

Explanation of intended effect – proposed changes to the in-fill affordable housing, group homes, supportive accommodation and other provisions of the State Environmental Planning Policy (Housing) 2021

This document answers frequently asked questions about the explanation of intended effect (EIE) for proposed changes to *State Environmental Planning Policy (Housing) 2021* (Housing SEPP).

In-fill affordable housing incentives

What amendments are proposed to the in-fill affordable housing provisions?

The EIE proposes to increase the floor space ratio (FSR) incentives available under the Housing SEPP to increase their uptake and better support the delivery of affordable housing.

It is proposed to:

- increase the FSR bonuses available by 25%, and
- lower the FSR threshold associated with the FSR bonus formulae from 2.5:1 to 2:1.

Why are these changes being proposed?

Revision of the FSR bonuses will make it more financially attractive for smaller proposals to access an incentive and deliver affordable housing in local communities.

The proposed changes will also offer larger-scale residential projects more flexibility to deliver affordable housing in their residential developments by improving feasibility outcomes.

State significant development pathway for residential development with community benefit

What changes are proposed to the assessment pathway for large residential developments that incorporate community benefit?

It is proposed to introduce a new State significant development (SSD) pathway for large residential development with a capital investment value of more than \$100 million and that includes a minimum 20% of the development gross floor area as either social or affordable housing.

The new pathway will help facilitate the design and delivery of large-scale residential projects that include a social or affordable housing community benefit.

How would the department ensure adequate design quality?

Certain SSD developments assessed by the department are also referred to, and considered by, the NSW State Design Review Panel (SDRP) as set out in the NSW State Design Review Panel Terms of Reference. Additionally, the Minister or delegate, may refer any project to the SDRP for advice.

It is widely accepted that design review:

- improves the design quality of projects to add value to the places where they are built
- gives applicants timely and constructive advice, increasing certainty in the assessment process, and
- provides consent authorities greater assurance and support in their assessment of proposals.

It is proposed that new SSD residential developments comprising social or affordable housing floor space be referred to the SDRP for evaluation and advice. The SSD pathway will allow applicants access to panel members with greater design expertise and more consistent design excellence advice. Consent authorities will in turn have greater comfort when assessing the design quality merits of such applications.

It is also proposed introduce a new SSD pathway for affordable housing to be delivered by the Transport Asset Holding Entity (TAHE) on its land. The TAHE Affordable Housing Pilot Program will allocate surplus land for more than 300 new affordable homes in the Bayside, Blacktown, Inner West and Cumberland local government areas. The proposed SSD pathway will ensure timely assessment and delivery of these affordable homes.

Social housing amendments

What are the social housing amendments proposed in the EIE and why are they being proposed now?

NSW Land and Housing Corporation (LAHC) and the Aboriginal Housing Office (AHO) can self-assess residential development under the Housing SEPP that contains up to 60 dwellings and has a maximum height of 9 metres.

The EIE proposes to extend these existing self-assessment powers to enable LAHC and the AHO to self-assess residential development:

- containing up to 75 dwellings, and
- with a maximum height up to that permitted under the relevant LEP.

These proposed changes will support the delivery of in-fill social housing within residential areas, up to the height limit already adopted by the local council.

Both the LAHC and the AHO will be required to notify councils and occupiers of adjoining land and take any responses from them into account. They will also be required to consult with certain other public authorities in certain circumstances, as set out in sections 2.15 and 2.17 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

Why are the NSW Land and Housing Corporation and the Aboriginal Housing Office allowed to self-assess development?

The NSW Land and Housing Corporation and the Aboriginal Housing Office are currently permitted to self-assess their residential developments under certain circumstances. The EIE proposes to increase the threshold under which these agencies can self-assess development.

These agencies can self-assess because:

- they deliver social housing, which is a strategic priority in the government's 10-year vision for social housing, Future Directions for Social Housing in NSW.
- they both have published guidelines which inform the design and assessment of their developments.
- from 1 July 2022, the Environmental Planning and Assessment Regulation 2021 requires these agencies to publish certain information about self-assessed developments with a capital investment value (CIV) of over \$5 million on their websites or the NSW Planning Portal.

Group homes

What new land use terms are being proposed and how do they relate to existing terms?

There are a number of land use terms and planning pathways that are used to deliver housing for people with a disability, people who are socially disadvantaged, and seniors. For example, the Standard Instrument Local Environmental Plan defines:

- group home
- permanent group home
- transitional group home, and
- hostel.

There is also a separate definition of hostel in the Housing SEPP.

