

DRAFT SUBMISSION

Low-rise housing reforms and targeted assessment

Discussion Paper

June 2026



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NOTE: This submission should be read together with the **'Variations and changes to complying development'** LGNSW submission.

EXECUTIVE SUMMARY

LGNSW welcomes the opportunity to comment on the *Low-rise housing reforms and targeted assessment Discussion Paper*. Councils support improving housing supply and streamlining assessment where this can be done without compromising strategic planning, local character, environmental protection, infrastructure coordination or community confidence.

The proposed reforms are significant. They would introduce a new targeted assessment pathway and consolidate many low-rise housing controls into a single statewide code. While LGNSW supports the objective of clearer and more consistent planning pathways, the reforms must not replace locally responsive planning with a standardised framework that leaves councils responsible for implementation without adequate discretion to manage local impacts. This is the expectation of local communities.

LGNSW's central position is that targeted assessment should be narrow, clearly defined and limited to genuinely low-risk development where impacts are well understood and capable of being addressed through objective standards. Development on hazard-affected land, heritage items, heritage conservation areas, conservation zones and other constrained sites should generally remain within the full development application (DA) pathway unless councils have specifically identified limited low-impact circumstances through local strategic planning and community engagement.

This submission also emphasises that the NSW Government should work with councils to co-design any targeted assessment framework, undertake a limited pilot with self-nominated councils, publish detailed implementation and transition arrangements, retain appropriate roles for LEPs and DCPs, and provide councils with funding, training, systems support and sufficient time to implement any reforms.

LGNSW does not support reforms that reduce community participation, weaken council-led strategic planning, or shift accountability to councils while removing the tools needed to respond to local circumstances. Housing reform will be most effective where it is place-based, infrastructure-supported, transparent and developed in genuine partnership with local government. Strategic planning must lead the system, therefore finalising the regional plans is a priority and should precede any further reforms in this area. Introducing and expanding new assessment pathways outside the agreed strategic framework risks undermining coordinated growth and community confidence.

RECOMMENDATIONS

RECOMMENDATION 1

Retain council-led strategic planning and local democratic decision-making as central to housing reform.

RECOMMENDATION 2

Limit targeted assessment to genuinely low-risk, low-impact development with clear objective standards.

RECOMMENDATION 3

Provide councils with funding, legal drafting support, training, Planning Portal upgrades, guidance and realistic transition periods.

RECOMMENDATION 4

Improve the evidence base for reform by distinguishing council assessment time from applicant delays, referral delays, infrastructure constraints and application complexity.

RECOMMENDATION 5

Exclude constrained land from targeted assessment, including heritage, hazard-affected, conservation, biodiversity-sensitive and referral-dependent sites.

RECOMMENDATION 6

Retain an appropriate role for LEPs and DCPs where local character, infrastructure, environmental, design or precinct-specific matters require local judgement.

RECOMMENDATION 7

Publish a detailed implementation plan before further reforms proceed, including how the pathway interacts with SEPPs, LEPs, DCPs, CPPs and referral requirements.

RECOMMENDATION 8

Preserve meaningful community participation and council flexibility to notify or exhibit applications where local impacts warrant it.

RECOMMENDATION 9

Pilot the first stage with self-nominated councils before any statewide expansion.

RECOMMENDATION 10

Establish a state-local government working group to co-design the targeted assessment pathway and single low-rise housing code.

OPENING

Local Government NSW (LGNSW) welcomes the opportunity to provide a submission to the NSW Department of Planning, Housing and Infrastructure (DPHI) on the *Low -rise housing reforms and targeted assessment Discussion Paper*.¹

Together with the *Variations and changes to complying development Explanation of Intended Effect (EIE)*², these proposed changes make up part of the substantive reforms to the *Environmental Planning and Assessment Act 1979* (EP&A Act) and *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation) enabled by the *Planning System Act 2025*³.

This submission is informed by the policy positions of LGNSW and consultation with NSW councils. Please note this submission is provided as a draft, pending endorsement by the LGNSW Board at its next meeting. We will advise any amendments to the submission in due course.

