

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 4:17 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: letter-to-dpe---draft-dp-sepp---28-february-2022.pdf

Submitted on Mon, 28/02/2022 - 16:14

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

David

Last name

Christy

I would like my submission to remain confidential

No

Info

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david.christy@alburycity.nsw.gov.au

Suburb/Town & Postcode

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Please provide your view on the project

I object to it

Submission file

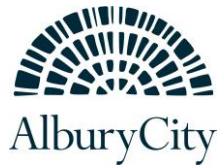
[letter-to-dpe---draft-dp-sepp---28-february-2022.pdf](#)

Submission

See submission attached above

I agree to the above statement

Yes



Contact: D Christy
Reference: DOC22/22935

Department of Planning and Environment
SUBMITTED VIA PLANNING PORTAL

28 February 2022

Dear Claire Krelle,

Draft Design and Place SEPP – Submission from AlburyCity

Thank you for the opportunity to comment on the draft Design and Place SEPP (DP SEPP). We support the overall intent of the DP SEPP to improve the design of our cities and regions. We recognise that good design underpins great places.

We also appreciate the previous opportunities to provide input via the Explanation of Intended Effect (EIE) and various webinar sessions in 2021. However, we note several issues remain (outlined below) that we believe require further consideration prior to finalising and implementing the DP SEPP.

We also wish to highlight challenges with the exhibition timeframe given the Christmas holiday period, length of documents in the DP SEPP exhibition (around 400 pages) and significant number of other concurrent DPE planning reforms on exhibition. All of this, coupled with limited Council resources, has meant our review has been cursory and limited our ability to fully assess the potential impact of the proposed changes. We are also aware of several other regional Councils that, for similar reasons outlined above, have been unable to review the draft DP SEPP or provide feedback.

Metrocentric

While there are a few different criteria for urban and regional areas, we highlight that the DP SEPP remains primarily metrocentric and focused on Greater Sydney. We note key differences in land value, feasibility and development densities that may present challenges in implementing the DP SEPP in regional areas. We would welcome further ability for regional Councils to apply different criteria or scalable thresholds depending on their circumstances and urban condition. Evidence of testing and application of the DP SEPP in various regional settings would be beneficial. It is disappointing to note the results presented in cost-benefit analysis report are underpinned by stakeholder consultation and preliminary feasibilities for five case study locations in Greater Sydney and none from regional locations.

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Minimum average gross residential density of 15 dwellings per hectare

This residential density provision in the Urban Design Guide, is a metrocentric example. While appreciating the intent of this direction to better utilise serviced urban land, we note that land in many regional areas is not constrained to the same degree as in a metropolitan setting as to necessarily warrant absolute minimum density provisions. Demand for residential housing product (density) varies significantly between metropolitan and regional locations, and accordingly, any proposed provision(s) need to reflect varying housing preferences and continue to provide opportunity for some larger blocks which is often a key attractor for many “tree-changers” relocating to regional areas.

Clarification is also needed for how the SEPP criteria relates to LEP Minimum Lot Size requirements, and noting some generous minimum lots size in Albury’s Residential zones (e.g. R2 zoned land with 1,500m² or 4,000m² minimum lot sizes). If this clause is retained, it is suggested that DPE undertake wider community and development industrial education and awareness campaigns around this provision.

Similarly, we also note the guidance under section 15.3 within the Urban Design Guide stating, *“In areas of 15 dwellings per hectare (gross) or greater, aim to achieve fewer than 30 per cent detached dwellings to increase walkability, provide housing diversity, maximise the opportunity for tree canopy and landscaping on lots, and optimise land use.”* Many areas of Albury have close to 100 per cent detached dwellings. While we certainly desire to increase dwelling diversity (and reduced focus on detached dwellings), the 30 per cent guidance seems far removed from regional community’s expectations for housing.

1 hectare trigger

Further detail may be required on 1 hectare land size trigger. As noted above, some Residential zoned land in Albury has 1,500m² or 4,000m² minimum lot sizes (R2 zone). As such, a basic three lot subdivision in this area could have land area over 1 ha and trigger the DP SEPP, which appears not to align with the intent.

We also note that developers often stage housing subdivisions to meet the market demand. Clarity is sought if proponents can stage/divide proposals to avoid the DP SEPP 1-hectare trigger.

DP SEPP Implementation

- The Draft DP SEPP reforms coincide with the introduction of a 180-day assessment timeframe in the Ministers *Environmental Planning and Assessment (Statement of Expectations) Order 2021*. We note the large volume of documents to be reviewed by Council’s planning officers and the impact on assessment timeframes. Timing of Design Review Panels and shortage of planners in regional areas will also impact assessment timeframes.
- As part of the reform package a suite of professional development training is to be developed for planners across the state including *Appendix 4, Alternatives to Natural Ventilation and Cross-Ventilation* in the Apartment Design Guide. It would be helpful to step through ‘real world’ regional specific case studies that illustrate how the design considerations are practically assessed.

- With the current DPE Employment zone reform changing industrial and business zones to Employment zones, clarity is needed in the DP SEPP for the intended translation where industrial and business zones are currently referred.

Urban Design Guide (UDG)

- We support the inclusion of water-sensitive urban design guidance
- We note the proposed 15% open space provision. Clarity is sought on the applicability of this provision/distribution in areas with an agreed Structure Plan that identifies open space location and provision.
- We support the direction to co-locate schools with open space, local centres, and active transport networks. This approach is identified in our Structure Plan for the Thurgoona Wirringa growth precinct in the Albury LGA, and we look forward to Schools Infrastructure NSW delivering the much-needed additional public school facilities in this area.
- In the past some mid-block connections have been closed where they have been poorly designed and created un-safe environments. While we support the intent for more pedestrian permeability through mid-block connections, we recommend the design criteria in Objective 7 (p.40 Urban Design Guide) for the mid-block connections is expanded to include additional information to help ensure public safety. e.g minimum widths, maximum lengths, lighting requirements and openings.

Design Review Panel

- Approximately 24% of regional hubs (not including Albury) and 74% of metro areas have an established Local Design Review Panel. While we appreciate the benefits of Design Review Panels, we also note the considerable cost that will need to be borne by Council in panel fees and panel administration costs. For annual budgeting purposes, anticipated costs to Council (or example of the costs from other Councils) should be provided by DPE. Noting this cost is being imposed by the DP SEPP, potential funding for the Design Review Panel or for training and upskilling staff should be considered by the DPE (e.g. using the Plan First levy).
- We also note challenges faced in many regional areas through a lack of design professionals. We note the potential for Regional Design Review Panels and suggest the Design Review Panel Manual be amended to provide guidance for regional panels and recommend DPE take the lead in coordinating their establishment with input from relevant Councils.
- It is noted the 'triggers' for Design Review Panel are generally the same as "urban design development", being a site greater than 1 ha. However, "urban design development" specifies land in industrial zones also needs to be over \$30 million in capital investment. It is suggested this is carried across to the Design Review Panel application as well for consistency and avoid unnecessary design review panel assessment of a low-value industrial development on a 1ha site.

BASIX

We support the review and enhancement of the *SEPP (Building Sustainability Index: BASIX) 2004* noting it is well overdue. We also support the future ongoing reviews of Basix as noted in the timelines in the draft DP SEPP.

Desire to move towards a National System

- As a border community with Victoria, we are particularly interested in greater alignment with environmental performance assessment tools in other states (e.g. BESS). While the proposed increase from 5.5-6 to 7 star rated thermal performance standards is positive, the additional upfront costs may result in a reluctance to build on our side of the border. In light of the federal commitment on *Trajectory for Low Energy Buildings* and National Construction Code (NCC) changes, our local development industry (majority of which are Victoria based) would benefit from more strategic alignment between the tools or a comparative analysis table of BASIX and BESS.

Application for all residential types

- As part of the DP SEPP amendments to Basix, we would recommend removing the current exemption to Basix requirements for transportable or pre-fabricated buildings for greater consistency and improved outcomes.

Training support for regions

- There is a shortage of planners across the regions and particular training focus will be needed to support regional planners in implementing the DP SEPP, including how to assess Alternative Merit Assessment Pathways.

Low solar absorption

- We support the potential inclusion of a development standard in the *Code SEPP 2008* and Standard Instrument LEP for light coloured roofs. As suggested, we agree that inclusion needs to both via the Code SEPP and LEP to avoid inconsistencies across the landscape (and noting the majority of applications in Albury are via the Development Application pathway).

Thank you again for the opportunity to raise these issues with you. In summary, we support the overall direction to improve design outcomes and note many positive aspects of the draft DP SEPP. However, we also note several aspects (outline above) requiring further consideration; in particular, further focus and due consideration of the differences in regional settings.

If you require any further information, please do not hesitate to contact David Christy, Service Leader City Development, on 02 6023 8290 or via email dchristy@alburycity.nsw.gov.au

Regards,



Frank Zaknich
CEO Albury City Council

Submitted on Fri, 25/02/2022 - 12:08

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Ballina Shire Council

Last name

S. Da-Re

I would like my submission to remain confidential

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Suburb/Town & Postcode

Ballina 2478

Please provide your view on the project

I am just providing comments

Submission file

[ballina-shire-council-staff-review-of-draft-state-environmental-planning-policy-design-and-place-sepp.pdf](#)

Submission

Ballina Shire Council staff review of Draft State Environmental Planning Policy Design and Place SEPP

I agree to the above statement

Yes

enquiries refer

Sheryn Da-Re

in reply please quote

**Draft State Environmental Planning Policy (Design and Place)
(CM 22/14249)**



22 February 2022

Department of Planning, Industry and Environment
320 Pitt Street
SYDNEY NSW 2000

Dear Sir/Madam,

**Re: Submission – Public Exhibition of the Draft State Environmental Planning Policy
(Design and Place)**

Thank you for the opportunity to provide feedback on the exhibited Draft SEPP (Design and Place) (Draft DP SEPP). This submission has been prepared by Ballina Shire Council Officers and provides comment on technical aspects of the Draft.

Based upon the exhibited documents, the SEPP and Guides provide locally relevant broad principles and specific metrics to support “good design” and design excellence, particularly within the public domain and for large scale urban design development. This is a positive step towards the achievement of sustainable and good quality places for people.

Council Officers provide the following comments for your consideration:

Draft DP SEPP

1. The Principles and Considerations are appropriate to the Shire - The 5 guiding principles and 10 considerations underpinning the Draft DP SEPP are a good foundation for place-based decision making which works towards achieving sustainable urban environments in the Shire. However, the absence of metrics within the Draft DP SEPP itself may make it difficult for applicants whose project is only captured under the Draft DP SEPP and not the UDG to demonstrate how they have addressed the considerations and similarly does not provide Council with any specific metrics to assess the application against.
2. Education for staff is required - It is important that education around the Draft DP SEPP highlights the applicability to all works, including road and other infrastructure (noting the exclusions in Part 1 Clause 8 (2)), with the appropriate departments and professional disciplines to ensure the Design Principles and Considerations are addressed in the design, review and approval processes. Departmental support is needed in this regard particularly given the current speed and scope of planning reforms overall.

Urban Design Guide

3. There will be additional costs to Council to implement this – Within Ballina Shire some significant developments fall below the 1 Hectare minimum land area to which the Draft Urban Design Guide (Draft UDG) applies. Based upon the Department's Discussion Forum we understand that for this development to be considered *urban design development* to which the Draft UDG would apply, it would require Council to undertake a review of the LEP to identify any existing or future land release or development areas where application of the Draft UDG might be desirable. This would require additional Council resources. The Department needs to identify a mechanism to support councils in implementing the SEPP from a resourcing perspective.

The design review process would also require significant staff resources and impact workloads. Council will need to amend and revise the development control plan to ensure that it aligns with intended effects of the SEPP and adequately cover off on development outside of the SEPP applicable thresholds. This will be necessary to avoid inconsistencies and uncertainty in the existing development control plan. Whilst this is a good opportunity to strengthen consideration of urban design principles for new development, it will place a resource burden on Council.

Extensive urban design training for staff will be required to administer the merit based assessment process. Without these additional skills, and possible additional resources, significant delays to assessment timeframes may be an inadvertent outcome.

To adequately implement the DP SEPP councils, particularly regional ones, will need additional resources.

It is unreasonable to ask councils to implement another layer in the planning system, even where a positive change, without recognising the need to properly resource this and providing a resourcing mechanism. Simply having the SEPP in place does not result in its effective application – this comes with adequate resources, skills and knowledge.

