-type: none"> • LGNSW strongly supports the updating of Schedule 1 – Environmentally Sensitive Land to be better aligned with current legislation and planning conditions.
<p><i>Location and access to facilities provisions</i></p> <p>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.</p>	<p>LGNSW supports the amendments proposed. Seniors SEPP developments should be located in areas with good access to services and facilities.</p> <ul style="list-style-type: none"> • LGNSW supports the proposal to amend the provisions for location and access facilities in the Seniors SEPP so that point-to-point transport cannot be used for the purpose of the accessibility requirement.
<p><i>Site Compatibility Certificates</i></p> <p><i>Validity of Site Compatibility Certificates</i></p>	<p>LGNSW understands this would not be opposed by councils.</p> <ul style="list-style-type: none"> • LGNSW generally supports the proposal to introduce provisions so that a Site Compatibility Certificate is valid for 5 years.

Proposed provisions	LGNSW Comment
<p>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.</p> <p>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.</p> <p>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.</p>	
<p><i>Registered clubs</i></p> <p>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.</p> <p>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.</p>	<p>LGNSW supports amendments which clarify how the SEPP applies to land being used for the purposes of a registered club.</p> <ul style="list-style-type: none"> • LGNSW supports the proposal to improve certainty about the application of the Seniors SEPP to land used by registered clubs by requiring that the club must be a registered club at the time the SCC is made.
<p><i>Application of local development standards</i></p> <p>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.</p> <p>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%.</p>	<p>LGNSW supports amendments to ensure that development standards in Local Environmental Plans prevail to the extent of any inconsistency with the SEPP.</p> <ul style="list-style-type: none"> • LGNSW supports the proposal to amend the SEPP provisions to clarify that development standards in the LEP prevail to the extent of any inconsistency with the SEPP.

3. Proposed changes to social housing provisions

Proposed Provisions	LGNSW comment
<p>Amending the ARHSEPP and Seniors SEPP to support the delivery of social housing</p> <p>The approach articulated in the NSW Government’s Future Directions for Social Housing in NSW (it is proposed that LAHC will partner with the private sector and community housing providers to deliver new housing projects.) This 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.</p>	<p>Many LGAs face chronic housing shortages for low income community members. In some of these areas, councils have sought to engage directly with LAHC to develop solutions and renew existing housing product. The additional government investment in, and direct funding of social and affordable housing construction will help deliver much needed low income housing and is an opportunity for economic stimulus to support the local construction industry.</p>
<p>Proposed changes to the social housing provisions of the ARHSEPP</p> <p><i>Increase maximum number of dwellings that LAHC can self-assess</i></p> <p>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).</p> <p>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.</p>	<p>.The increase in the number of dwellings LAHC can self-assess to 60 is a concern as it further erodes local decision-making. There is a risk that projects will not be aligned to the plans and strategies councils have developed with local communities, or take into account local constraints or issues. There must be provision for appropriate consideration of councils’ input for each project..</p> <p>The proposal to limit LAHC self-assessment to 8.5m (two-storey) buildings is supported.</p> <ul style="list-style-type: none"> • LAHC’s projects have significant implications for housing, urban form and local infrastructure provision. LGNSW requests that there be appropriate consideration of councils’ input for each project, to ensure they are responsive to any particular local conditions and align with local housing strategies, local strategic plans and precinct plans. . • The proposal to limit LAHC self-assessment to 8.5m (two-storey) buildings should be carried over into the new SEPP.
<p><i>Design guidelines for LAHC development</i></p> <p>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.</p>	<p>Local government and all key stakeholders should be consulted by LAHC in the development of updated design guidelines.</p> <p>Quality, well-designed and located social and affordable housing offers the opportunity to enhance existing outcomes:</p> <ul style="list-style-type: none"> • The guidelines should introduce and apply construction methods and technologies that help reduce energy (heating and cooling) costs for tenants.