IMPORTANCE OF STRATEGIC PLANNING TO LOCAL GOVERNMENT

Well-planned communities with homes for all is a key advocacy priority for LGNSW. Effective housing delivery depends on genuine collaboration between state and local government, evidence-based planning and timely infrastructure coordination. Councils are central to this task through preparing local plans and strategies, assessing development, and planning and delivering local infrastructure.

Councils translate regional and district planning objectives into zoning, place-based strategies, contributions frameworks and infrastructure sequencing. This role is essential to ensuring growth occurs in the right locations, supported by services, open space, transport capacity and community confidence.

The LGNSW Policy Platform⁴ reflects the collective position of councils across NSW and emphasises strategic planning, local input and transparent decision-making. LGNSW's position recognises the important role of council-led strategic planning and democratically elected councils in decisions about development in their local areas. Further, LGNSW policy holds that growth must be planned, infrastructure-supported and responsive to local circumstances.

Strategic planning provides the framework for coordinated and community-supported growth. Housing delivery should be guided by adopted regional and local plans, aligned with infrastructure and informed by community input. Expanding complying

¹ [Targeted Assessment Discussion Paper](#)

² [CDC Variations EIE](#)

³ [Planning reforms | Planning](#)

⁴ [Policy Platform | LGNSW](#)

development or introducing targeted assessment pathways outside the agreed strategic framework risks undermining these outcomes. Any such changes must strengthen, not weaken, the role of strategic planning in delivering coherent, legitimate and trusted outcomes. The NSW Government should work with councils to finalise the region plan for Sydney and provide direction on all regional plans across NSW before progressing further reforms in this area.

IMPACT OF HOUSING DELIVERY AUTHORITY ON STRATEGIC PLANNING

The Housing Delivery Authority (HDA) is now enshrined in legislation and empowered to override local planning controls. In doing so, it can bypass the two established pathways through which an environmental planning instrument (EPI) may be made or amended (that is, how rezonings can occur)⁵ It can do so without the same level of public consultation, council-led strategic assessment or local democratic oversight.

This is significant because those established pathways are designed to test whether a proposed change is consistent with regional and local strategic plans, supported by infrastructure, responsive to environmental and hazard constraints, and understood by affected communities before land use controls are changed.

The strong rezoning focus of many HDA applications risks undermining strategic planning and eroding confidence in adopted plans. LGNSW remains concerned about state-led pathways that bypass local plans, strategic sequencing and community engagement, including ad hoc rezoning mechanisms.

RECOMMENDATION 1

Retain council-led strategic planning and local democratic decision-making as central to housing reform.

BOUNDARIES BETWEEN CDC, TARGETED ASSESSMENT PATHWAY AND FULL DA

LGNSW considers that the proposed targeted assessment pathway should operate as a distinct middle pathway between complying development and a full development application (DA), rather than as an extension of complying development. The discussion paper positions targeted assessment as a mechanism for low-impact proposals that do not meet the strict, objective requirements of a complying development certificate (CDC) but do not warrant a full merit assessment. This approach assumes strategic

⁵ These are: the planning proposal/Gateway pathway for amending local environmental plans (LEPs), and the state-led pathway for making or amending state environmental planning policies (SEPPs) or other EPIs.

matters are addressed up-front through the code and EIE process, with a narrower merit assessment at application stage.

In practice, councils may be required to assess more proposals that would otherwise fall outside the CDC pathway, particularly where applicants choose targeted assessment instead of redesigning to achieve compliance. This has significant implications for council resourcing, workflows and systems, especially if the pathway is intended to operate quickly while still requiring genuine oversight, statutory referrals and clear accountability. The boundaries between CDC, targeted assessment and full DA must remain clear, the code must not become a de facto substitute for local assessment of more complex impacts, and councils must be adequately resourced to administer the new pathway without undermining existing assessment functions.

RECOMMENDATION 2

Limit targeted assessment to genuinely low-risk, low-impact development with clear objective standards.

TARGETED ASSESSMENT PATHWAY – KEY QUESTIONS AND CONCERNS

The discussion paper notes that:

Targeted assessment development is established in Division 4.3A of the EP&A Act, which commenced on 21 March 2026. Division 4.3A sets out the process for and limitations on declaring development eligible for targeted assessment.