4. Some metrics may not be applicable in a regional context - The metrics need to also consider regional and remote contexts and scales. For example, the “walkable neighbourhoods” design criteria requires all homes are within 15 to 20 minutes’ walk of a collection of local shops, a primary school, public transport, a supermarket or grocery store. In some regional places there is inadequate population to support viable shops and infrastructure at such frequencies. This could stifle delivery of good outcomes for communities that meet other aspects of good planning and design, and community need.
5. Regional and lower cost case studies should be included - the inclusion of regional case studies representative of typical development scenarios rather than high budget flagship projects, reflecting a variety of sizes and locations (coastal, inland), would be beneficial to demonstrate the application of these metrics. A detailed description of how the principles were implemented both during the approval process flowing through to construction would assist Council Officers to identify where current planning documents and processes, particularly post approval, may need to be strengthened.

Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021 (Draft)

6. Professionals undertaking design verifications and reviews should have appropriate qualifications as well as experience - the Draft Regulation Amendment requires verification statements to be submitted for certain types of development where a development application is required and specifies the minimum qualifications and experience of the professional preparing the verification statement.
7. The level of experience specified for an “Urban Designer” is inconsistent with that required for other professionals. Due to the scale of developments to which the verification statements apply, there should be a mandatory requirement that the professionals making proposals to planning authorities hold a relevant professional degree in either Landscape Architecture, Urban Design, Architecture or Town Planning, be registered or certified with their professional institute and have a minimum of 8 years’ experience in precinct or master planning.
8. There will be additional resources required and costs incurred by Council - Council staff support in principle the concept of a design review panel for major projects but are concerned about the additional costs and resources that may be required by Council to participate in and administer this process. Again, the Department needs to identify how this is to be resourced and support councils with this. Ultimately without resourcing, both financially and in terms of skills, this will be exceptionally difficult to implement.
9. Design Review Panel Experts may not be able to adequately consider local planning contexts and considerations – to streamline the design review panel process and to minimise costs it may be necessary for regional or remote councils to collectively rely upon a single design review panel. Such a panel, typically consisting of 3 “experts” may have the technical expertise to undertake a design review but may not have the knowledge of locally specific or unique environments, infrastructure or planning intricacies. This could result in design review outcomes that are not suited to the specific environment or community or are complex to administer. It should be a requirement that Design Review Panel Experts live and work within the region to which the DRP applies and there should be an ability for staff from different disciplines within council to provide input and advice to the DRP.

Fit with Other Documents

10. Further clarification is requested on fit with other existing and draft documents –
 - a) How does the “Urban Design for Regional NSW” fit with the Draft UDG? Will it be made redundant?
 - b) Ballina Shire Council is progressing development of local character and place statements which are aligned with the Departments “Local Character and Place Guideline” document. Is this document still the appropriate guide or is the Department intending to restructure the guide to align with the Draft DP SEPP Principles and Considerations? Will the Draft LEP local character provision be revoked?

General Items

11. Making designing with Country easier to implement on smaller scale projects – Production of a set of core Cultural Design Principles embedded within the DP SEPP statutory framework would assist with ensuring that consideration of Country is incorporated into design processes on smaller projects (less than 1 hectare) where separate engagement with Traditional Owners is not possible.
12. Inadequate timeframe to implement – 6 months is an inadequate timeframe for councils to make adjustments to documentation prior to implementation of the DP SEPP and Guides. Further, the question of resourcing requires address as well.

Given the scope of reform on the current DPE agenda, a period of 12 months post the address of resourcing and technical matters is more reasonable

Thank you again for the opportunity to provide comment on the Draft DP SEPP and Guides. If you have any enquiries in regard to this matter please contact either myself or Sheryn Da-Re on 1300 864 444.

Yours faithfully



Matthew Wood

Director

Planning and Environmental Health Division

14 February 2022

Our Ref: 21/235664
Our Contact: Charlotte Lowe – 02 9562 1608

Secretary, Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear

Re: Bayside Council Submission – Design and Place SEPP

Thank you for the opportunity to provide comment on the proposed State Environmental Planning Policy (SEPP) – Design and Place. Bayside Council has reviewed the exhibition material and generally supports the proposed SEPP, however, would like the following matters considered in its finalization.

The introduction of a Design and Place SEPP is a step in the right direction by acknowledging the importance of achieving design quality and great places, not just in relation to apartment design.

The proposed changes generally improve the existing design review processes and provide clarity to specific issues that are currently unclear in the Apartment Design Guidelines (ADG) and which are often debated in design review forums.

1. SEPP Principles

While the Urban Design Guideline (UDG) is generally well written from a design perspective and covers important design considerations, it is apparent that they have not been successfully translated into the proposed framework.

The proposed design principles in the SEPP do not adequately reflect contemporary place/design-driven planning practice such as:

- landscape values,
- landscape-driven design,
- local character,
- visual/view impacts,
- finer grained development integration.

Other recent planning controls by the NSW Government (e.g. Aerotropolis, Gosford City Centre DCP) have been successful in translating design principles into controls and could be used as reference.

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While it is positive that urban design issues are given legislative weight we are concerned that a prescriptive numerical limitation for where the policy applies will undermine the implementation of place based design planning and design.

2. Urban Design Guide

The proposed urban design and place-based guidelines only apply to development on sites > 10,000sqm which may be an attempt to define a “precinct/place-significant development”. However, that would mean that the Urban Design Guideline would only apply in local government areas with larger urban renewal areas or greenfield sites. Precinct/place urban design considerations (beyond the scope of the ADG) are most needed, in Bayside, for infill high-density development in small(er) but no less significant sites which would be less than 10,000sqm. The prescriptive threshold for application of the guideline should be reconsidered to ensure positive design outcomes for all developments.

It is recommended that “Urban design development” be defined as development that is ‘place/precinct-significant’ in the context of its place. This could be determined by a clear criteria. For example, where the FSR/height proposed is > 30% of what is permitted in adjoining sites, for landmark development/highly visible sites or development that will set out the future place character, or where development adjoins places of cultural/environmental significance, etc.

If there is no intention to apply the UDG more broadly, it’s suggested that the name of the guide be changed to Masterplanning / Neighbourhood / Precinct Design Guide to avoid misconceptions about what is urban design and the importance of urban design to other development contexts where it’s critically needed.

The application and scope of the UDG within the NSW planning system also needs further review as to not provide prescriptive controls that apply across the State and undermine place-specific controls that would allow tailoring design to support local character and optimal place making. To achieve the objectives of the ‘Design & Place SEPP’ package, further support needs to be provided (guidance, training and funding) for the preparation of place-based DCPs and the assessment of applications against place-based DCPs.

3. Suggested changes

Council has provided a series of recommendations and suggested changes at Appendix A. These should be carefully considered prior to the finalisation of the package. In conclusion, it is considered that the proposed Design and Place SEPP will address many concerns held by Bayside Council in relation to the urban design of large developments. Bayside Council would, however, like consideration to be given to the matters raised in this submission in the finalisation of the proposed Design and Place SEPP.

If you have any further enquiries regarding this submission, please contact Charlotte Lowe, A/Coordinator of Policy and Strategy on (02) 9562 1608 charlotte.lowe@bayside.nsw.gov.au.

Yours sincerely

Peter Barber
Director, City Futures

Appendix A – Detailed comments

Draft Design & Place SEPP

Overall	The design principles in the SEPP and the limited types of sites/developments where it applies need major review (detailed above).
3 Aims of the policy	The following aims should be included: Integration with surrounding development, integration with landscape, well-designed optimal/multi-function infrastructure provision, landscape-driven design, local character, flexibility, adaptability to future uses and future needs.
6 Meaning of “urban design development”	This definition should be amended to apply to development that is ‘place/precinct-significant’ not development on very large sites (does not reflect the context of PPs and the challenges to achieve urban design quality in Bayside). It should apply to development where there is a need to ‘look beyond site boundaries to positively contribute to place’ as per the intent of the UDG.
14 Overall design quality	Articulation should not be achieved by means such as different colour painting etc, this should be amended to ensure appropriate design outcomes.
15 Comfortable, inclusive	See comments regarding inclusiveness in UDG section.
16 Culture, character	This clause should be amended to include: relationship with broader area, view corridors, landscape values, fine grain integration
17 Public spaces and public life	This clause should be amended to include: opportunities to provide multi-functional spaces/infrastructure, adaptability to future uses and needs
18 Vibrant and affordable neighbourhoods	Diverse mix and active streets are not only important for areas around train stations and town centres e.g. Brighton Le Sands. The definition of Town Centre is too broad e.g. does it include neighbourhood centres, village centres? Variety of dwelling sizes and price points is important for all areas. This clause should be amended to include support to night-time uses.
19 Sustainable transport and walkability	<i>"by integrating with"</i> using the word "by" is providing a solution and potentially excluding other solutions which is against principle-based planning. This could be amended to say "that demonstrates that it has considered the integration with or improved..."
20 Green infrastructure	This clause should be amended to include water flow/water quality/flooding consideration. The definition of green infrastructure provided includes natural systems and particularly mentions waterways but the objectives exclude any “blue infrastructure”.
24 Objectives of Urban Design Guide	<i>In determining whether development meets the objectives of the Urban Design Guide, the consent authority must (b) consider the objectives of the Urban Design Guide only in relation to the particular development application.</i> —As it's written it can be used by proponents to undermine urban design objectives which are fundamentally a consideration of relationships between development and the broader strategic context.
25 Development control plans for urban design development	<i>(1)Development consent must not be granted to urban design development unless a development control plan applies to the land on which the development is to be carried out.</i> This has the potential to be confusing, usually at least a general DCP applies but not necessarily deals with urban design/place-specific issues of concern. It should be amended to state that a precinct/site-specific DCP should be in place for ‘urban design development’ if that is the intent.
34 Design review – application of part	As per comments above, this should not be a fixed number but related to context. e.g. a 7 storey building in an area where the surrounding

	buildings are 3-4 storeys, landmark development and/or highly visible sites, need further design considerations and review.
36 – Design verification statements	Support is needed to ensure the development assessment of those will be aligned with/achieve the intended design outcome.

Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021

[8]...development involving public or common space of more than 1,000 square metres.	This clause introduces another prescriptive numerical size control, yet this one sits outside (and is not part of) the SEPP which will add to confusion. This prescriptive size does not reflect the context of infill development in inner-ring Councils. E.g. a 'station plaza' in a high density areas could be less than 1,000m ² and yet be the one development that will define the place identity and be used by thousands of residents every day – size alone is not a suitable justification to not require that certain significant public places be designed by a suitably qualified landscape architect.
[12]... Design verification statement to accompany certain modification applications	This clause has the potential to be confusing/misleading – Requiring that a design verification statement is needed only when the original application required that statement may undermine the intent of the UDG which didn't exist before. Instead, it should state that a modification application requires a statement saying that the modifications do not cause the development to achieve 'less compliance' than it would achieve if the UDG was in place at the time of the original application.

Environmental Planning and Assessment (Design Principles and Considerations) Direction 2022

[4]	<i>This direction applies when a planning authority prepares a planning proposal that will affect land greater than 1 ha in area and within: (a) an existing or proposed residential, commercial, mixed use or industrial zone, or (b) any other zone in which residential development is permitted or proposed to be permitted.</i> The direction should be amended to all PP's that propose residential development.
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Revised Apartment Design Guide (ADG)

Overall	The format of the draft ADG differs to the existing ADG, however the content appears to be much the same. The draft ADG appears to set out the same objectives and design criteria as the existing ADG, however adds further clarification to specific issues that are currently unclear / often debated in design review forums. In broad terms the draft seems to be a reasonable attempt to rationalise the format of the document and address common interpretation issues.
Intended application and relationship with SEPP	Figure 1 of the draft, sets out the DP SEPP design principles, showing where the ADG objectives sit within the design / assessment process. This diagram indicates that design criteria can be met or that alternative solutions can be considered to achieve design objectives. This is standard practice for most Design Panels and assessment teams. However, by spelling it out so clearly within the design guide it may take some clarity away from the ADG, designers / developers may simply choose to argue the objectives rather than comply with the criteria.
Cross ventilation	Supported - a clearer criteria has been set out to calculate area requirements for cross ventilation.
Communal OS	Supported - alternative methods for calculating areas of communal open space for small sites provided.

