



20 Windmill Street, Walsh Bay NSW  
2000  
information@coxinallridgeway.co  
m.au  
www.coxinallridgeway.com.au  
ABN: 12 606 836 462

9 March 2022

## COX INALL RIDGEWAY FORMAL RESPONSE TO THE DRAFT DP SEPP

To whom this may concern,

Thank you for allowing Cox Inall Ridgeway the opportunity to provide a formal response on the draft *State Environmental Planning Policy (Design and Place) 2021* (DP SEPP) to shape this draft policy for the people of NSW and in particular, with Country and by extension, Aboriginal people at the core.

We provide the following feedback to the below aims in the DP SEPP:

### Part 1 Preliminary

#### 3. Aims of Policy

(1) The aims of this Policy are as follows—

**(i) to recognise the importance of Country to Aboriginal people and to incorporate local Aboriginal knowledge, culture and tradition into development.**

- This aim is critical to ensuring Aboriginal voices play a key role in the future of Country in NSW. We strongly support this inclusion and are pleased this is the direction DPE is choosing to go.

### Part 2 Design principles and design considerations

#### 16. Design consideration—culture, character and heritage

The consent authority must consider whether—

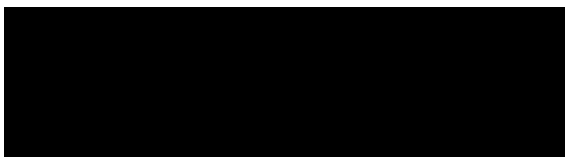
(b) the design of the development incorporates or responds to—

**(ii) areas of Aboriginal and non-Aboriginal cultural significance,**

(c) if the development is State significant development to which the Urban Design Guide applies—**the development incorporates a response to Country and takes into account submissions made to the applicant by Aboriginal stakeholders.**

- These principles are consistent with the advice Aboriginal stakeholders have provided. However, Aboriginal stakeholders, particularly Traditional Custodians and knowledge-holder input need to be prioritised BEFORE any decisions on Country are made, BEFORE tenders are requested from potential project teams. This will manage the over consultation burden and lifts the input provided by Traditional Custodians and knowledge-holders.
- To prioritise Traditional Custodians in this way means including their advice in tenders, ensuring potential project proponents are responding to Country at the earliest possible phase and allowing Connecting with Country to be implemented as it is designed.

Regards,



Tiernan Campbell-O'Brien



Submitted on Sat, 26/02/2022 - 23:31

Submitted by: Anonymous

Submitted values are:

**Submission Type**

I am submitting on behalf of my organisation

## Name

**First name**

Brett

**Last name**

Duroux

**I would like my submission to remain confidential**

No

## Info

**Email**

**Suburb/Town & Postcode**

Coutts Crossing

**Please provide your view on the project**

I object to it

**Submission**

Giinagay my name is Brett Duroux and I am Chairperson of Gugiyn Balun Aboriginal Corporation

The concerns of this is because it is important that you can make effective decisions about the future of our communities and climate change is the first step given the importance of protecting our environment and cultural heritage sites and historical sites must be transparent to ensure that they are not just about profitable growth strategies for the future of our communities and their families through the development of a manageable concept of the land that we as Australians and Aboriginal communities and indigenous communities will continue to grow and develop their cultural heritage that is what I am looking for in the future of the DPIE and I have to say more about the future of our ancestors stories that have made us a great place to live and enjoy we are going to need stronger laws against the overseas investment and the other things that can affect the economy is mining and foreign investment and the gas industry is changing the way of killing the Australian emissions needs to be a major issue for the DPIE industry given its great commitment to making the decision to make a difference in our lands witch gives us the freedom to change our lives and I am open understanding of listening to others and I am a type of professional manner and I have great respect for the long term to

**I agree to the above statement**

Yes

Department of Planning and Environment  
4 Parramatta Square, 12 Darcy Street  
Parramatta NSW 2150



New South Wales  
Aboriginal Land Council

Dear Claire and Diana,

**Submission to the Department of Planning and Environment on the Public Exhibition of the Design and Place State Environmental Planning Policy (Design and Place SEPP)**

NSW Aboriginal Land Council (**NSWALC**) is the peak body representing Aboriginal peoples across NSW. With over 23,000 members, NSWALC is the largest Aboriginal member-based organisation in Australia. NSWALC and the network of 120 Local Aboriginal Land Councils across NSW are not for profit organisations and are accountable to our communities as we seek to advocate for the land rights network.

The Design and Place SEPP policy package comprises of the proposed draft State Environmental Planning Policy (Design and Place) 2021 (DP SEPP), proposed changes to the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), and the proposed direction by the Minister under section 9.1 of the Environmental Planning and Assessment Act 1979 (9.1 Direction). NSWALC supports the approach that seeks to acknowledge the significance of Country and foster proactive engagement with Aboriginal communities in the early stages of development.