The Housing SEPP provides development with consent, development without consent and complying development pathways for group homes (both permanent and transitional). Hostels can be delivered with development consent under the Housing SEPP or the provisions of the relevant local environmental plan.

These definitions and planning provisions have been reviewed and are proposed to be replaced with new planning pathways for *high support accommodation* and *supported living*. In some cases, accommodation that is currently being delivered under group homes provisions will be categorised as a dwelling house or another form of residential accommodation.

Why are group homes proposed to be replaced with other housing types?

Before, during and after consultation for the Housing SEPP, stakeholders told us that the current definitions of and planning provisions for group homes often make it more difficult to deliver the types of housing they were meant to facilitate. There is also a stigma attached to the term 'group home.'

The EIE proposes to remove these definitions and provisions and replace them with housing types and standards that better reflect current needs and practices. This would benefit the people who deliver these types of housing, the people who live in them, and the broader community.

Why is the definition of hostels proposed to be removed? How will this affect existing hostels?

Councils and developers do not often use the definition of 'hostels' that is in the Standard Instrument – Principal Local Environmental Plan, or the definition that is in the Housing SEPP. When they do, these definitions are used to deliver housing that would be more appropriately delivered as other housing types available under the Standard Instrument or the Housing SEPP (such as boarding houses or independent living units). However, the department welcomes feedback on this proposal so we can be sure that if this change is made it will not have any unintended consequences.

The proposed change would not affect existing hostels, or minor alterations or additions to existing hostels.

Why does the EIE propose to restrict access to the high support accommodation and supported living provisions?

Stakeholders have advised that there are several problems with the way the current group homes provisions operate. These include inadequate management of some facilities, which can affect neighbours, and developers using the provisions to deliver rental housing for the general market.

The proposed restriction on access to high-support accommodation and supported living provisions will address these issues by making sure that:

- the provisions are used as intended to deliver housing for vulnerable members of the community
- the housing is designed to meet the needs of people who will live there
- the housing is managed by, and people living there receive appropriate care and support from, organisations with the expertise to do this.

Would there still be a complying development pathway for these types of development?

Under the proposed changes, a complying development pathway would only be available for delivery of supported living. Only NDIS (National Disability Insurance Scheme) providers who are registered with the NDIS Commission would be permitted to operate supported living.

A government agency would be able to deliver high support accommodation or have this type of housing delivered on its behalf, using a 'development without consent' pathway.

Why does the EIE propose new or amended standards for these new housing types?

The new or amended standards are being proposed in response to stakeholder feedback that has identified group home developments of inappropriate bulk and scale.

The existing hostels standards in the Housing SEPP were designed for large-scale development, but stakeholders have told us there is a strong trend towards smaller, home-style care arrangements

for seniors and people with disabilities. The proposed standards for supported living reflect this trend and are intended to encourage delivery of smaller-scale developments.

The standards proposed for both high-support accommodation and supported living include reducing maximum site coverage and changes to the height of buildings. These changes should continue to give users flexibility in the form of their developments, while ensuring the scale of developments suits the character of the local area and provides residents with appropriate amenities.

Why is a maximum length of stay being proposed for people in high support accommodation?

Stakeholders told us that the kinds of accommodation that would be supplied using the high support accommodation provisions would typically be used only for short stays of less than 18 months. During that stay, people would receive a high degree of support, including help to find appropriate, longer-term housing as their situations stabilise.

Why isn't supported living proposed to be accessible?

All new buildings, including supported living buildings, must comply with the National Construction Code. Because the accessibility requirements for supported living would be covered by the National Construction Code, there is no need for the Housing SEPP to make separate provision for the accessibility of this housing type.

How would these changes affect existing group homes?

Existing approved group homes would not be affected by the proposed changes.

I've lodged a development application (DA) for a group home or hostel under the Housing SEPP. How would that be affected?

The need for savings and transitional provisions will be considered before any changes to the Housing SEPP are made.

Temporary supportive accommodation

What is temporary supportive accommodation?

In the EIE, temporary supportive accommodation (TSA) refers to the temporary repurposing of existing buildings or vacant council operational land to provide transitional housing to people experiencing, or at risk of, homelessness. TSA usually includes the provision of support services, or at least support coordination, to occupants to help them deal with the complexities of homelessness.

What types of buildings might be used for TSA?

The EIE proposes that both temporary and longer-term supportive accommodation could be provided in the following types of residential and tourist and visitor accommodation:

- backpackers' accommodation

- boarding houses
- co-living housing
- high-support accommodation
- hostels (whether under the Standard Instrument – Principal Local Environmental Plan, the existing hostels provisions of the Housing SEPP, or as proposed by this EIE)
- hotel or motel accommodation
- multi-dwelling housing
- residential flat buildings
- seniors housing
- serviced apartments
- shop top housing.