Proposed new Urban Design Guide (UDG)

Overall	It's positive to have a document that provides guidance/legislative weight to urban design issues. However, the application and design principles as defined in the proposed SEPP do not reflect the UDG and may undermine its intent. The UDG is too focused on greenfield development with some focus in areas where a whole new neighbourhood is masterplanned as a result of a major rezoning (e.g. new Metro stations). However, those types of development will become increasingly rare in Sydney while the integration of infill development within the context of a place is
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	where good quality urban design considerations will become even more crucial. If there is no intent of having the UDG apply to such scenarios, it's suggested that the name be changed to Masterplanning / Neighbourhood / Precinct Design Guide to avoid misconceptions about what is urban design and the importance of urban design to other development contexts.
Objective 1	<ul style="list-style-type: none"> • <i>“a comprehensive, integrated and continuous green infrastructure framework informs the urban structure of subdivisions and master plans”</i>—here and throughout this section it misses the importance of considering how this green infrastructure framework exists beyond the boundaries of the site and how development on the land needs to respond. • ‘Nature, culture and public space’ should include consideration of other elements that equally contribute to place identity such as contributory building facades, places where the community gathers, views/vistas to those places. • Avoid further alienation of public open space by ensuring that uses that occur in private space are redirected out of public open space: <ul style="list-style-type: none"> - electric charging stations should occur in development carparks, supermarket carparks, service stations etc; - donation bins and recycling depots are better placed in private open space by arrangement rather than long term in public open space. • It is very difficult to relocate these providers in the long term. Electric charging vehicles will become common in future times and the public domain should not be mechanism for charging them – suggest service stations or private land not public domain.
Objective 2	Focus seems to be on movement and lacks considerations such as ‘Streets as Places’ e.g. temporary community uses on streets. Also needs consideration of designing movement infrastructure with flexibility to accommodate future uses as needs changes e.g. streets into future open space, multi-storey parking that can be converted into community facilities
Objective 3 Objective 4	<p>These sections lack consideration of the importance of a finer grain integration between built form and landscape – e.g. there should be more emphasis in avoiding back fences to open space and locating main community uses integrated with open space. The strength of the principles detailed in the Metropolitan strategy for ‘A city in its landscape’ and landscape-driven design is lacking and objectives 3 + 4 should be written in a way that, as a minimum, avoids contradicting that (e.g. fig 20 should be revised).</p> <p>Objective 3 also lacks support for achieving 24/7 uses, night-time economy, diversity of jobs, economic resilience etc.</p>
Objective 5	<p>Needs further consideration of how sites will be serviced to facilitate retail/commercial integrated with the street e.g. waste management, vehicular entrances, location of substations.</p> <p>5.2 “Enable public spaces to cater for pop-up or temporary uses eg events or markets, by providing power and power points, toilets and storage”. Suggested adding “connection points to sewage to support high standard portable toilets”</p>
Objective 6	6.2 Use existing cul-de-sac as opportunities for through connectivity or position open space in these locations.
Objective 7	<p>Cycle network should be prioritised in secondary streets not main streets or streets with bus zones: - To avoid conflicts (avoid cycle conflicts with outdoor dining).</p> <ul style="list-style-type: none"> - Manage conflicts by sending cycleway on routes away/parallel to public transport routes. - Limit interaction and risk to vulnerable users (bus/car/cyclists or cyclist/ped). - Ensure vulnerable users are not put into conflict with heavy vehicles. <p>- Reduced competition for space will allow the enhancement of tree planting in both scenarios as otherwise the main street cannot support all competing uses due to space constraints</p>
Objective 8	<p>Broad statements and objectives to reduce car dependency without appropriate focus or planning for parking will not yield good planning outcomes. Demographics and social factors play an important role and should be considered in the guide.</p> <p>The following should be included:</p>

	<ul style="list-style-type: none"> - Ensure accessible parking is located within 50m of key attractors and provided with reasonable spacing and resting points to support elderly and mobility impaired - Convert long stay parking in centres to short stay to encourage turn over to benefit local economies - Consideration must be given to the logistics of business operations such as loading/unloading or small deliveries - Consider risk to vulnerable users in loading areas - Ensure good universal access in centres - Car share spaces should be provided within private developments such as shopping centres and other private domain such as service stations if possible rather than the public domain. The roadway should not be used for private benefit and hence car share should be catered for in private carpark over public carparks or roadway that is needed for other purposes – These are private functions and hence delete comments in 8.2 <p>Delete:</p> <ul style="list-style-type: none"> - Consider integrating car share parking spaces within streets or visitor areas of carparks - “Integrate and prioritise electric vehicles (EV) charging car spaces in key public locations
Objective 9	Lacks consideration of the contribution of blue infrastructure, WSUD, and retaining water in the landscape towards urban cooling, human health and biodiversity
Objective 10	<p>The biggest challenge to establishing canopy in areas where there are views. These areas have been denuded over time. Anywhere where there is water has declining tree canopy and regeneration. Controls and objectives are needed for these scenarios – view sharing.</p> <p>10.3 – we need to map the interconnected soil network in order to manage it.</p>
Objective 13	The mention for shared zones – this concept is largely used for older built up areas where it's not possible to separate traffic and pedestrians within the carriageway. The suggestion to use this as a design solution with TfNSW as the only authority that can approve this, again is a use drain on Council resources. It must be delegated to Councils for approval and installation if it's to be used for urban design. Currently, its only a traffic management tool.
Objective 16	Protect long views across valleys, roof lines, and vistas to spires, towers, water bodies and hill tops. Create view corridors consistent with heritage items, values and to provide curtilage that is suitable in scale to the items. New built form to have respectful/adequate setbacks from fine grained streets and built form taking into account established trees and solar access.
Objective 17	On steep slopes ensure footpaths have consistent gradients and universal access into buildings
Objective 18	Ensure that equitable access is maintained for a range of ages and abilities. Meet the requirements of AS1428 Design for Access and Mobility particularly for wheelchair users and visual impairment. Limit the number of intrusions into path of travel for pedestrians along the building line.
Objective 19	Remove reference to USB charging – this will become outdated technology
Appendix 2	Provision of regional parks and metropolitan parks is considered in addition to the 15 percent. They provide for a much larger catchment of the community and require planning at a metropolitan level and are there not expected to be delivered by development proponents. Sometimes these larger parks are the only opportunity for contribution to open space – this could create problems
Appendix 4	Under Building zone or gathering space add comment – “and that provision is made for site impaired people by limiting obstructions in footway zones”

Design Review Panel Manual for Local Government (DRPM)

Overall	This document sets out the requirements and operations of a design review Panel, we are generally in agreement with the content of the document.
Panel administration	The manual recommends that council employ a panel manager in addition to an administrative assistant. The Panel manager is to be a design professional and

	assist in the briefing of the Panel – agree that it would provide a positive contribution to the design review process. However, disagree with the recommendation for the Panel manager to write the design review report to document the meeting. If reports are driven by a Council employee rather than the Panel, it brings into question the independent nature of the review process. Suggested that reports are written by the Panel and provided within 2 weeks of the meeting.
Template	Design review report template – suggest that this is structured to cover the main principles of the ADG and UDG. It can be helpful for the assessment team if the Panel sign off on criteria that has been addressed appropriately as well as highlighting problematic issues. If a council has a design excellence clause the Panel should also respond directly to the clauses of the criteria of the design excellence clause.



File no: F15/1234-03

28 February 2022

Design and Place Project Team
NSW Department of Planning and Environment
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Parramatta NSW 2124

By email: designandplacesupp@planning.nsw.gov.au

Dear Sir or Madam

Blacktown Council's submission to the draft Design and Place State Environmental Planning Policy (SEPP), supporting guides and associated amendments

Thank you for the opportunity to provide feedback on the Design and Place SEPP and associated documents.

We support in principle the aims and overall intent of the Design and Place SEPP, particularly the consolidation of BASIX. The environmental performance of a building is a critical component of design quality. It is particularly pleasing to see a concerted effort to elevate the liveability of apartment buildings, along with their sustainability and resilience. These are important updates, as is the introduction of an Urban Design Guide.

However, we remain concerned that the reform program is being introduced too quickly, preventing both the NSW Government and local councils from working together to improve the NSW Planning System. In addition to detailed comments within our attached submission, we highlight the following concerns:

- The establishment and administration of the mandated Design Review Panel will require additional staff resources and will have budgetary impacts.
- Significant resourcing requirements are required to implement and update council systems to manage this reform and other concurrent planning system reforms of the NSW Government.
- The assessment process will be more complex with subjective principles. Without a training program for users, the Design and Place SEPP could deliver poorer design solutions.
- The process for Connecting with Country, though valid, remains unclear.
- Thresholds that determine whether the Urban Design Guide apply are too high, potentially encouraging applications deliberately under the threshold.
- Technical guidance in both the Apartment Design Guide and Urban Design Guide is complex and challenging to understand and apply.

Connect - Create - Celebrate

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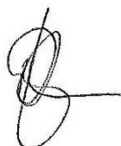
- The relationship of the SEPP with other SEPPs like the Codes SEPP and the Growth Centres SEPP have not been sufficiently addressed, including inconsistencies, leading to poor and/or ambiguous outcomes.
- The inability of a council to vary non-discretionary standards of the Design and Place SEPP when a local study identifies a valid need.
- The synergies between Local Planning Panels and Design Review Panels has not been explored, leading to potential confusion between roles and responsibilities. Further clarity is needed, which may also enable reduction in some costs to local government in implementing an additional Panel layer.

Our detailed comments on the entire exhibition package is attached and we request that the Department of Planning and Environment:

- Commit to working through the issues identified in this submission
- Working together to prepare a viable implementation plan that meets the needs of all users, and
- Keep the community informed and fully engaged on how issues raised by councils and industry are implemented.

Should you have any questions or queries regarding our submission, please do not hesitate to contact Trevor Taylor, Manager Development Policy and Regulation, on 9839 6162, or Chris Shannon, Manager Strategic Planning, on 9839 6229.

Yours faithfully



Trevor Taylor
Manager Development Policy and Regulation

Submission on the Design + Place SEPP exhibition package



Blacktown
City Council

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1. About Blacktown City

Blacktown City is 35 kilometres from the Sydney CBD and occupies about 247 square kilometres on the Cumberland Plain. Eastern Creek, South Creek, Ropes Creek and Toongabbie Creek and their tributaries provide natural corridors that buffer urban development areas. Sydney's North West Growth Area (NWGA) precincts occupy 7,700 hectares within the northern third of Blacktown City.

Our City's current population of 403,000 is one of the fastest-growing in Australia, and within ten years, it will be home to more than 500,000 people. By 2041, the NSW Government forecasts that Blacktown City's population will exceed 600,000 people.

This means that we need to build on our planning for new homes and jobs supported by the full range of essential local infrastructure, delivered in the right place and at the right time.

With increased market demand likely for medium and higher density housing in our urban renewal precincts, we are rapidly transitioning into a city of compact villages, surrounded by lower-density residential areas and places of natural and scenic value.

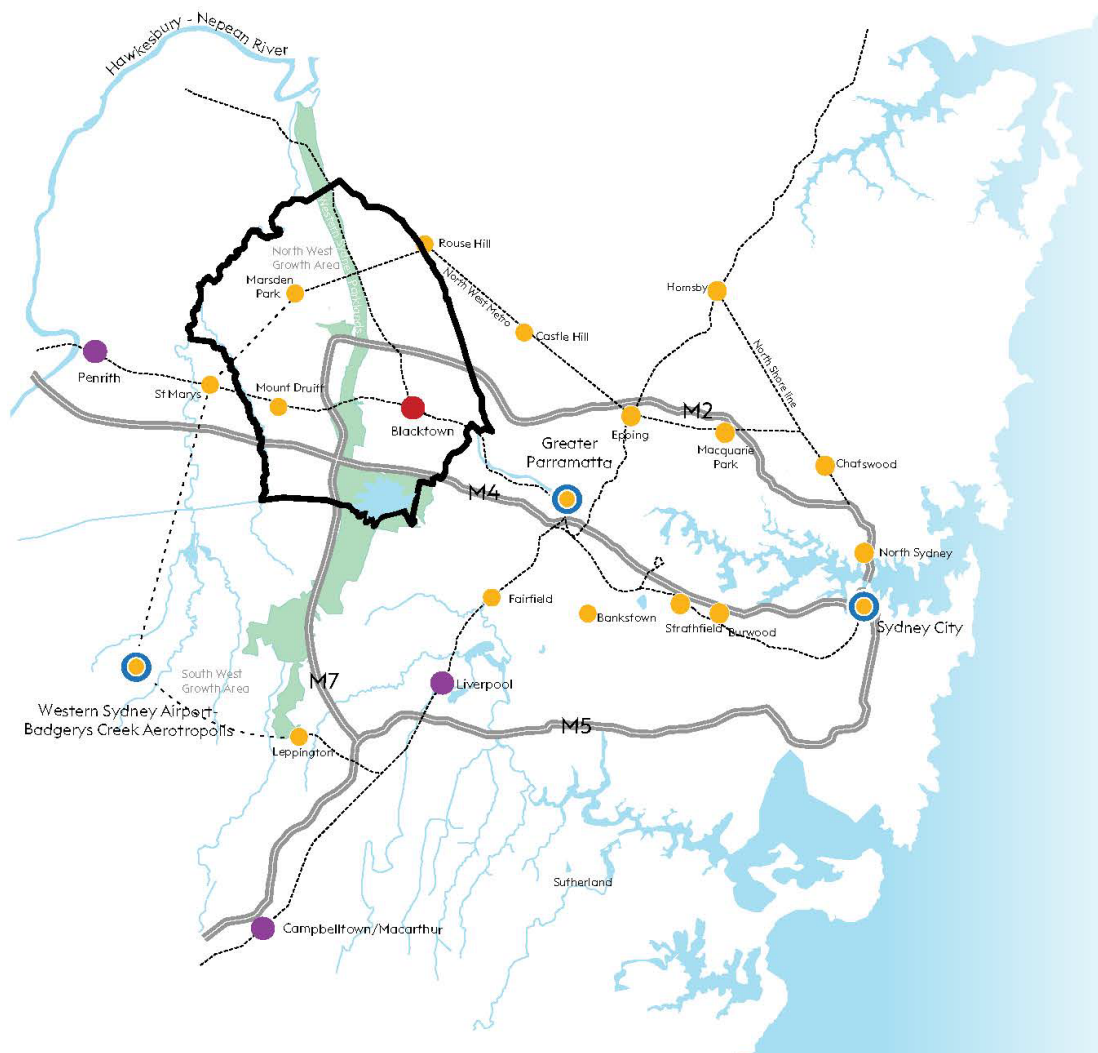


Figure 1 Blacktown City is in the northwest of Greater Sydney, strategically located to connect to the broader road and rail network, and home to people in well established and greenfield suburbs.