According to the NSW Government, this new assessment pathway is intended to provide a faster process between complying development and a full development application.

Scope, understanding and development of new pathway

The discussion paper proposes a single statewide low-rise housing code that would apply across both complying development and the new targeted assessment pathway. In practice, this would replace many existing local controls in local environmental plans (LEPs) and especially development control plans (DCPs) for low-rise housing, reducing councils' ability to tailor built form outcomes to local character, infrastructure capacity, environmental conditions and community expectations.

As the discussion paper proposes, this new pathway should apply only to low-impact proposals that do not meet the strict, objective requirements of a CDC but do not warrant full merit assessment.

In line with the Minister's commitments⁶, LGNSW expects targeted assessment to rely on strategic planning and detailed controls having addressed key planning issues up-

⁶ Second Reading Speech - [Legislative Assembly Hansard - 17 September 2025](#)

front. This makes precinct planning, close collaboration with councils and a reasonable exhibition period for community consultation essential at the outset. Nevertheless, it remains unclear how a state-led policy and code process would respond to changing local conditions or emerging infrastructure constraints after the original strategic planning process has concluded.

To address these risks, LGNSW recommends that the legislative framework require precinct planning for any targeted assessment pathway to be developed in partnership with the NSW Government, councils and communities, and that the NSW Government publish an implementation plan for targeted assessment, including an initial trial or pilot with self-nominated councils.

LGNSW recommends that a stakeholder working group be established to co-design the pathway with the NSW Government, councils and relevant agencies. This would help identify implementation challenges, clarify responsibilities, and develop a pathway that is efficient, transparent and practical for applicants, councils and communities.

Targeted assessment narrows what councils can consider

Under the proposed pathway, councils acting as consent authorities would assess targeted assessment applications within a narrower statutory framework than applies to a full DA. The discussion paper indicates that broader considerations ordinarily addressed under section 4.15, including likely impacts, site suitability and the public interest, would instead be addressed up-front through the state environmental planning policy (SEPP) and code framework.

LGNSW is concerned that this approach may substantially constrain councils' ability to apply place-based judgement at the application stage, particularly where local site conditions, cumulative impacts or neighbourhood context warrant more careful consideration than a standardised code can provide. If these matters are deemed to have been effectively 'resolved' in advance at a state level, councils may remain responsible for determining applications without retaining the full scope of discretion needed to respond to local circumstances.

Potential erosion of local strategic planning through standardisation

Although the discussion paper states that LEPs would continue to play an important role in matters such as zoning, permissibility and lot size, it also proposes a more centralised model in which detailed development controls are consolidated within a statewide code and permissibility is rationalised across instruments.

LGNSW is concerned that, in practice, this may further shift the planning system toward state-led standardisation and away from locally informed strategic planning. Councils rely on local planning frameworks to respond to differences in character, infrastructure capacity, environmental constraints and community expectations. A more uniform code-based system risks reducing the effectiveness of those locally developed settings and weakening the connection between strategic planning, detailed controls and the assessment of development outcomes on the ground.

Unclear interaction with existing local instruments and reforms

LGNSW is also concerned that the interaction between the proposed targeted assessment pathway and the broader planning framework remains insufficiently defined. The discussion paper foreshadows substantial future amendments to the Codes SEPP, Housing SEPP, Standard Instrument LEP and local controls, but many of the key legal and operational details are deferred to a future EIE for targeted assessment.

This limits councils' ability to assess the full implications of the proposal at this stage, including how conflicts between instruments would be resolved, which local provisions would continue to operate, and how the targeted assessment pathway would interact with existing precinct controls, master plans and non-standard zones. By DPHI's own admission, this is a significant reform piece, therefore greater clarity on these matters is essential before councils can properly assess the practical effect of the reforms.

Operational and implementation impacts on councils

The proposed pathway would also have significant operational and implementation implications for councils. Introducing the reforms would require councils to review existing LEPs, DCPs and assessment practices, update internal processes, retrain staff, interpret the continuing role of local provisions and communicate changes to applicants and communities.