Proposed Provisions	LGNSW comment
	<p>(Some good examples exist in the far north of the state that show how significant savings could be achieved);</p> <ul style="list-style-type: none"> Well-designed buildings that are sensitive to the local and neighbourhood character can help enhance community pride and acceptance. <p>The process of LAHC engaging with the local council is critical.</p> <ul style="list-style-type: none"> LAHC should consult local government and other stakeholders when updating or revising their general design guidelines for social housing. To enhance the self-assessment process and get the best outcome for new developments, the design guidelines could be supported by protocols for LAHC engagement with relevant councils when undertaking self-assessment in the LGA.
<p><i>Car parking requirements for LAHC development</i></p> <p>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.</p> <p>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</p>	<p>Proximity to transport must be a consideration when designing car parking for LAHC developments. Flexibility in car parking standards is necessary to accommodate the unique needs of regional locations, which do not always have the same levels of public transport access as in metropolitan locations. These may need to be higher in regional and should be subject to discussion between LAHC and the local council.</p> <p>There appears to be no justification for 0.5 spaces per private dwelling. This may conflict with many councils' car parking controls which would generally require 1-2 spaces for the same size private dwelling. When applied in regional areas, these minimums may result in a shortfall in on-site parking, with spill-over impacts on the local neighbourhood. Where access to required services and transport is not within suitable walking distance, which is common in regional contexts, the design should consider incorporating a higher car parking standard.</p> <ul style="list-style-type: none"> Car parking standards for all housing components in LAHC developments should factor in proximity to transport - this is particularly important in regional contexts. Car parking rates of 0.5 spaces per dwelling should only apply to social and affordable housing, and the relevant council car parking standards being applicable for the private component of LAHC developments.
<p><i>Expand the range of affordable dwelling types that attract a density bonus</i></p>	<p>This proposal requires further consideration and consultation with local government.</p>

Proposed Provisions	LGNSW comment
<p>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.</p> <p>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.</p>	<p>The introduction of bonuses for dwelling types introduced with the Low Rise Housing Diversity Code (manor houses and terraces) seems to conflict with the principle that these are 'complying' developments. The addition of bonuses would mean they no longer comply with the Codes SEPP. Allowing bonuses for these forms of complying development raises concerns and questions about scale and impact and local character.</p> <p>It is unclear whether LAHC or a private certifier would be assessing these developments. LGNSW already has concerns about the use of private certifiers to approve these developments under the Codes SEPP. The addition of bonuses would add to an already complicated development pathway.</p> <p>More information and detail are required on this proposal. LGNSW has concerns about:</p> <ul style="list-style-type: none"> • Impacts of additional bonuses on scale and local character; • Inconsistency of allowing bonuses for developments assessed as 'complying' development; • Role of private certifiers in assessing these developments on behalf of LAHC, particularly if a bonus system was introduced.
<p><i>Clarify the types of development that LAHC can self-assess</i></p> <p>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.</p> <p>The self-assessment will be limited to development with a height of 8.5m or less.</p> <p>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.</p>	<p>Support LAHC self-assessment of dwellings, dual occupancies and boarding houses, subject to above-mentioned recommendations regarding LAHC consultation with local government when updating design guidelines and having in place a protocol for engaging with the relevant local council.</p> <p>Support this being limited to development of 8.5m or less in height.</p> <ul style="list-style-type: none"> • LGNSW encourages LAHC engagement and productive working relationships with councils when self-assessing proposals for residential accommodation, to factor in any local considerations and help facilitate the most desirable outcomes and benefit for social housing and the broader community. • The proposal to limit LAHC self-assessment to 8.5m (two-storey) buildings should be carried over into the new SEPP.
<p><i>Update self-approval provisions for social housing</i></p>	<p>Support LAHC self-assessment, subject to above-mentioned recommendations regarding LAHC consultation with local government when updating design</p>