2. Executive summary

2.1. Introduction

Blacktown City supports in principle the Design and Place SEPP and associated guidelines. We believe that these documents generally lead the standard for better design practice and provide a consistent baseline across NSW, particularly in Greater Sydney.

This submission is structured to provide (1) a summary of the key issues that require clarification or further refinement and (2) specific comments, questions and suggestions on crucial aspects of the proposed reform. Each chapter relates to a specific exhibition document for clarity.

We seek to work with the Department and continue refining and improving the Design and Place SEPP.

2.2. Implementation

The significant body of reform associated with the Design and Place SEPP, in addition to other reforms, is placing substantial resourcing constraints on all councils. We understand that after gazettal, the Design and Place SEPP operation will be deferred for six months to allow councils to prepare for the changes. This timeframe is not adequate, particularly given the volume of reforms introduced in 2022 by the NSW Government. We ask that the Department of Planning and Environment work with all councils to adopt a feasible implementation plan that does not strain council resources.

In the absence of an implementation program, it isn't easy to allocate resources to plan for the raft of new responsibilities, including training and upskilling of staff. We seek to work with the Department of Planning and Environment to identify the new roles and responsibilities to adapt this into our organisational structure. This is a significant undertaking and may require new positions and updates to the portal and internal management processes.

It is pleasing to see the Design and Place SEPP contains numerous templates that councils can use. We support this and standardisation as a principle more broadly. However, these still require integration into our data management system and testing to ensure they generate appropriately. Further, new conditions of development consent associated with the Draft Environmental Planning and Assessment Regulation will be required, including creating a process where green travel plans can be automatically reviewed every second year. We need time to ensure that these changes are smoothly implemented and tested before going live.

We are also concerned that the Design and Place SEPP could be introduced with little or no council staff training. This training is critical as the system moves into a more principles focused environment. Likewise, technical upskilling is required to ensure that essential design considerations like natural ventilation are understood and applied correctly. A rushed implementation timeline is unlikely to provide the space for the training of councils and industry more broadly.

2.3. Summary of issues

We support in principle the aims and overall intent of the Design and Place SEPP, particularly the consolidation of BASIX. The environmental performance of a building is a critical component of design quality. It is particularly pleasing to see a concerted effort to elevate the

liveability of apartment buildings, along with their sustainability and resilience. These are important updates. However, we remain concerned that the Design and Place SEPP does not allow a council to tailor controls to local circumstances when urban analysis suggests this is required. We contend that the Design and Place SEPP should be the minimum baseline, with a council permitted to go beyond this when the evidence is provided to the Department of Planning and Environment.

However, we are concerned with some of the aspects of the new SEPP and raise concerns that the principle-focused system for planning and assessment requires a significant transformation for Councils. This includes administrative functions and implementing the requirements of the proposed new SEPP.

In summary, we highlight the following concerns:

- The establishment and administration of the mandated Design Review Panel will require additional staff resources and will have budgetary impacts.
- Significant resourcing requirements are required to implement and update council systems to manage this reform and other concurrent planning system reforms of the NSW Government.
- The assessment process will be more complex with subjective principles. Without a training program for users, the Design and Place SEPP could deliver poorer design solutions
- The process for Connecting with Country, though valid, remains unclear.
- Thresholds that determine whether the Urban Design Guide apply are too high, potentially encouraging applications deliberately under the threshold
- Technical guidance in both the Apartment Design Guide and Urban Design Guide is complex and challenging to understand and apply.
- The relationship of the SEPP with other SEPPs like the Codes SEPP and the Growth Centres SEPP, including inconsistencies leading to poor outcomes,
- The inability of a council to vary non-discretionary standards of the Design and Place SEPP when a local study identifies a valid need

Our detailed comments are in chapters 3 through to 8. We request that the Department of Planning and Environment:

- commit to working through the issues identified in this submission,
- working together to prepare a viable implementation plan that meets the needs of all users, and
- keep the community informed and fully engaged on how issues raised by councils and industry are implemented.

Should you have any questions or queries regarding our submission, please do not hesitate to contact Trevor Taylor, Manager Development Policy and Regulation, on 9839 6162 or Chris Shannon, Manager Strategic Planning on 9839 6229.

3. Part 1 Environmental Planning + Assessment Direction 2022

The ambitious suite of reforms undertaken by the NSW Government necessitates updating s.9.1 Directions. This is particularly relevant for planning proposals that are moving into a more rigid assessment framework, with proponents taking greater responsibility for preparation and ownership. In our view, if the new system for rezoning applications is implemented, s.9.1 Directions need to explicitly state that they apply to all applicants, whether a landowner, a council or State Government authority.

We are supportive of the proposed s.9.1 Direction and request that it be utilised as an essential criterion to satisfy all rezoning applications.

3.1. Objectives

Generally, these objectives are supported; however, they would benefit from redrafting to improve understanding and ease of application.

- **Objective 2 (a) and (b)**

We support principles that explicitly state that the Design and Place SEPP, and the Urban Design Guideline are considered early in the planning process. In particular, the Urban Design Guideline is an important addition and will bring consistency across Greater Sydney, leading to better planned and more resilient communities. However, the silence of whether the Apartment Design Guideline also applies could lead to confusion in the assessment process, mainly when it is necessary for more detailed building envelopes and yield calculations within infill areas. Likewise, the phrase 'early in the planning process' is open to confusion and should be rephrased.

The following suggestions are offered to improve objectives 2 (a) and 2 (b)

- a) ensure the design principles and design considerations set out in the *State Environmental Planning Policy (Design and Place)* [insert date] are considered ~~early in the~~ **at the commencement of the** planning process,
- b) ensure the objectives of the Urban Design Guide and *the Apartment Design Guide* published by the Department in [insert date] are considered ~~early in the~~ **at the commencement of the** planning process,

The above amendments would clarify that this process starts with the pre-application meeting and scoping phase introduced separately as part of the rezoning reforms.

- **Objective 2 (c)**

This is a difficult read objective that takes an entire paragraph. We suggest that it could benefit from separating into two objectives with more clearly expressed principles. Whilst a minor issue, in our view, the term 'aesthetics' should be removed as it is part of built form. An objective that explicitly references the physical beauty of a building may encourage facadism (unintentionally) and lower the importance of liveability by default.

A new objective (c) and (d) is proposed below:

- c) **integrate good design processes into planning and development to create places that support the health and well-being of the community,**
- d) **provide consistent urban design guidance to achieve better-built forms, streetscapes and public spaces through implementing a place-based approach to precinct planning and development**

3.2. Where this direction applies

This direction is drafted for the current context and not the future rezoning system being introduced by the NSW Government. Currently, the direction would only apply to a council when a rezoning proposal is accepted and it becomes a council project. However, applicants will lead rezoning applications in the new system, with a council having an assessment role similar to a development assessment process. Accordingly, directions that relate to plan making must apply to all applicants, rather than only planning authorities.

We suggest that the direction either be amended to ensure it applies to all applicants or a note clarifying its application is included. A potential amendment could read:

5) This direction applies to all proponents of a rezoning application, including landowners (and representatives) and planning authorities.

3.3. When this direction applies

The limitation on where this direction may apply could unintentionally reduce its effectiveness.

Proponents may attempt to 'game the system', resulting in numerous fragmented proposals that seek to rezone land or change development provisions to avoid the application of the direction. To resolve this, consideration should be given to removing the one-hectare rule with the direction instead of applying to the nominated land subject to the application.

As we move towards an assessment based system, an applicant should justify if direction should not apply and include this with the rezoning application. Alternatively, the applicant could confirm if the direction will apply with a council at the scoping stage. This process safeguards consent authorities from a potential increase in rezoning proposals within the same area, with a size less than one hectare.

3.4. What a relevant planning authority must do if this direction applies

This direction must apply to all applicants, similar to previous comments, rather than just planning authorities. Broadly the principles in this clause are supported; however, there needs to be refinement and clarifications around processes associated with Connecting with Country, Design Review Panels, and Urban Design Guide information.

Connecting with Country

Council supports initiatives that effectively engage with the First Nation community. The currency process, however, lacks clarity in both application and process.

In our view, for Connecting with Country to be effective, a council will need a city-wide strategy and panel of representatives from the First Nation community to assist in understanding the merit or otherwise of the proposal. This will have ongoing cost implications to the council, including potentially a new officer position and review panel.

We support planning proposals that address Connecting with Country in a meaningful and effective manner. For this direction to be effective, the council needs the authority to refuse or request additional information if an applicant has not genuinely considered Connecting with Country.

Therefore, clause (5) (d) needs to be updated to expressly state how Aboriginal stakeholder views have been implemented, including whether the community supports the proposals

design intervention. Without a close the loop process, a council will be unable to determine if the process has been followed, but views ignored.

Design Review Panels

Thought needs to be given to the relationship between the rezoning application reforms requiring pre-application meetings and the s9.1 direction mandating that a design review panel applies to development. Given the proposed time frames introduced as part of the rezoning applications reform, this process and meeting fit in with the design review panel needs more thought.

Criteria and guidance of the Urban Design Guide

This criterion is reasonably straightforward, though it is noted that density guidance within the Urban Design Guide is unlikely to have any meaningful impact. Densities within our urban renewal precincts and growth areas will likely exceed the minimums, negating their influence. In other parts of Sydney, density provisions are unlikely also to have an impact.

However, we are concerned that as drafted, this clause places the onus on the planning authority to ensure that open space and connectivity outcomes of the Urban Design Guide are achieved. Any application submitted by a proponent for assessment by a council or planning authority must demonstrate how open space and new connections are delivered without creating a cost burden or requirement for a council to provide new open spaces and connections.

4. State Environmental Planning Policy (Design and Place) 2021

Blacktown City commends the project team working on creating the Design and Place SEPP and associated documents. The update to the SEPP, including the rationalisation of the BASIX SEPP, updated aims and design principles, the inclusion of an Urban Design Guide, and recognition of the importance of Connecting with Country are all supported. Broadly, the Design and Place SEPP is well written and structured, and its application is understood. This section offers our suggestions where clarification is necessary, along with ideas to improve the Design and Place SEPP.

4.1. Part 1 Preliminary

Section (5) Meaning of 'residential apartment development'

Clarification is requested on how this applies to existing dwellings. We are concerned that this could create confusion between an s4.55 Modification and a substantial redevelopment or refurbishment of an existing home. We request that clarification be provided to state what this term means explicitly. For example, does significant redevelopment:

- include a change of apartment mix internally from 25 dwellings to 45 dwellings with no increase in gross floor area, or
- mean a change in gross floor area, but no change to the overall dwelling number and mix?