NSWALC is pleased to see that key messages heard within the public consultation report surrounding Connecting with Country are broadly consistent with the feedback NSWALC has provided to date and have been considered within the DP SEPP package. We wish to note that whilst principles can be a source of design and planning guidance, they cannot encapsulate the depth and complexity of Aboriginal teachings, knowledge, and cultures. In this respect, principles should be regarded as a starting point, and implementing principles in particular projects require genuine partnership and engagement with Aboriginal people beyond.

**Connecting with Country**

Connecting with Country must be understood as a holistic principle underlying the planning and design process rather than a by-product of design. Culturally safe spaces are spaces where diversity is

**ALWAYS WAS ALWAYS WILL BE ABORIGINAL LAND**

Head office	Western Zone	Northern Zone	Northern Zone (Tamworth)	Eastern Zone	Southern Zone	Far Western Zone
Level 5, 33 Argyle Street Parramatta NSW 2150 PO Box 1125 Parramatta NSW 2124 Ph: 02 9689 4444 Fax: 02 9687 1234	2/36 Darling Street Dubbo NSW 2830 PO Box 1196 Dubbo NSW 2830 Ph: 02 6885 7000 Fax: 02 6881 6268	Suite 5, Level 1 66-90 Harbour Drive Coffs Harbour NSW 2450 PO Box 1912 Coffs Harbour NSW 2450 Ph: 02 6659 1200 Fax: 02 6650 0420	2/158 Marius Street Tamworth NSW 2340 PO Box 890 Tamworth NSW 2340 Ph: 02 6766 4468 Fax: 02 6766 4469	Suite 23, 207 Albany Street North Gosford NSW 2250 PO Box 670 Gosford NSW 2250 Ph: 02 4337 4700 Fax: 02 4337 4710	Unit 22, 2 Yallourn Street Fyshwick ACT 2609 PO Box 619 Queanbeyan NSW 2620 Ph: 02 6124 3555 Fax: 02 6280 5650	Ground Floor Suite 49 Oxide Street Broken Hill NSW 2880 Ph: 08 8087 7909 Fax: 08 8087 3851

represented as an empowering strength. Creating culturally safe spaces consists of listening, working collaboratively, the identification of shared values, and active two-way participation.

The Draft Connecting with Country Framework attempts to acknowledge and foster relationships between developers and Aboriginal peoples, however, NSWALC believes that the incorporation of Aboriginal values within design will require greater ongoing partnerships than those required to complete a design verification statement. The process of evaluating Connecting with Country must be consistent and frequent to promote genuine partnership and understanding of the impacts of design on Country and culture, and vice versa.

It is important to note that the ALRA provides Aboriginal Land Councils with specific Aboriginal culture and heritage functions, while native title determinations under the NTA may provide legal recognition of the traditional rights and interests Aboriginal people have to visit and protect important places, with undetermined native title parties also entitled to certain “procedural rights”, including the right to be notified and to negotiate about development activities.

### **Design considerations – culture, character and heritage**

It is understood that, for State Significant Developments, the Urban Design Guide requires that a design verification statement explains how relevant Aboriginal stakeholders are involved throughout the design process, how their advice has informed outcomes, and how Indigenous Cultural Intellectual Property (ICIP) is recognised and respected (Proposed Amendments to EPA Reg 2000, cl 57).

Where Aboriginal peoples, languages, knowledges and cultures are involved in design practice, the process must be led, or in genuine partnership with Aboriginal peoples. Recognition of ICIP rights must be respected, as when shared with appropriate permissions, our knowledges and languages are an asset that have the potential to improve many projects.

Consultation with Aboriginal peoples within the design and planning process should be mandated across all developments – not just encouraged for State Significant Developments. An explanation of how projects respond to Country, recognise Indigenous Cultural Intellectual Property (ICIP), and reflect inputs from Aboriginal stakeholders is a first step measure more indicative of best practice than minimum practice.

Aboriginal peoples need to be meaningfully embedded in the structure of planning processes, as recognition of diversity within and between our communities is integral to any project or process involving Aboriginal peoples and communities. A mandated engagement with appropriate Aboriginal knowledge holders including Aboriginal Land Councils throughout all development processes would ensure a greater likelihood of genuine partnerships and development of culturally safe spaces. A genuine and embedded, ongoing consultation approach will work towards fostering community good will towards a finalised project. NSWALC continues to advocate for Aboriginal community-led decision making and design for Aboriginal communities to best deliver culturally appropriate outcomes.