Proposed Provisions	LGNSW comment
<p>The self-assessment provisions in the ARHSEPP are currently limited to residential development undertaken 'by or on behalf of the Land and Housing Corporation'.</p> <p>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.</p> <p>These developments would still be limited to the 8.5 m maximum height and the proposed 60 dwelling limit as discussed above.</p>	<p>guidelines and having in place a protocol for engaging with the relevant local council.</p> <p>LGNSW expects that LAHC will do the self-assessment regardless of whether the residential development is undertaken by a third party on behalf of LAHC. This must be made clear in the SEPP.</p> <p>Questions include:</p> <ul style="list-style-type: none"> • How will councils be notified in this process? • How will infrastructure contributions be paid to councils for the increased demands on local infrastructure? <p>More information and detail required in the SEPP to:</p> <ul style="list-style-type: none"> • Confirm that LAHC is responsible for undertaking the self-assessment regardless of whether the residential development is undertaken by a third party 'on behalf of' LAHC. • Clarify how councils will be notified; • Ensure provisions in the SEPP include requirements to pay infrastructure contributions in accordance with the council's infrastructure contributions scheme. <p>The proposal to limit LAHC self-assessment to 8.5m (two-storey) buildings should be carried over into the new SEPP.</p>
<p><i>Expand density bonus outside the Sydney metropolitan region</i></p> <p>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</p>	<p>Support in principle, subject to LAHC engaging with the relevant council.</p> <ul style="list-style-type: none"> • LGNSW encourages LAHC engagement and productive working relationships with councils when self-assessing proposals for residential accommodation, to factor in any local considerations and help facilitate the most desirable outcomes and benefit for social housing and the broader community.
<p><i>Subdivision of Government-owned land</i></p> <p>To support the delivery of the Government's social housing program, it is proposed to allow subdivision of Government-owned land without consent</p>	<p>More information and explanation needed.</p> <p>The EIE provides insufficient justification and evidence for this proposal. It is unclear how this provision would link to proposed social housing outcomes.</p> <p>The EIE has no information on what provisions/controls would apply to subdivision of government-owned land. Questions include:</p> <ul style="list-style-type: none"> • Will subdivision have to meet council development standards in LEP?

Proposed Provisions	LGNSW comment
	<ul style="list-style-type: none"> • If not, what standards will apply? • Who will be assessing these subdivisions? • What land use zones would this provision apply to? <p>Before any consideration of this proposal is incorporated into the SEPP:</p> <ul style="list-style-type: none"> • DPIE and/or LAHC should provide evidence/justification for this proposal; and clarify whether council development standards for subdivisions would apply. • DPIE should defer to councils' submissions.
<p>Proposed changes to the social housing provisions of the Seniors SEPP</p>	
<p><i>Parking concessions for seniors housing</i></p> <p>The Seniors SEPP currently provides reduced minimum car parking rates for development applications lodged by or jointly with a social housing provider.</p> <p>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.</p>	<p>Reduced parking was linked to lower car ownership of social housing residents, but there appears to be no justification for extending these reduced car parking rates for the private dwelling component of a senior housing development.</p> <p>As discussed previously, reduced car parking standards for private market housing could result in unintended consequences whereby surrounding neighbourhoods are impacted by increased pressure for on street parking. This should be discussed with the relevant council.</p> <ul style="list-style-type: none"> • Car parking rates of 0.5 spaces per dwelling should only apply to social and affordable housing, with local council controls applicable for the private market component.
<p><i>Clarify application of lift access exemption</i></p> <p>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.</p> <p>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.</p>	<p>The EIE provides insufficient justification for exemption from lift access requirements for seniors housing delivered by LAHC. Universal access is a standard building code requirement for mobility-impaired occupants and mobile-impaired visitors (AS14-28), therefore LGNSW does not support an exemption on the basis of savings in construction costs.</p> <ul style="list-style-type: none"> • Lift access should remain a requirement for new self-contained dwellings for all seniors located on or above the second floor.
<p>Proposed changes to the social housing provisions of SRD SEPP</p>	
<p>It is proposed to amend the SRD SEPP so that projects will become SSD if:</p> <ul style="list-style-type: none"> • they are carried out by or on behalf of LAHC; and 	<p>More information and explanation needed.</p>

Proposed Provisions	LGNSW comment
<ul style="list-style-type: none"> they have a capital investment value of more than \$100 million (increased from \$30 million). <p>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.</p> <p>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.</p>	