These transition tasks would be substantial, particularly where staged implementation overlaps with existing local controls for a period of time. While LGNSW supports a carefully staged approach, this must be underpinned by clear implementation planning, transitional arrangements and appropriate resourcing so that interim complexity does not undermine councils' ability to administer the new pathway effectively and with confidence.

Given the scale of change, LGNSW considers that the pathway should be introduced on a limited basis initially, informed by consultation with councils, monitoring and review before any broader expansion.

RECOMMENDATION 3

Provide councils with funding, legal drafting support, training, Planning Portal upgrades, guidance and realistic transition periods.

Targeted Assessment Principles

The discussion paper puts forward four guiding principles and seeks feedback as to whether these are appropriate:

2.3 Guiding principles for targeted assessment

- *Targeted assessment should be used to simplify the planning system, not add additional layers of complexity.*
- *Development should only be targeted assessment if it is low-medium risk and/or low-medium scale.*
- *Impacts should generally be understood and either resolved at the strategic level or addressed in the detailed controls, specific merit considerations and any standard or model conditions that will apply to the development.*
- *Targeted assessment is best suited to specific development types/uses (e.g. housing, commercial or industrial uses) rather than for specific locations (e.g. a precinct or area) except in limited circumstances.*

Are the guiding principles appropriate? What changes would you suggest?

LGNSW broadly agrees with the targeted assessment principles while noting the criticality of site-specific knowledge and planning in ensuring appropriate development outcomes. It will be crucial that the NSW government work with local government to ensure clarity and rigour as they move from principles to policies and standards. Additionally, we note that any proposed changes to specific merit considerations and any standard or model conditions being revised have not been provided or consulted upon to date. These will be an integral part of any proposed new pathway and should be provided prior to or as part of any Targeted Assessment Pathway EIE.

Low-rise Housing

The discussion paper bases its proposed timeframes on current League Table data:

3.1 Low-rise housing in NSW

Low-rise housing is currently assessed through the complying development pathway or a full DA, with very minor works being able to proceed as exempt development. The average timeframe for issuing a complying development certificate (CDC) for low rise housing in 2024-2025 was 29 days. By contrast, the average timeframe for determining a DA over the same period was 103 days.

While LGNSW acknowledges the transparency of the NSW Government's Council League Tables which track DA processing times, the calculations fail to account for external delays and the distinct complexities of individual applications and should therefore not be relied upon for the basis of significant planning reform.

LGNSW made representations to Minister Scully in 2025 on the metrics and calculations used for these tables. to consider the inclusion of median assessment timeframes being published alongside current average timeframes, to help provide an accurate representation of assessment timeframes for councils dealing with larger or more complex DAs.

To provide a more realistic and accurate picture, LGNSW would like to see the median number of assessment days included on the council league tables, alongside the average (which is currently the sole measure published). This additional data should be easily calculable based on the data held in the Planning Portal and would help to provide

a more accurate overview of assessment timeframes for most DAs, by providing more context for situations where outliers may be skewing the data.

Better data will help to ensure the efforts of all players in the housing supply pipeline are focussed on where they can have greatest impact. LGNSW has raised this matter previously with the NSW Government and it is imperative that any planning reform initiatives are based on an accurate and full understanding of the available data.

RECOMMENDATION 4

Improve the evidence base for reform by distinguishing council assessment time from applicant delays, referral delays, infrastructure constraints and application complexity.

Does this capture the limitations of the current framework and key areas for reform? Are there other aspects of the system where we could make meaningful improvements?

The current framework can be improved, but reform should be based on a clear diagnosis of where delay and uncertainty arise. LGNSW is concerned that headline DA timeframe data can obscure the role of application quality, external agency referrals, infrastructure constraints, applicant delays and the complexity of local planning issues.

Meaningful improvement should therefore focus on better data, earlier issue resolution, improved Planning Portal functionality, clearer agency referral timeframes, better-quality applications and resourcing for councils, rather than assuming that reducing local assessment discretion will necessarily deliver better housing outcomes.

A Single Low-rise Housing Code

The discussion paper describes a single low-rise housing code:

4.1 A single low-rise housing code

The principal objective of this process is to have one set of controls for each housing typology across NSW – regardless of which pathway you are assessed under.