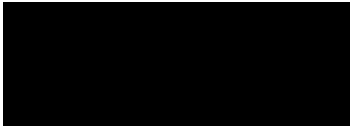
## **ALWAYS WAS ALWAYS WILL BE ABORIGINAL LAND**

Head office	Western Zone	Northern Zone	Northern Zone (Tamworth)	Eastern Zone	Southern Zone	Far Western Zone
Level 5, 33 Argyle Street Parramatta NSW 2150	2/36 Darling Street Dubbo NSW 2830	Suite 5, Level 1 66-90 Harbour Drive Coffs Harbour NSW 2450	2/158 Marius Street Tamworth NSW 2340	Suite 23, 207 Albany Street North Gosford NSW 2250	Unit 22, 2 Yallourn Street Fyshwick ACT 2609	Ground Floor Suite 49 Oxide Street Broken Hill NSW 2880
PO Box 1125 Parramatta NSW 2124	PO Box 1196 Dubbo NSW 2830	PO Box 1912 Coffs Harbour NSW 2450	PO Box 890 Tamworth NSW 2340	PO Box 670 Gosford NSW 2250	PO Box 619 Queanbeyan NSW 2620	Ph: 08 8087 7909 Fax: 08 8087 3851
Ph: 02 9689 4444 Fax: 02 9687 1234	Ph: 02 6885 7000 Fax: 02 6881 6268	Ph: 02 6659 1200 Fax: 02 6650 0420	Ph: 02 6766 4468 Fax: 02 6766 4469	Ph: 02 4337 4700 Fax: 02 4337 4710	Ph: 02 6124 3555 Fax: 02 6280 5650	

NSWALC also believes that consideration must be given for the context of resource and financial costs as well as the burden of responsibility and capacity placed on Knowledge Holders and community representatives throughout the implementation of these processes.

We would welcome the opportunity to further discuss these matters with you.

Yours sincerely,



**Yuseph Deen**  
CEO  
NSW Aboriginal Land Council

Date: 24 March 2022

**ALWAYS WAS ALWAYS WILL BE ABORIGINAL LAND**

Head office	Western Zone	Northern Zone	Northern Zone (Tamworth)	Eastern Zone	Southern Zone	Far Western Zone
Level 5, 33 Argyle Street Parramatta NSW 2150	2/36 Darling Street Dubbo NSW 2830	Suite 5, Level 1 66-90 Harbour Drive Coffs Harbour NSW 2450	2/158 Marius Street Tamworth NSW 2340	Suite 23, 207 Albany Street North Gosford NSW 2250	Unit 22, 2 Yallourn Street Fyshwick ACT 2609	Ground Floor Suite 49 Oxide Street Broken Hill NSW 2880
PO Box 1125 Parramatta NSW 2124	PO Box 1196 Dubbo NSW 2830	PO Box 1912 Coffs Harbour NSW 2450	PO Box 890 Tamworth NSW 2340	PO Box 670 Gosford NSW 2250	PO Box 619 Queanbeyan NSW 2620	Ph: 08 8087 7909 Fax: 08 8087 3851
Ph: 02 9689 4444 Fax: 02 9687 1234	Ph: 02 6885 7000 Fax: 02 6881 6268	Ph: 02 6659 1200 Fax: 02 6650 0420	Ph: 02 6766 4468 Fax: 02 6766 4469	Ph: 02 4337 4700 Fax: 02 4337 4710	Ph: 02 6124 3555 Fax: 02 6280 5650	

### **PART 3 Aims**

Concerns at the prioritisation of Part 3 Aims, specifically that the physical environment is referred to as:

*(f) to ensure sustainable development and conserve the environment while Aboriginal perspectives appear deprioritised at bottom of the list with*

*(i) to recognise the importance of Country to Aboriginal people and to incorporate local Aboriginal knowledge, culture and tradition into development.*

In order to bring industry on board with recognising the importance of Country Zion Engagement and Planning suggest that shifting this in the prioritisation of the aims will assist in giving it greater weight to industry and avoid it being overlooked. We also recommend removing reference to Country being important to 'Aboriginal people', we believe Country is important to everyone.

### **Part 2 Design principles and design considerations**

#### **12. Design principles and design considerations**

It is notable and concerning that there is no reference to Country in the principles. Our experience is that non Aboriginal people working within the built environment industry struggle to determine the meaning and importance of Country and this could be partially alleviated through including Country in the Design principles and design considerations.

Section 12 (2) of the Design and Place SEPP refers to green spaces, the wellbeing of people and places as a design principle and Culture, Character and heritage as a design consideration. There is a missed opportunity to strengthen the response to strengthening the rights and cultural responsibilities of Aboriginal people to protect Country through the omission of Country in this part of the SEPP.

#### **16. Design consideration – culture, character and heritage**

This section of the Design and Place SEPP states:

- that the consent authority must consider whether
- b) the design of the development incorporates or responds to
- i) heritage items and conservation area on or near to the site and
- ii) areas of Aboriginal and non – Aboriginal cultural significance.

It is critical that consent authorities have advice on these matters from local Aboriginal people in determining the impact of developments on areas of cultural value.

Section 17 Design consideration – public spaces and public life does not include Aboriginal cultural practice or encourage spaces for cultural practice to continue.

There is an important opportunity to include and encourage Culturally responsive housing opportunities under sections:

23 Design consideration – optimal and diverse land uses and Division 3 Residential Apartment Development 30 Objectives of Apartment Design Guide.

Culturally responsive housing opportunities includes developing options for intergenerational housing which is responsive to Aboriginal Cultural frameworks.