Section (6) Meaning of 'urban design development'

It is acknowledged that thresholds are required to establish when the Design and SEPP apply. While we understand the reasons for setting the site area at 1 hectare, we disagree that significant developments cannot occur on sites less this size. Specifically, it is concerning that a 1-hectare threshold creates opportunities to deliver development outcomes that are contrary to the intent of the Design and Place SEPP, for example, minimising open space provision through the masterplanning or subdivision of small site areas under a 'staged approach'. To mitigate this, consideration should be given applying a threshold within the Design and Place SEPP of 5,000 m². Under this approach, more applications will be required to adhere to the design quality principles of the Design and Place SEPP, particularly in established areas undergoing renewal.

Section (8) Meaning of 'urban design development'

In our view, this clause will lead to applications with 24 Class 1a buildings or less to avoid the application of the policy. We request the NSW Government explain how they arrived at the threshold of above 24 buildings, along with the implications of this decision. In addition, we ask that the NSW Government increase the number of Class 1a buildings to which the SEPP applies:

- for row houses, five dwellings and above, and
- for single dwellings and duplexes, ten dwellings and above.

While this will increase potential workload, it will ensure that a more significant number of dwelling products are subject to the Design and Place SEPP, increasing its relevance and ability to influence change positively. This is particularly required in greenfield locations such as the North West Growth Area, which have poor design outcomes, primarily due to the Codes SEPP.

Car parking structures (class 7a) should be subject to the Design and Place SEPP, and these must be flexibly designed to ensure that they can transition to other uses. Without the application of this SEPP, it is likely that car parking structures will be designed with ceiling heights that do not support future adaptation into other land uses, for example, commercial offices. It is valuable that the Apartment Design Guide and Urban Design Guide acknowledge that car parking structures are future-proofed, but no change will occur without the SEPP requiring action.

As the Design and Place SEPP now applies to residential and non-residential development alike, there is no reason why a car parking structure cannot be future-proofed. In this regard, we request in no uncertain terms that the Draft SEPP be amended to require higher ceiling heights that allow transition into other uses over time, thereby implementing a circular economy, increasing resilience and long term sustainability.

4.2. Part 2 Design principles and design considerations

The Design principles and considerations are sufficiently concise and appropriate.

This section identifies specific areas for clarification and our suggested amendments when appropriate.

Section 13 Consideration of design principles and design considerations by consent authority

The purpose of this section is to ensure that a consent authority properly considers sections 14 - 23 when assessing a development proposal. In our view, the test is subjective and lacks the detail to ensure that all consent authorities apply it consistently. A practice note is suggested that provides consistency in application across all local government areas, particularly for developments of differing scales.

Regarding assessment reports for development applications, the Department may need to clarify the level of detail required to demonstrate consistency with the considerations (i.e. beyond stating that the development is consistent). This is to ensure that the considerations are sufficiently met (given the subjective nature of the clause), particularly where the Apartment Design Guide or Urban Design Guide does not apply to the development. Council is supportive of the intent of Section 13 and asks that the Department provide a template to guide applicants through how consistency with sections 14-23 is demonstrated.

Guidance on the information required to demonstrate consistency with Section 14 - 23 will also standardise responses. This creates greater efficiency in assessment and certainty for applicants when a consent authority identifies why a design principle has not been achieved. If this suggestion is applied, an assessing body and proponent may resolve design issues without an appeal to the Land and Environment Court.

Section 15 Design Consideration – comfortable, inclusive and healthy places

We support the intent of this section, particularly as it relates to open spaces. However, it is unclear who this open space is for in our view. Is it public open space or common open space? The phrase 'pedestrian circulation' hints that this applies equally to private and public open spaces.

The Department should consider including a note that clarifies that this section applies equally to public and shared open spaces. This is likely the intent of the section, and clarification will remove any point of confusion, making its application more consistent and with no debate.

Section 16 Design consideration – culture, character and heritage

This is an important update and supported.

Working with our Aboriginal community and understanding Country not only elevates design but also contributes to healing. In this regard, we believe that sub-point (c) should be extended to apply to local development and rezoning proposals, rather than just State Significant Development. Without a Response to Country Report that discusses the proposal, balanced against submissions from Aboriginal stakeholders, it will be difficult for consent authorities to determine if Country has been addressed in a meaningful manner.

Section 19 Design consideration – sustainable transport and walkability

This principle is sound; however, criteria need to be included to ensure that public space remains accessible at all times, not locked at specific periods during the day or night. We suggest that (a) (i) be updated as follows:

*Located to maximise equitable access by the public **at all times**,*

We remain concerned that Design and Place SEPP has not adequately considered how the land can be dedicated to a council for open space purposes. To resolve this, we request that the Department of Planning provide councils and applicants guidance on how the land can be dedicated to the authority when it is not identified in a contributions plan.

Section 18 Design consideration – vibrant and affordable neighbourhoods

Provisions that seek to future proof infrastructure are supported. However, what is 'adequately providing', and how will the current and future needs be assessed?

Further, given the speculative nature of housing in Sydney, affordability is difficult for local councils to address. As the former Minister for Planning, Rob Stokes, noted:

"But the idea that the planning system alone can solve housing affordability is ludicrous at best; wilfully negligent at worst. ... But I'm sceptical it will find solutions not already found in the Henry Tax Review of 2010, the Productivity Commission's inquiry of 2004, or the Prime Minister's Home Ownership Taskforce of 2003, among other much-vaunted inquiries. All of these included recommendations – never taken up by the government of the day – which recognised the Commonwealth policy settings could have a substantial effect on affordable home ownership."¹

Council recognises the importance of affordable neighbourhoods and is committed to ensuring that a diverse range of housing is provided, meeting the needs of families and individuals. In this section, we suggest that the term 'affordability' has little relevance or context without action by the Commonwealth and State governments. Further use of phrases like 'affordable neighbourhood', though well-meaning, suggest a commitment, but in practice are hollow.

We suggest that the Department remove the term 'affordable' until it has a genuine commitment to delivering affordable rental and affordable social housing that is retained in

¹ <https://www.smh.com.au/national/nsw/planning-alone-will-not-fix-sydney-s-housing-affordability-crisis-20210914-p58rhv.html>

government ownership. This could lead to an increased supply of affordable housing provided by public and not private interests.

The section references development contributing to the housing needs of the local population. We suggest that this is subjective and open to interpretation. Blacktown City considers that the Apartment Design Guide should include an appendix related to Section 18 (b). This appendix would establish the criteria to determine the housing needs of a community, using a demographic assessment on a case by case nature. This would ensure that the mix of apartments responds to the local context instead of generic statements such as 'responding to market demand'.

Section 19 Design consideration – sustainable transport and walkability

This is supported. However, accessibility to public transport and reducing parking is reliant on the State Government improving public transport accessibility and frequency within Blacktown City. Further, it requires agencies such as Transport for NSW to commit to and support our strategy of increasing housing density around transport infrastructure.

The prominence of active transport infrastructure is also supported. However, we believe that moving forward; active transport infrastructure will become increasingly important in our cities as we move away from private vehicles. In this regard, we recommend that a new subclause be introduced that specifically addresses cycle infrastructure, including:

- beginning and end of trip facilities,
- e-charging locations,
- dedicated cycle routes that are direct and safe to public transport links, in addition to centres.

It is acknowledged that this detail can be in both design guidelines associated with the SEPP. However, high priority is necessary to increase the delivery of better infrastructure that links into adjacent council areas across Greater Sydney.

Section 21 Design consideration – resource efficiency and emissions reduction

We support introducing criteria that move the development industry to more sustainable energy use. Removing the vagueness and potential for argument between a consent authority and applicant can be achieved if the phrase 'as far as practicable' is removed from section (21) (a). Including this phrase allows an applicant to justify using gas instead of a more sustainable energy source.

Section 22 Design consideration – resilience and adapting to change

This section is supported. However, it requires a guidance note that establishes how an applicant demonstrates compliance to a consent authority. Without such guidance, the section is open to interpretation and therefore inconsistent application across Greater Sydney. All councils require information provided to remove subjective interpretation and contribute to efficient assessment if tight assessment timeframes are to be met.

Section 26 Energy and water use standards for non-residential development

It is pleasing to see innovative criteria for non-residential development contained within the Design and Place SEPP. Whilst BASIX does set the rules for residential development, the requirements in this clause should be applied to all residential development. Before individual developments on private lots, strategies within master-planned communities should identify and include the infrastructure necessary to support microgrids, utility hubs, and other sustainable infrastructure types.

Section 33 Car parking requirements for new buildings and green travel plans

Green travel plans are supported. However, we request that a council update the *Public Transport Accessibility Map* if it completes a local study, and this should be recognised by adding a note associated with Section 33.

Section 35 Design review panel advice

Processes that lead to greater upfront involvement of panels and resolution of design issues before submission are supported. We note an inconsistency between the exhibition material associated with the Design and Place SEPP and also the reforms to the rezoning system.

Documents associated with both exhibitions suggest that rezoning applications will be subject to design review panel advice. However, this is not addressed in the Design and Place SEPP, which only relates to a development application. While this may be resolved by the *Environmental Planning and Assessment Regulation 2000*, we suggest that if panels relate to rezoning proposals, this be stated in the Design and Place SEPP.

Schedule 1 Energy and Water use

Blacktown City supports and recognises the effort of the NSW Government to improve the sustainability and overall resilience of our cities and places. However, it is unclear why lower green star and NABERS ratings have been applied. This should be explained. Environmental performance is becoming increasingly important, and higher standards should be used, particularly if these lower the long term operating costs of a building and resource usage. Blacktown City accordingly recommends that this be amended and provide the highest standard, rather than a minimum. Unless a higher standard is applied, development practice for most buildings will maintain close to current practice instead of transitioning to better practice and, therefore, performance.

5. Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021

5.1. Definitions

Updating terms and definitions within the draft regulation are supported. In our view, there is uncertainty around the process of who is an experienced urban designer. We agree that this could be a town planner, landscape architect and architect. However, there is no accreditation scheme for a person who can certify *urban design development*. We suggest that criteria be established, along with an accreditation scheme for an urban designer. While accreditation alone does not lead to automatic certainty of better urban design outcomes, it will assist in establishing an appropriately qualified and experienced pool of professionals.

5.2. Division 1A Documents and information to accompany development applications

Standard templates

Blacktown City supports the introduction of standard templates for Design Verification Statements within both the Apartment Design Guide and Urban Design Guide, in addition to the Design Review Template of the Design Review Panel Manual. This reduces pressure on the council to create templates and confusion on what information is required. These templates should be consistently applied State wide to provide consistent practice and application.

Our strong view is that the draft regulation is updated and clearly states that all councils must use the templates.

Clause 57 A Additional requirements for design verification statements and 57B Design Review Report

The commitment made by the NSW Government to ensure that a genuine Connecting with Country process occurs is admirable and supported. To ensure that Connecting with Country doesn't become a tokenistic consultation process, we suggest that Aboriginal stakeholders confirm Design Verification Statements and Design Review Reports. This is an essential addition as it will include within the development application if Aboriginal stakeholders support or do not support the development proposal or concept. In this regard, we request that the draft regulation be updated to ensure that development proposals, when submitted to the council, include the views of Aboriginal stakeholders pre and post creation of the development concept.

Clauses 57 C Embodied energy and 57 D Net-zero statement

It is a welcome addition to the Regulation clauses that address embodied energy and a net-zero statement. A guideline may be required to assist councils in understanding how these clauses work, including a procedure for assessing the information. We suggest that the Department of Planning and Environment consider the introduction of training sessions for councils to ensure consistent application of these essential criteria. Reconciliation with the national Construction Code to define construction standards to achieve this intent would also provide for far greater clarity and consistency.

Clause 99 Condition relating to charging facilities for electric vehicles

The introduction of a condition about charging electric vehicles, including bicycles and scooters, is supported.

Consideration should be given to requiring car parks to provide for charging vehicles in the future. Whilst there is a cost to this, it will future proof the car parking structure. Charging areas could be subject to a fee to cover that is metered against the charge time/

New condition 99 A Trees in open car parks

Blacktown City requests that all car parks be rated for their environmental performance. When at grade, minimum tree per parking rates should be introduced to shade cars and concrete, thereby reducing the urban heat island impact and providing opportunities for collection of urban water runoff. If such a condition is included, we request that we can go beyond the minimum where climate or car park conditions dictate the need for greater canopy cover.

Clause 116 Design verification statement to accompany certain modification applications

We request that this be extended to section 4.55 (1A) applications as these also can include an array of design changes that would require re-verification.

Clause 268 B Constitution of design review panels

We support the ability of the Minister to abolish a design review panel for any reason. However, when this occurs, the reasons must be provided to ensure that the Minister is accountable for actions taken. Removing a panel without cause lacks transparency and accountability, potentially undermining community confidence in planning decisions.