Under this model, most low-rise residential development would be assessed through either a complying development pathway or a targeted assessment pathway under the same unified code. Only sites with constraints that require bespoke design solutions, such as land affected by coastal hazards, would continue to use a traditional DA pathway.

The targeted assessment pathway would replace the fragmented standards dispersed throughout LEPs, other environmental planning instruments, DCPs and the broader considerations under section 4.15(1) (that do not apply to targeted assessment development).

4.2 What would a single code include?

4.2.1 Permissibility

Permissibility for all low-rise housing would be clearly and consistently reinstated to LEPs. Achieving this would necessitate amendments to multiple EPIs, including the Standard Instrument LEP.

Key changes to support this approach could include recognising manor houses as a distinct use in the Standard Instrument LEP, reflecting their closer alignment with multi-dwelling housing, and relocating low-rise housing permissibility currently contained in the Housing SEPP into LEPs.

LGNSW supports the objective of improving clarity and consistency in the planning system but does not support a single statewide code operating in a way that displaces locally responsive planning controls or narrows councils' discretion to manage local impacts.

A consolidated code should be limited to genuinely low-risk, low-impact matters that are capable of being expressed as clear objective standards. Matters requiring local judgement, cumulative impact assessment, precinct-specific design response or community input should remain within LEPs, DCPs or the full DA pathway.

In principle, height, floor area, minimum landscaped area, parking, basic setbacks and private open space may be appropriate for inclusion in a code where they are simple, measurable and supported by robust evidence. However, the code should not replace local controls that manage neighbourhood character, tree canopy, stormwater, flooding, biodiversity, bushfire, heritage, waste servicing, local road capacity, interface impacts, public domain outcomes, design quality or precinct-specific conditions. These matters are frequently dependent on local context and should remain available to councils through LEPs, DCPs, mapped overlays, local character statements and site-specific assessment.

LGNSW is concerned reinstating or relocating permissibility for all low-rise housing into LEPs may increase the size and complexity of LEPs without necessarily improving usability. If this approach proceeds, councils must be given adequate time, funding, legal drafting support and clear savings and transitional provisions to review existing local instruments and avoid unintended conflicts between SEPP, LEP and DCP provisions. The implementation plan should also clarify how the pathway interacts with community participation plans (CPPs) and referral requirements.

The discussion paper describes some of the standards which are being considered for inclusion:

4.2.2.1 Matters contained in the code

Standards such as height, floor area, setbacks and open space controls would be key tenets of the code.

Other environmental matters that are being considered for inclusion are:

- *dark sky impacts near Siding Spring Observatory*
- *tree retention, removal and landscaping*
- *development affected by aircraft noise*
- *services*
- *biodiversity*
- *stormwater*
- *waste management*
- *mine subsidence*
- *contamination*

Which standards should be included in the code and which standards are more appropriately left outside the code in existing SEPPs, LEPs and DCPs?

Should hazard affected land be eligible for targeted assessment?

Do you agree with the principle of avoiding residential land use intensification?

Do you have any other comments or concerns related to natural hazards?

Hazard-affected land should generally be excluded from targeted assessment unless the relevant hazard is minor, mapped, capable of being managed through clear objective standards, and does not require site-specific merit assessment or agency referral. In regional areas for example, many councils do not have catchment-wide flood studies, therefore flood risks are not fully known on properties outside approved study areas.

Land affected by flooding, coastal hazards, bushfire, landslip, contamination, mine subsidence or other significant constraints should remain in the full DA pathway where councils can assess cumulative impacts, evacuation risks, infrastructure capacity, climate change implications and site suitability.

LGNSW agrees with the principle of avoiding residential land use intensification on land affected by natural hazards. However, this principle must be clearly defined and applied conservatively. Intensification should include not only additional dwellings, but also increases in occupancy, exposure, evacuation demand, infrastructure loading and long-term risk to future residents and emergency services. Councils must retain the ability to apply local hazard studies, floodplain risk management plans, coastal management programs, bushfire-prone land mapping and other locally adopted evidence when determining whether targeted assessment is appropriate.