Other types of buildings could be used to provide TSA if they meet the standards set out for the complying development pathway in the EIE.

Why is a complying development pathway proposed for TSA?

It is proposed to allow other types of existing buildings to be repurposed for TSA through a fast-tracked complying development pathway. This pathway would allow for buildings that were not constructed as residential or tourist and visitor accommodation to be modified for use as TSA for a period of 5 years.

Why is there a 5-year time limit on the complying development pathway for buildings and the DA pathway for vacant land?

A 5-year limit for some TSA proposals is proposed as:

- the buildings covered by the complying development pathway are not residential or tourist and visitor accommodation
- the vacant land may not be zoned for residential development
- it needs to be clear to everyone that any use of these buildings or land to provide accommodation must be short-term.

This approach would limit the effects of these temporary uses on neighbours and the local area more broadly. This balances the need for accommodation for people who have limited options with the need to use land economically and in an orderly way.

Would there be a restriction on the extent of the physical works allowed under the complying development pathway for supportive accommodation?

No, but applicants will need to be mindful that the consent is only for a maximum of 5 years.

How will the department monitor and manage any negative effects from the temporary use?

All forms of TSA would be required to:

- be managed by a government agency, registered community housing provider or specialist homelessness service, and
- always have a member of staff on-site or on call to both occupants and neighbours.

TSA operators using existing buildings would also be required to:

- consult with the Department of Communities and Justice, and
- provide a plan of management to the local council.

These requirements would help ensure that TSA will be appropriately managed, and that if it is not, occupants, neighbours and councils know how to raise any issues.

Accessibility standards for seniors housing

Why are changes proposed to the accessibility requirements for seniors housing?

The accessibility standards set out in Schedule 4 of the Housing SEPP are proposed to be updated to remove outdated Australian Standards references and better align them with industry best practice.

Ongoing industry feedback has also identified several problems in interpreting the standards for applicants and consent authorities, which affects assessment timeframes. The proposed changes aim to make the standards clearer and easier for stakeholders to use.

Why are changes being considered to the accessibility requirements for car parking?

Ongoing industry feedback indicates that the current car parking standards for independent living units (ILUs) (other than parking provided for employees) do not reflect the ways parking is typically provided for this type of housing.

Providers have also informed us that the demand for accessible car spaces for ILUs is about the same as for other forms of residential accommodation and that the current requirement for all residents' car parking spaces to be designed to comply with AS2890.6 is excessive.

In response to this feedback, the EIE proposes to specify minimum standards for:

- car parking spaces attached to ILUs, and
- car parking spaces which are provided for residents in communal car parks.

This would ensure that car parking for ILUs is not excessive and that accessible parking space requirements are more responsive to the needs of residents.

Boarding houses

What would the proposed changes to permissibility mean for boarding houses in R2 zones?

The proposed changes would only affect R2 zones (low-density residential zones) in areas outside the Greater Sydney region.

In these areas, boarding houses can only be delivered in the R2 zone if:

- the council has decided to permit boarding houses in that zone, and
- all or part of the boarding house is within 400 m walking distance of land in B2 and B4 zones (local centre or mixed-used zones), or an equivalent zone.

The proposed changes would:

- add Zone B1 Neighbourhood Centre to the zones that boarding houses in R2 must be within walking distance of, and
- increase the walking distance to 800m.

Other

Why are these changes being proposed now?

The changes are being proposed now because:

- we intended to review the group homes provisions and accessibility standards for seniors housing during the making of the Housing SEPP in 2021. Initial research indicated we would need more time to review these elements properly, so we deferred this to 2022.
- the NSW Housing Strategy Action Plan for 2021–22 includes an action ‘to trial ways of facilitating temporary supportive accommodation options for people experiencing homelessness’ (Action 2.6.2). The proposed TSA pathways are one possible way of doing this.
- Future Directions for Social Housing in NSW, which sets out the government’s 10-year vision for social housing, includes ‘more social housing’ as a strategic priority. The EIE proposes changes to make it easier to deliver more social housing, faster.

What will happen next?

The department will review submissions provided during the exhibition period and refine the proposed changes in response to stakeholder feedback. We will then prepare recommendations for the NSW Government about the best way to proceed with each of the amendments proposed in the EIE.

Where can I find out more?

For more information, visit www.planning.nsw.gov.au/Policy-and-Legislation/Housing/Housing-SEPP or email housingpolicy@planning.nsw.gov.au.