We suggest that this clause and associated Schedule 7, Clause (1) Section (2) (d) be updated to ensure that reasons are provided by the Minister when a panel is abolished or a member removed.

268C Membership of design review panels

Blacktown City supports design review panels and recognises how this can contribute to improved design quality. Local design knowledge is integral when providing advice to customers, and with a City Architect, Blacktown City is well placed to contribute good design advice. Further, it also ensures that crucial design directions being formulated by the council can be advised, as necessary.

We request that the draft Regulation be amended to allow specialist staff to provide Council representation on a design review panel. To ensure the panel's independence, the Council staff member could be for advice and in a non-voting role.

268 D Functions of design review panels

Clause 268 D (6) (b) identifies additional design review panel functions that contribute to better design outcomes across local government area boundaries.

In a literal interpretation, this context is assumed to be in areas where a town centre or place is divided into two local council areas, usually by a road. We agree that a process to improve design outcomes in these areas is critical, in addition to more broadly improving design outcomes. It is requested that the Department of Planning and Environment clarify how this is intended to work in practice, including if design review panels are required to seek the advice

of adjacent councils. This is a potentially significant addition of work before an application is submitted for assessment and represents a drain on already stretched resources.

5.3. Schedule 7, Clause 2 Alternate members

We request that this clause be updated and require alternate members to have the same skills as the member they replace. This is for balance, continuity of advice, and ensuring that the right skillsets provide guidance for the particular area of expertise.

6. Design Review Panels

Blacktown City supports design review panels and recognises the effort made to provide a consistent, fair and balanced process that gives applicants the right advice, balanced against the cost of operation. Noting this, we have significant concerns about how these panels will be resourced, including the cost of running and time taken from officers, preventing them from performing their primary role.

We are convinced that design review panels will result in better design outcomes, particularly with local representation. This section represents comments on the Design Review Panel Guide and is in addition to comments made on the Draft *Environmental Planning and Assessment Regulation 2021*.

In making our comments, we aim to provide constructive feedback to improve the operation of the Guide and identify areas where clarification is necessary.

6.1. When does design review panel take place?

It is understood that the new approach being proposed effectively frontloads the development and rezoning application processes. Generally, we are supportive of this process, mainly if it resolves design issues before the application is submitted. In addition, we note the cost implications for both applicants and councils will be high and ask that the NSW Government commit to measuring the cost implications of this process and making adjustments as necessary. The significant volume of frontloading and design work could potentially add high costs to developments which ultimately are passed onto end consumers, further increasing housing costs and eroding affordability.

While supportive of design review panels, we ask the following questions:

- How is the number of meetings required by a development application arrived at?
- Does the design review panel advise if the proposal needs to come back for further advice, and can the applicant ignore this?
- Is a design review panel to meet on a regular schedule or as needs basis?
- Can the design review panel consider multiple development proposals at the same meeting?
- The City of Sydney holds ten meetings per year under their Design Advisory Panel². How many sessions does the DPIE anticipate per year, or is this for the council to determine?

6.2. Design review requires collaboration

We agree that for a design review panel to function efficiently, all participants must have a collaborative relationship. The current process proposed requires planners to undertake a detailed assessment and provide this advice to the panel meeting as briefing material. A better approach is if councils with specialist skillsets, such as in-house architects or urban designers, are silent panel members. These silent members would provide design briefings to the panel to participate in advice but have no formal voting role.

² <https://www.cityofsydney.nsw.gov.au/-/media/corporate/files/committees/design-advisory-panel---terms-of-reference.pdf?download=true>

6.3. Costs of a design review panel

A significant concern of Blacktown City is the cost of panels to both proponents and council. Local councils across NSW are already running numerous panels, with additional panels placing significant resourcing strain, despite any merit of that panel. Therefore, the cost of a design review panel must be neutral to ensure long-term financial stability and maintain core service delivery.

These costs extend past financial and include staff time costs, resourcing and the ability to deliver development assessment processes within mandated timeframes. We suggest that including a specialist design representative on the panel from the council can negate the need for a town planner to prepare an assessment report and attend the meeting. At the design phase, better advice is received when looking through a design lens instead of compliance. This also increases collaboration rather than adversary roles.

The guideline notes that all of a council's costs will not be covered by proponent fees, which is not supported. Design Review Panels must operate cost-neutrally, with the NSW Government covering any shortfall in panel costs.

To control the costs of design review panels:

- councils should therefore have the ability to manage the number of meetings per year
- site inspections should not be a formal component of meetings, conducted by panel members in their own time
- where a site inspection is necessary, the costs are borne by the applicant
- the NSW Government covers induction and training costs
- the NSW Government fund any position required by the council to administer design review panel meetings
- require proponents to prepare briefing material and not a council
- set a time limit of six hours maximum for panel meetings. An eight hour day is costly and, given the intensity of operation, could lead to poorer advice when the panel is tired
- Set a maximum of four reviews per meeting
- Council design staff are panel members providing design advice, rather than a planner providing a background report and attending the meeting
- the NSW Government provide a full suite of templates and panel material.

6.4. Design Review Panel Guide Appendices

The inclusion of templates is helpful and supported. These templates will help provide consistent structure and advice format across Greater Sydney, giving applicants on panel operations certainty. While supportive of the appendices, we request that further consideration be given to the content of Appendix A, which concerns the panel term of reference and Appendix B, which provides an agenda.

Appendix A – Template design review panel terms of reference

Terms of reference are appropriate and assist all parties in understanding how the panel will operate and the responsibilities of each interest group. We support the identified purpose and scope of review as stated in the template. Our concern relates to the roles and responsibilities

of a design review panel, mainly to council staff. In this regard, we request the following amendments to panel roles and responsibilities:

- The proponent team be responsible for the preparation of all material, including panel briefing notes
- The costs of a design review panel manager are borne by the NSW Government, partially offset by applicant fees
- The requirement for pre-briefing sessions of council assessment staff is removed.
- The assessment planner not be required to attend meetings or prepare briefing notes (these being the responsibility of the applicant)
- To maintain panel independence, an assessing planner to not brief the panel on any potential issues. These should be highlighted in the proponent design report
- Include a council design expert on the panel, for example, the City Architect at Blacktown City to provide design advice
- Remove the requirement for site visits, unless the proponent covers all fees.

Appendix B – Template agenda for a local design review panel session

Appendix B suggests that a panel meeting start at 9 AM and finish at 5 PM, with half an hour set aside for site visits. This is not a realistic or practical timeframe for panel operations as it does not account for travel time between sites or back to council. In inner areas of Greater Sydney, this may be more achievable, but in Blacktown City, there could be significant distances between sites, preventing this schedule from occurring.

It is also noted that there is an inconsistency within the guideline on session length. In Appendix B, sessions are running for 1 hour and 15 minutes, whereas earlier in the manual, meetings of around two hours are proposed and time required for site inspections.

We suggest that the Department of Planning and Environment update Appendix B and apply a more realistic timeframe for a panel meeting ranging from four to six hours.

7. Urban Design Guide

7.1. General

The Urban Design Guidelines are an essential addition to the design framework within NSW, and the NSW Government is congratulated for this contribution. They contain sound principles to guide better development outcomes and are supported in principle. However, although applicable to greenfield and renewal contexts, many of the design guidance criteria may have a greater chance of success in renewal areas/ sites. This is because of the nexus with infrastructure supply, for example, public transport, which is deficient in many areas of Western Sydney.

To achieve the same outcomes in greenfield areas that the Urban Design Guideline correctly promotes, the NSW Government will need upfront commitment to delivering public and active transport infrastructure at a minimum. However, we are encouraged that a design document recognises the importance of infrastructure and looks forward to working with the NSW Government to deliver transformative projects like the extension of the Sydney Metro to St Marys via the Marsden Park Strategic Centre.

Many of the examples and precedents identified in photographs relate to infill locations or urban renewal within established communities with existing infrastructure, or planned infrastructure due to public events, for example, the Olympics. While they are good examples to cite, either the lack of infrastructure or the non-commitment to infrastructure provision, makes it difficult to find direct relevance in Blacktown City. If there are any examples of well-planned communities within greenfield areas, they should be identified. This would make the document appear less focused on infill and renewal sites within an established urban context.

An additional concern is the thresholds to determine when the development will apply. Proponents will likely attempt to game the system by submitting concepts under the threshold, meaning the Urban Design Guide does not apply. Therefore, we suggest that the Department of Planning and Environment reflect on the thresholds and update to capture a greater extent of development.

Blacktown City also recognises and supports that good urban design is both a process and an outcome. There is a need to ensure that transport planning (especially vehicular traffic) respects and integrates with the place-based design approach and principles when planning greenfield precincts.

Generally, however, the Urban Design Guideline and its principles represent a valuable addition and will hopefully assist in creating better and more sustainably designed communities.

Comments are provided below to improve the Urban Design Guideline and questions where clarification is needed.

7.2. Objective 2 District and local routes provide transport choice and accessibility

Design Guidance 2.3 Locate and integrate development with highly accessible public transport

The integration of public transport into new and existing communities is supported. We appreciate design guidance that recognises the importance of public transport when creating better places and how this contributes to shaping viable communities. However, we question the application of these principles across Western Sydney greenfield areas, which are often deficient in transport choice and accessibility. An example is Marsden Park and Melonba in Blacktown City, which faces significant transport issues due to a lack of public transport opportunities, including service frequency. Likewise, employment areas like Sydney Business Park are car-dependent as there is no public transport.

To implement this design guidance, the NSW Government will need to identify and commit to public transport infrastructure as greenfield areas are being developed, rather than planning around potential infrastructure. We suggest that the NSW Government commit to implementing this design guidance and Objective 2 more broadly and deliver much-needed transport infrastructure in Blacktown City, including the early delivery of the Sydney Metro to St Marys via Marsden Park.

Figure 13: 400 m access to public transport

This diagram effectively communicates principles of public transport provision, urban grain, and density principles. However, the concept is highly urbanised. It is unclear whether this is the suggested development approach within greenfield areas or is representative of infill areas that already benefit from transport choice and accessibility. Making this point, we appreciate and support design guidance that aims to deliver better built form outcomes in greenfield areas. Under the development model suggested in this diagram:

- Government commitment to infrastructure is required,
- Built form outcomes and development permissibility will need to change to prevent single-dwelling properties, particularly those on small lots
- The Codes SEPP will need revision as it is directly responsible for poor urban outcomes within release areas.

Without the above changes, the outcomes advocated in this diagram and section will mainly apply within renewal areas and infill sites. We request that the NSW Government advise if any changes are proposed to the Codes SEPP to ensure that the development outcomes it permits are consistent with the Urban Design Guide.

7.3. Objective 3 Compact and diverse neighbourhoods connect to good amenity

Neighbourhood density

The principle and intent of Objective 3 are supported. However, to achieve the goals of the guideline, changes to how infrastructure is delivered and design guidance and land use permissibility in SEPPs, LEPs and DCPs will need to be revised.

Current practice advocated within the Growth Centres SEPP, Codes SEPP, and Growth Centres DCPs leads to urban sprawl and inaccessible, poorly serviced communities. Is it the intention of the State Government to bring the documents mentioned above and council LEPs into line with this objective?

We also note that the Urban Design Guideline introduces density targets. This is an unusual provision, given that densities in renewal sites are typically well above the 15 and 30 gross

residential density minimums proposed. For clarity, however, we are interested if these rates override any similar density provision of an LEP or SEPP?

Regarding public transport, how does this work in areas where there is no commitment by the NSW Government to provide public transport services?

Better practice example - Newington

Newington is a fine example of a well-designed community that is accessible, sustainable and green. It is, however, misleading to suggest that this outcome is applicable everywhere. Newington had structural advantages, including location and commitment to leverage public transport, open space and other infrastructure provided for Olympic Park.

However, if this represents a Government commitment to follow a similar process for greenfield release areas, that is applauded.

We also suggest that the guideline be updated and show Masterplanned communities within greenfield areas on par with Newington.

7.4. Objective 5 Walkable neighbourhoods are vibrant and productive

We suggest that this objective be re-titled to:

Walkable neighbourhoods are vibrant, productive **and safe**

Regarding accessibility to open space, we note that the criteria suggest applying to all development. However, this criteria appears to only apply to developments above 1 hectare in size. Though this may be only a negligible risk, there is the potential for numerous smaller applications to bypass the operation of the Urban Design Guideline. If this occurs, the thresholds for open space will not be applicable.

It is also unclear how Objective five will be implemented in greenfield areas. The guideline should note that a development proposal cannot rely on future or potential public transport when new communities are planned.