RECOMMENDATION 5

Exclude constrained land from targeted assessment, including heritage, hazard-affected, conservation, biodiversity-sensitive and referral-dependent sites.

RECOMMENDATION 6

Retain an appropriate role for LEPs and DCPs where local character, infrastructure, environmental, design or precinct-specific matters require local judgement.

RECOMMENDATION 7

Publish a detailed implementation plan before further reforms proceed, including how the pathway interacts with SEPPs, LEPs, DCPs, CPPs and referral requirements.

Heritage

The discussion paper's coverage of heritage is brief and tentative:

5.2.2 Heritage

Development of land that is heritage listed or within a heritage conservation area (HCA) must be responsive to the particular heritage values sought to be protected. Heritage affected land cannot access the CDC pathway and is not suited to a standardised code. However, rollout of the code may allow councils to consider whether existing assessment requirements reasonably facilitate appropriate development and whether a more consistent approach is possible across LGAs.

Should HCAs be included in the reform? Should heritage items be excluded?

The paper notes heritage land is not suited to a standardised code and cannot access CDC but suggests rollout of the code may prompt councils to reconsider existing

heritage assessment requirements. For councils, this is likely to be a critical issue because heritage and heritage conservation areas often rely on careful local assessment and nuanced local controls.

LGNSW's position is that heritage items should be excluded from targeted assessment. Heritage conservation areas should also be excluded unless a council has specifically identified, through local strategic planning and community engagement, that particular minor works or low-impact development types can be assessed through a targeted pathway without compromising heritage significance. Heritage assessment relies on local knowledge, statements of significance, streetscape context, materiality, setting and cumulative change, and is not well suited to a standardised statewide code.

Conservation zones

The discussion paper states:

5.3.1 Conservation zones

Conservation zones are intended to protect land with high environmental, scientific, or aesthetic value. Two of these zones, C3 Environmental Management and C4 Environmental Living, permit dwelling houses under the Standard Instrument.

Should conservation zones be included in the reforms?

Are there any specific concerns with applying targeted assessment in these zones?

The discussion paper proposes that targeted assessment could potentially apply to some low-rise housing in conservation zones and to some hazard-affected land, provided risks can be managed and intensification is avoided. Councils are likely to be concerned about whether a standardised code can properly deal with local environmental constraints, hazard conditions, cumulative impacts and the complexity of site-by-site environmental risk.

Non-standard residential typologies

The discussion paper considers whether other non-standard residential typologies should be included:

5.4 Non-standard residential typologies

The reforms also consider whether certain specialised low-rise housing types should be included as part of consolidation and simplification. Some group homes and boarding houses could be captured within the low-rise housing category, but the preliminary policy position is to exclude them.

Should the code include standards for a broader range of low-rise housing typologies? Should it provide both a CDC and targeted assessment pathway?

LGNSW does not support expanding the first stage of the code to specialised or higher-impact residential typologies such as boarding houses, group homes or other forms of housing with distinct operational, social, management or amenity considerations. These typologies often require careful assessment of local context, management arrangements, accessibility, parking, servicing, safety and neighbourhood impacts.

They should remain outside the initial code and should only be considered after detailed consultation with councils, community housing providers and relevant agencies.

Referrals and exhibition

The discussion paper briefly mentions referrals and public exhibition:

5.5 Referrals and exhibition

The draft CPP proposes that low-rise housing applications will be exempt from public exhibition and notification where the development:

- *is permissible in the relevant zone*
- *meets the relevant planning controls in a local environmental plan, development control plan and/or state environmental planning policy*
- *does not include a 4.6 variation.*

The proposed exhibition requirements for targeted assessment under the low-rise housing code will be set out in detail in any future EIE.

Complying development would continue not to be subject to public exhibition.

The paper notes that exhibition requirements for targeted assessment may be reduced or potentially switched off through the SEPP/CPP framework, and that the draft statewide CPP proposes no exhibition/notification for some low-rise housing applications that meet relevant controls and do not involve a Clause 4.6 variation.