Open space catchments

The principle of open space type being linked to development densities is sound. In practice, however, it is unclear how this will work, and the following questions are asked:

- How does this relate to how open space is provided in greenfield sites? Is this setting new threshold criteria, or is it in addition to the current 2.83 ha/ 1,000 people?
- What is the delivery mechanism, and who is responsible for maintaining the space?
- How will open space be provided to a council if not identified in a contributions plan?
- How does this consider the capacity of open space? Previously the Draft Greener Places Design Guideline identified the capacity of open space. We request that this be continued to ensure that demand is met by also considering the population.

7.5. Objective 7 Walking and cycling priorities, safe and comfortable for people of all abilities

This objective is supported and represents better practice and good design advice.

We suggest that the design guidance associated with the objective be expanded to provide principles for utilising transport corridor spaces. For example, many of the excellent cycleways

in Melbourne into the CBD use land that was once part of the rail corridor reservation—reducing the size of the reservation allowed for direct and efficient active transport links, free of traffic and safe for users of all ages.

Design Guidance, 7.4 Integrate safe cycling

It is pleasing to see design guidance around active transport infrastructure. While there is a focus on end of trip facilities (final destination), it is suggested that this be split into categories: (1) beginning, (2) mid-point and (3) end of a journey. This may promote bike storage facilities at train stations and bus stops along key routes.

Consideration should also be given to introducing design guidance for bicycle storage infrastructure within the public domain or street in the place of on-street parking. Active transport use increases when a bicycle can be accessed without removing it from the house or garage. In other words, ease of access increases use opportunities.

Examples where bicycle storage infrastructure have been successfully installed in local streets within the UK, are below:

www.lbhf.gov.uk/articles/news/2018/06/secure-cycle-storage-units-hit-hf-streets-summer

www.meotra.org.uk/2016/12/on-street-secure-cycle-storage.html

It is also suggested that bicycle storage facilities be expanded to include storage areas for scooters.

7.6. Objective 8 Parking is minimised, adaptable and integrated

Similar to other comments, though a sound objective and supported, it won't be easy to achieve in greenfield locations unless the State Government provides infrastructure.

Design Guidance 8.1 Integrate parking into urban form

In our view, the design guidance that enables suburban and office park environments to continue the delivery of at grade surface car parking is poor. There are numerous examples of very poorly designed and inefficiently used land dominated by surface parking. This prevents activation of the street, destroys any sense of compactness, removes opportunities for walkability, isolates sites, increases heat island impacts and encourages car use. The Schofields suburban centre and Wrights Road, Kellyville suburban centre are good examples of poor urban design outcomes that this clause will continue to permit.

We request that this design guidance be updated as follows:

EXISTING	PROPOSED
<p>Surface parking is not suitable in centres or dense urban areas. Where surface parking is provided in suburban or office-park environments:</p> <ul style="list-style-type: none"> • provide adequate trees, landscaping and permeable surfaces • locate parking to the rear of the site to allow buildings to define the street edge and contribute to the streetscape 	<p>Surface parking is not suitable in centres or dense urban areas, with parking either:</p> <ul style="list-style-type: none"> • decoupled and consolidated with other parking in a centralised multipurpose hub, or • provided under the building footprint.

7.7. Objective 10 Tree canopy supports sustainable, liveable and cool neighbourhoods

Broadly we support the initiatives to increase tree canopy cover across Greater Sydney. This section would be improved with case studies that show how the canopy targets can be achieved in streets and private lots, particularly small lot housing. Though we remain committed to finding practical ways to increase canopy cover, it is concerning that there may be no practical way to ensure that this objective is satisfied. A new approach to how housing is designed and the role of private open spaces versus communal open spaces in medium density and small lot developments is required. Accordingly, we recommend that the NSW Government commit to investigating better residential typologies that can deliver and sustain a green environment as a matter of priority. This work should update development guidance within the Growth Centres SEPP and Codes SEPP at a minimum.

We also request more guidance on how canopy targets can be practically achieved, particularly in the North West Growth Area, where land is subject to Bio Certification, which results in clearing the majority of canopy cover and vegetation.

Further, the reality of minimum (not maximum) density provisions in the NWGA, leading to poor subdivision design and layout, and the advent of 225sqm residential allotments, make it almost impossible to promote or implement tree canopy initiatives in these emerging suburbs. This is another clear disconnect between Policy objectives and built form outcomes.

It is also suggested that the NSW Government may want to consider a rebate or incentive scheme to ensure that homeowners look after trees rather than removing them for paved outdoor areas.

The following questions are asked for clarification:

- Are the canopy targets in Objective ten mandatory rates that must be applied?
- Do the street widths and design standards in Design Guidance 10.5 override council engineering design guidelines?
- Do the street tree planting rates in Design Guidance 10.5 take precedent over any council policy?

7.8. Objective 12 Public open space is high-quality, varied and adaptable

Blacktown City supports initiatives that promote better and more accessible open spaces that meet the community needs. We are concerned, however, that the Design Guideline may unintentionally deliver unsuitable open spaces due to the exemptions that:

- Prevents the median open space size applying to sites between 1 and 5 hectares; and
- The Design Guideline does not apply to land less than one hectare in size.

Whilst there is some guidance here, there is the real risk that small parks or areas that are generally unusable or have poor amenity will be created on sites between 1 and 5 hectares. It also introduces the risk that a proponent may develop a series of smaller developments to avoid requirements to provide a single large open space area on sites between 5 and 25 hectares.

Blacktown City also advocates the Design Guidelines applying the population-based threshold, rather than just site area. Using a population threshold is particularly useful within established

areas where existing open spaces may already be at capacity, necessitating the need for open space, regardless of land area.

The Design Guideline also states that open space should not be adjacent to industrial areas or utility facilities due to health concerns. These impacts are recognised and, in principle, agreed upon. However, there are examples and contexts where a linear park can offer both a buffer function and meet the needs of both residents and workers. For example, Ishihara Park (Santa Monica, USA) provides a linear park that buffers residential areas from a rail stabling yard and maintenance facility. In Blacktown City, a similar context is at Tallawong. The park provides an active play and recreational space in an area of need and buffering residential land uses. We request that design guidance or at least the recognition of alternate solutions be provided to encourage examples like this:

<https://landezine.com/ishihara-park-by-studio-mla/>

Further, industrial areas often lack open spaces or breakout areas for employees and visitors. These places should also benefit from open space, and it is suggested that guidance be provided.

12.4 Provide for sports and active and passive recreation

The provision of recreation infrastructure within communities is supported; however, the design guidance is unclear how it will be delivered. We are particularly concerned that there has been a failure to:

- recognise community facilities are outside of Contribution Plan requirements. A council cannot collect funds for facilities, only land.
- The mechanism to deliver open space when it is not identified in a contributions plan, noting that the NSW Government favours a system that moves away from Voluntary Planning Agreements.
- Identify how works required to meet a community need will be delivered.

We ask that the above be resolved before finalising the Design and Place SEPP.

7.9. Objective 15 The lot layout supports green neighbourhoods and a diversity of built form and uses

This is a welcome addition and can contribute to a better neighbourhood structure within our communities. Throughout the Design Guideline, there is a focus on green cover and tree canopy cover, which is also supported. To improve this section and identify other opportunities to showcase innovative design solutions, it is suggested that Accordia, a development in the UK, be utilised as a case study (www.fcbstudios.com/work/view/accordia?sort=highlights).

In this case study, lessons can be drawn on balancing private and communal open space requirements with permeability, social interaction and community building. Set within public landscape gardens and with a range of housing types from apartments to terraces and courtyard houses, Accordia offers ideas on how green space and increased canopy cover can be delivered while achieving sustainable densities and compactness.

8. Apartment Design Guide

Blacktown City considers the updates to the Apartment Design Guide to be sensible and welcomes the modernisation of the document. Whilst we offer in-principle support to the Apartment Design Guide, it is concerning that several concepts with the discussion paper have not been carried across into the exhibition version of the Apartment Design Guide.

Our intention in this section is to identify those areas that require additional work, propose amendments to improve the document and ask questions where the policy intent is unclear.

8.1. Part 1 Designing for the site

Cultural context – response to Country

Requiring projects to respond to Country is supported. This is a significant opportunity to create a design culture unique to Australia and reconciliation and healing. While we consider this an essential component of all projects, there is a lack of clarity on how it works in practice. Though the Draft Connecting to Country Framework is provided as a signpost that highlights the importance of the subject matter, it lacks a clear focus on steps to follow. This leads to confusion and potentially tokenistic responses to Country. Further, the criteria in Appendix 2.2 within the site analysis checklist may lead to 'desktop' assessments rather than direct consultation.

We suggest that this section refers to the International Indigenous Design Charter, with an appendix added providing the context for its application. This important document was created to ensure that Indigenous knowledge is sought and used respectfully and accurately to represent their culture and work. This important charter includes ten principles that apply to individual developments and development sites, regardless of scale. Using the ten principles, a clear pathway is established on how to engage and the process to engage. The Draft Connecting to Country Framework supports this by providing an educational resource on why this process is essential. The International Indigenous Design Charter can be accessed from here: www.indigenousdesigncharter.com.au/.

Stepped building form diagrams

In our view, the Apartment Design Guideline has numerous contradictory graphics throughout that address stepped built form. Blacktown City requests that drawings be reviewed to resolve conflicting ideas that weaken application through confusion.

Table 1.2.1 Best practice minimum building separation distances

It is noted that the separation distances from the Explanation of Intended Effects (EIE) have been reduced from 30 m back to 24 m. This retains the exact building separation distances as the current Apartment Design Guideline, which maintained separation distances within the original guide. Changing controls for controls sake is not supported. However, there is no apparent reason (other than industry push back) why separation distances proposed in the EIE have not been continued.

Better design practice would recognise the need to increase the building separation between tower elements. If the Apartment Design Guideline is not amended to increase separation distances, we request the following:

- a statement on the separation of tower elements is introduced to ensure that view corridors, urban structure and the street hierarchy is reinforced

- including a clarifying statement that recognises the ability of councils to set tower separation distances greater than 24 m.

Articulation of skyline

Design guidance suggests that building heights should define and articulate the skyline. This is sound advice; however, it has no authority. We request the following text be moved from design guidance to design criteria in Section 1.2:

Articulate the skyline using a variety of building heights and stagger building form in relation to the street walls, with adequate tower separation to protect access to sunlight and sky view for the surrounding public realm and neighbouring properties.

Building floorplates, depth and articulation

Earlier briefing sessions proposed caps on floorplate to control the bulk of towers that propose multiple cores. This has not been carried through into the Apartment Design Guide, and we request reintroducing the 700 m² floorplate for tower elements. It is unclear why the valid justification for reducing floorplates in the 2021 EIE now no longer applies. Without controls that effectively control the bulk of tower elements, potentially both the urban structure (skyline, solar access to the street, wind impacts, views, etc.) and amenity of residents in apartments will be reduced.

Increased yields by larger floorplates or methods to borrow or mechanically circulate air or light through apartments should not take precedence over good design practice.

Figure 1.2.8 Floor to floor height

This diagram incorrectly references floor to ceiling heights for residential habitable rooms rather than the floor to floor height. It is requested that this be corrected with a floor to floor height of 3.1 m applied for residential habitable rooms.

Through site links

Permeability is a vital component of the Apartment Design Guide and Urban Design Guide. To ensure through site links meet the context and relate to the scale of the area, we suggest introducing a control that links the width of a pedestrian link with building height. For example, for each storey of height, the width of the through site link increases by 1 metre. In addition to creating safer links, it opens opportunities for blue-green infrastructure and potentially places of social interaction. This should be supported by a diagram showing various applications of the concept.

Deep soil

The guidance on deep soil is generally appropriate, and the ability for a council to set higher standards, depending on the context, is supported. A common issue associated with deep soil is depth, with proponents attempting to claim areas above structures as 'deep soil'. In this regard, we recommend adding a note to the design criteria stating soil above any structure cannot be counted as deep soil.

Basement footprint inconsistency in Section 1.5 Green Infrastructure and Section 1.6 Parking

There is conflicting advice around basement footprint and deep soil areas, as shown below:

1.5 GREEN INFRASTRUCTURE, PAGE 29

Consolidate basement **car parking beneath** building footprints to allow for maximum deep soil.

1.6 PARKING, PAGE 35

Locate basements **predominantly below** the building footprint. Avoid the front, rear and side setbacks **where possible**, to allow for consolidated and connected deep soil zones between properties and within the public realm.

We request the design guidance in Section 1.6 be replaced with that in Section 1.5. Failure to do so will result in basements creeping into what should be deep soil areas as it wasn't possible to do anything else.