Councils may see this as a significant issue because it could reduce local community input into development that still has neighbourhood impacts. As set out in LGNSW's submission on the statewide CPP⁷, a shift toward earlier, strategy-led engagement must not remove clear and credible opportunities for community input at later statutory stages where local impacts or community concern warrant it. Reducing notification and exhibition without a strong foundation of earlier engagement risks undermining trust and the social licence needed to support growth.

A statewide framework should therefore preserve councils' ability to apply local knowledge and flexible engagement methods, so communities remain informed, heard and involved in decisions that affect them. Consistency is important, but it should not come at the expense of accessible and meaningful participation.

This is particularly important in rural, regional and remote areas, where participation may be affected by practical access barriers. Community members may have limited or unreliable internet access, lower digital confidence, or need to travel significant distances to inspect plans or seek assistance in person. A statewide framework should recognise these realities and allow sufficient flexibility in engagement methods and timeframes to ensure participation is genuinely accessible and meaningful across different parts of NSW.

⁷ [LGNSW Submission – Community Participation Plan Discussion Paper](#)

RECOMMENDATION 8

Preserve meaningful community participation and council flexibility to notify or exhibit applications where local impacts warrant it.

Implementation

A key governance issue is the potential mismatch between responsibility, accountability and decision-making discretion. Councils may still be responsible for determining many applications, but with fewer tools and less discretion to shape outcomes. That can create tension where councils remain publicly accountable for decisions but are constrained by a state-imposed code and reduced merit assessment scope.

6 Implementation

6.1 Staged implementation approach

The reforms proposed in this paper are far-reaching and will require significant changes to a range of EPLs and other planning documents.

Implementation will need to be carefully staged to ensure that overlapping or duplicative provisions are repealed or incorporated into the low-rise housing code at the point new arrangements commence.

The first stage of the low-rise housing code is likely to focus on residentially zoned land with minimal constraints and a subset of low-rise housing including dual occupancies, manor houses and multi dwelling housing. The scope and details of this first stage will be subject of a detailed EIE following consideration of feedback received on this Discussion Paper.

Future stages would progressively expand the low-rise housing code to cover other forms of low-rise housing, including dwelling houses, secondary dwellings and alterations and additions, and more complex locations.

LGNSW understands that the first implementation stage for targeted assessment is likely to focus on residential land with minimal constraints and a subset of typologies such as dual occupancies, manor houses and multi dwelling housing. These forms can have significant local impacts even if they are characterised as low-risk at state level. Councils will therefore want to scrutinise this closely to understand the implications.

The proposed code would rely on standards plus objectives, with variations assessed against objectives rather than through the usual Clause 4.6 pathway. While the paper presents this as more transparent and consistent, councils may want to test whether this simply creates a new discretionary pathway, how it will be audited, and whether it could still generate inconsistency, administrative burden or integrity risks.

What do you think should be the first stage of the code?

LGNSW considers that any first stage should be narrow, and limited to genuinely low-risk development on residentially zoned land with minimal constraints. The first stage should not include heritage items, heritage conservation areas, conservation zones, hazard-affected land, non-standard residential typologies or sites requiring agency referral.

A pilot with self-nominated councils should be used to test standards, objectives, notification requirements, resourcing impacts, Planning Portal functionality, audit arrangements and community confidence before any statewide expansion.

RECOMMENDATION 9

Pilot the first stage with self-nominated councils before any statewide expansion.

RECOMMENDATION 10

Establish a state-local government working group to co-design the targeted assessment pathway and single low-rise housing code.

Standards, Objectives and Interaction with the broader planning system

The discussion paper describes how non-discretionary standards will be treated:

4.2.2.2 Standards

For targeted assessment, these same controls would operate as non-discretionary development standards. If a non-discretionary development standard is met, the consent authority cannot take the standard into further consideration in determining the DA. The declaration of targeted assessment would also switch off other merit considerations under section 4.15, such as the likely impacts of the development and the suitability of the site, on the basis that these matters are addressed through the detailed controls in the code.

4.2.2.3 Objectives

- *Targeted assessment pathway - where a non-discretionary development standard is not met, the acceptability of the non-compliance would be assessed on merit against the relevant objectives.*

This approach will allow standards to be varied without relying on Clause 4.6 of the Standard Instrument. Even though these variations would not be required to meet the requirements of clause 4.6 of the Standard Instrument, an objectives-based approach would reduce ambiguity for applicants and consent authorities, limit opportunities for lobbying or selective intervention, create a clearer and more consistent approach across the state, and ensures decisions can be understood and justified.

Do you see this consolidation as a helpful step towards a simplified framework?

Are there any instruments you would like to see included or excluded from a consolidated code?

5 Interaction with the broader planning system

5.1.2 LEPs

By concentrating detailed controls within a single code, LEPs would more clearly focus on their strategic land use planning function.

As part of implementation, existing LEP provisions relating to low-rise housing would need to be reviewed to identify controls that duplicate, conflict with, or are intended to be replaced by the code. Some LEP provisions may continue to apply where they address matters not suited to statewide standardisation, e.g. acid sulfate soils and other mapped constraints.

LGNSW does not oppose consolidation where it genuinely simplifies navigation of the planning system, but consolidation should not be used to remove locally important controls or transfer unresolved impacts into a narrower assessment pathway. Existing

SEPP provisions may be consolidated where they are directly relevant to low-rise housing and capable of consistent application. However, local LEP and DCP provisions should continue to apply where they address matters not suited to statewide standardisation, including local character, heritage, hazards, biodiversity, tree canopy, stormwater, waste, road access, servicing, public domain interfaces and precinct-specific outcomes.

DCPs

The discussion paper describes a reduced role for DCPs:

5.1.3 DCPs

DCPs may continue to have a role where they address matters not captured by the low-rise housing code, or where site-specific or precinct-specific considerations remain necessary (see also section 5.1.7). This may include, for example, controls relating to heritage, waste management, or other locally-specific matters that are not suited to statewide standardisation.

The paper expressly states that the role of DCPs in regulating low-rise housing would be reduced, with many DCP controls replaced by the consolidated code. This is likely to be one of the biggest issues for councils because DCPs are where much of the detailed local design response currently sits—streetscape, landscaping, setbacks, local amenity, interface issues and precinct-specific outcomes. It will, therefore, be important to work collaboratively with local government to co-design this pathway.

Should exempt development provisions relevant to low-rise housing be included in a consolidated code or continue to be dealt with separately?

Exempt development provisions relevant to low-rise housing should continue to be clearly distinguished from complying development, targeted assessment and full DA pathways. If exempt development provisions are included in a consolidated code for ease of navigation, the code must preserve the integrity of exempt development as a narrow pathway for genuinely minor works with negligible impacts. It should not be used to expand exempt development in a way that reduces council oversight of cumulative impacts, tree removal, stormwater, heritage or neighbourhood amenity.

Overall, LGNSW's concern is that a single code may reduce the role of councils in determining appropriate local development while leaving councils responsible for implementation, interpretation and community concerns. To address this, the reforms should preserve meaningful local discretion, protect local strategic planning, retain appropriate DCP functions, require clear exclusions for constrained land, and provide councils with funding, training, systems support and realistic transition periods.

CONCLUSION

LGNSW supports practical reforms that improve housing delivery, reduce unnecessary complexity and provide clearer assessment pathways. However, the proposed low-rise housing reforms and targeted assessment pathway must be designed in a way that

maintains confidence in the planning system and recognises the essential role of councils in strategic planning, local assessment and community engagement.

A single statewide code should not become a substitute for local planning controls where place-based judgement is required. Matters such as local character, heritage, environmental constraints, hazards, stormwater, infrastructure capacity, tree canopy, waste servicing, public domain impacts and cumulative neighbourhood change must remain capable of being addressed through LEPs, DCPs or full merit assessment.

For these reasons, LGNSW recommends that the NSW Government adopt a cautious and collaborative approach. Targeted assessment should be limited to genuinely low-risk development, introduced through a pilot with self-nominated councils, supported by clear legal and operational guidance, and accompanied by funding, training, systems support and realistic transition periods.

LGNSW looks forward to continuing to work with the NSW Government to ensure any reforms improve housing delivery while protecting local strategic planning, community participation and the liveability, safety and sustainability of communities across NSW.