1.6 Parking

Parking rates

Allowing council rates to determine car parking when an improvement on *Guide to Traffic Generating Developments* (RTA 2002) is supported. However, this policy is now twenty years old and due for replacement. We suggest that DPIE and TfNSW work on this update as a matter of priority. We recommend that Clause 32 (3) (a) be deleted, which identifies car parking as a non-discretionary standard. Alternatively, it could express the minimum parking rates in a council DCP as the maximum rate allowed.

Bicycle Parking

As micro e-mobility increases in popularity, so does the need for appropriate storage facilities for bicycles and scooters. We suggest that this design guidance be re-named 'Bicycle and Scooter Parking'.

The concepts around bicycle storage within the public areas are also outdated and should be revised. This should be updated to allow secure bicycle storage areas rather than stands. Secure bicycle storage such as those shown in the links below should be integrated into the most accessible outdoor location on-site and streetscape.

The relevant guidance could be amended as follows:

EXISTING	PROPOSED
For clusters of bicycle stands in public space, avoid more than 8 spaces to allow for ease of access and minimise visual impact.	<i>Provide secure bicycle storage in public space to allow for ease of access, security and reduce visual impact.</i>

Photo examples should also be included to encourage creative thinking and alternative design solutions.



Figure 2 Bicycle storage within the street is highly accessible and secure (Source: <https://www.lbhf.gov.uk/>)



Figure 3 Example of bicycle storage in the public domain (Source: <https://www.fietshangar.nl/>)

8.2. Part 2 Building design

2.2 Communal Open Space

The updated apartment design guide proposes that communal open spaces can be provided on rooftops and podiums rather than being located with deep soil. Whilst we recognise that rooftops and podiums can be used for communal open space, we object to this being the default standard. In our experience, rooftop areas used for communal open spaces are typically poorly designed and mostly unusable. On the other hand, ground-level communal open space is usable and must be retained as the baseline position. We request the following amendment to this design criteria:

- Communal open space is linked with the ground level areas, with other solutions only considered when this is impossible.
- Rooftop communal open space areas require landscaping, including green roof elements, for example, a cooperative micro-farm.
- Communal open space areas revert to a minimum 25 % of the site area, rather than a maximum.

2.3 Apartment mix and diversity

Introducing a minimum mix is supported, particularly for those councils who do not have it set in the DCP. However, this guidance, which seems to be loosely based on a similar policy operating in Ireland, does not achieve housing diversity, and it will continue to be an issue. DPIE advice from the February 2021 Discussion Paper is reproduced below:

Unit size, configuration and mix is not achieving housing diversity. Currently development is providing mainly one-bedroom and two-bedroom units, and there is a lack of family units, and of provision for home businesses or people working from home.

Currently, many developments proposals are received by Blacktown City that claims market demand has determined the mix. There is no supporting statement confirming that the mix responds to the needs of the residential population.

Therefore, we recommend updating the apartment mix criteria to include a requirement for developers to provide a demographic assessment of the area, including trends that support the proposed unit mix. An additional template should be delivered within the Appendices that establishes a methodology and guidance for determining the unit mix.

2.4 Apartment configuration

Alternative design responses

Clauses that promote alternative solutions when minimum apartment size and minimum room sizes cannot be achieved are not supported. We consider that this will lead to substandard outcomes, where limits are pushed, resulting in reduced liveability and poorer design quality. This is contrary to the objective of the Design and Place SEPP.

Ceiling height (bulkheads)

There is a minor discrepancy between design criteria related to bulkheads and Figure 2.4.2. We request that the phrase 'wherever possible' be deleted from design guidance relating to bulkheads and the standards updated to reflect the approach of Figure 2.4.2. We do not

support the intrusion of bulkheads into habitable spaces, and the conflicting advice within this section creates confusion and difficulty in assessment.

2.5 Private open space and balconies

A common theme in development applications at Blacktown City is proponents calculating the size of balconies to the outside face of the structure. This reduces the size of the balcony and, therefore, its usable space.

We request that an additional diagram be provided that clearly identifies the minimum internal dimensions.

2.7 Natural ventilation

The work to improve guidance on natural ventilation is appreciated. However, it remains complex, with the guides in Appendix 4 challenging to apply. We suggest further refinement to simplify the approach to natural ventilation that would benefit all users. Training sessions could support this to upskill all users on implementing and assessing natural ventilation design principles.

Figure 2.7.1 provides examples of when cross ventilation is not achieved in single façade aspect apartments. We request that it be clarified these diagrams represent what not to do. Further, we ask that the guideline specify the minimum distance required between an opening and opposing wall if cross ventilation is to be achieved.

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 4:16 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: submission-on-draft-design-and-place-sepp.pdf

Submitted on Mon, 28/02/2022 - 16:14

Submitted by: Anonymous

Submitted values are:

Submission Type

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First name

Michelle

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Maier

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Please provide your view on the project

I am just providing comments

Submission file

[submission-on-draft-design-and-place-sepp.pdf](#)

Submission

This is the submission from Blue Mountains City Council on the draft Design and Place SEPP exhibition package

I agree to the above statement

Yes



28 February 2022

Reference File: 22/42097 (F00678)

To: Department of Planning, Industry and Environment

SUBJECT Draft Design and Place SEPP

Thank you for the opportunity to provide feedback on the legislative, policy and guideline package associated with the exhibition of the draft Design and Place SEPP.

Please find attached a submission from Blue Mountains City Council raising key matters.

The submission is considered substantive and addresses the majority of issues of concern to Council. However, given the size of the exhibition package, and the number of concurrent and overlapping planning reforms from the Department to which the Council must respond, this submission is not necessarily considered exhaustive.

Council would therefore welcome the opportunity to be further involved in discussions prior to the finalisation of the draft SEPP and associated guidelines.

The most appropriate contact for such discussion, or to respond to any questions arising from this submission, would be Kim Barrett, City Planning Manager on kbarrett@bmcc.nsw.gov.au

Yours faithfully

A handwritten signature in black ink, appearing to be "W. Langevad", written over a light blue grid background.

WILL LANGEVAD
Director Environment & Planning Services

Submission on Draft Design and Place SEPP

Blue Mountains City Council

Thank you for the opportunity to provide feedback on the draft Design and Place SEPP package. Blue Mountains City Council (Council) has provided feedback on the core components of the proposed SEPP as below.

- Draft Design and Place State Environmental Planning Policy (DP SEPP) 2021
- Proposed changes to the Environment and Planning Assessment Regulation 2021 (EPA Regulation)
- Proposed direction by the Minister under section 9.1 of the Environmental Planning and Assessment Act 1979 (9.1 Direction)
- Revised Apartment Design Guide (ADG)
- Proposed new Urban Design Guide (UDG)
- Design Review Panel Manual for Local Government (DRPM)
- Updates to residential sustainability (BASIX) including BASIX sandbox tool

1. Draft Design and Place State Environmental Planning Policy (DP SEPP) 2021

Council is very supportive of opportunities to elevate the consideration of urban design in the planning system. It is also pleasing to note that some matters raised in Council's previous submission have since been addressed, such as the interrelationship between the DP SEPP and other strategic work undertaken made more discernible, with its relationship to the District Plan (**Clause 3**), for example, now clear.

With this clarification, the DP SEPP initially sought to support locally responsive planning approaches. However, it is now noted that the DP SEPP prevails in the event of any inconsistency between it and another EPI (**Clause 9**). The implications of this for the value of locally developed and specific planning controls and associated planning policies, particularly in relation to local character and sustainability measures, is concerning.

Other issues for comment include:

- More clarity needed as to the role of community engagement in the design process, particularly the involvement of Traditional Owners. Multiple references to a draft policy (Connecting to Country) are noted but are diluted by the lack of a final policy with an unclear timeline for adoption.
- Lack of guidance on natural hazard considerations in general, and in particular the omission of any reference to Planning for Bush Fire Protection in associated guidelines to the DP SEPP.
- Public space and public open spaces are two separate issues and appear to be conflated in the DP SEPP to the detriment of planning outcomes.
- Implications for assessment times in the approval process. No consideration appears to have been given for increased time for design, verification or reporting aspects associated with the application of the DP SEPP.
- Need for clear and plain language information to provide the general community on these changes.

- There is a need for language to be unambiguous, with the removal of “*the consent authority must consider*”, which is unclear, and replaced with enforceable language such as “*must be satisfied*”.
- Narrow specification of who is to be a recognised urban designer, particularly given that urban design is itself a discipline and not a subset of another profession. It is recognised a majority of practicing urban designers come with background studies in urban planning, architecture, or landscape architecture and then focus on urban design in their professional career. Indeed, many collegiate programs incorporate urban design theory and design subjects into their curricula. However, there is an increasing number of university programs offering degrees in urban design at the post-graduate level that would need to be included as a stream to become a recognised Urban Designer. The limit of five years’ experience also appears arbitrary.

In general the proposed approach will make it extremely challenging to formally recognise the title Urban Designer through any institute, such as Architect and Landscape Architect, in the future. It is also noted there is no protection of title law, nor statutory register for the use of the name Urban Designer, as there is in the case of Architects. Nor is membership to an institute required.

There is also the issue of how existing skill sets available in the design community meet these new requirement, particularly in the area of urban design. A matter that is likely to be felt most acutely in regional areas.

2. Proposed changes to the Environment and Planning Assessment Regulation 2021 (EPA Regulation)

As with the DP SEPP more broadly, there are components of the draft Regulations that are supportable, such as consideration of embodied energy, provision for charging facilities for electric vehicles with consideration to future transport uses, and requirements for certain modifications to provide design verification statements. However, concern is raised regarding some elements and language within the draft Regulations and a need for it to be clear and without ambiguity.

Specific additional comments are provided in relation to:

- The provision of standard conditions of consent appears useful in the first instance. However, there is lack of detail pertaining to how some standard conditions will be executed and compliance ensured. For instance, draft **Clause 99A Condition relating to green travel plan** requires this plan to be reviewed every 2 years and implemented in a way that ensures targets for mode share specified in the plan are achieved. There is no guidance on who is responsible for ensuring this condition is met post the completion of a development, nor how any updated plan or evidence of targets is recorded and reported on.
- It is unclear what the intent is in draft **Clause 57C Embodied energy** when reference is made to the requirement for disclosure of embodied emissions attributable to development, reportable via the NSW planning portal from “time to time”. Lack of prescription needs to be resolved.
- **Clause 57(ii)** is unclear in how development is to incorporate the intellectual property of local indigenous communities.

It is worth noting there are no proposed changes to the *Environmental Planning and Assessment Act* itself as part of this planning reform package. In the absence of a clear

legislative link the legal weight of the package of reforms may end up being determined through formal appeal processes and potentially result in another layer of complexity on an already complex planning system.

3. Proposed direction by the Minister under section 9.1 of the Environmental Planning and Assessment Act 1979 (9.1 Direction)

There are clear conflicts between draft Ministerial Direction 9.1 regarding timeframes and the early consideration of and recognition of the value of quality design as embodied in the DP SEPP. Referring a planning proposal to the Urban Design Panel by its nature, adds time. This requirement is not congruent with the proposed 90 day planning proposal assessment timeframe. In addition, it is not realistic or practical to expect that a planning proposal could move through the initial officer assessment, advice be obtained from the Local Planning Panel and the Design Review Panel, as well as Council endorsement sought within this period.

It is also noted a planning proposal seeks to justify the strategic merit of a proposal and does not typically contain the level of design certainty or detail equivalent of a development application (which, in and of itself, may be subject to many iterations between a planning proposal and an approved development application). Blending these processes, in conjunction with hastening the process, may lead to poorer on the ground outcomes.

Specific to the Ministerial Directions relationship to the DP SEPP, the requirement for an LEP and DCP to be consistent with the SEPP places a significant administrative burden on Councils and without regard for existing obligations/responsibilities, such as ensuring planning controls are consistent with the Greater Sydney Plan and District Plans.

It is not feasible that Council continually update planning controls to ensure consistency with introduced State Policy. This approach effectively endorses a one-size-fits-all approach and associated dilution of core planning principles. As previously and consistently argued in other submissions, Council has a history of proactive strategic planning for local needs, through robust community endorsed place based planning. This is successfully demonstrated in the maintenance of local character protections whilst meeting housing targets as set by the Greater Sydney Commission (GSC). Policy that unnecessarily duplicates existing strategic work, and erodes local strong local strategic planning controls and local character, is problematic.

The above consideration must also be read with proposed clause (6) of the Ministerial Direction. As it currently reads *“A planning proposal must, in relation to land to which this direction applies ... give effect to any relevant residential density, connectivity and open space criteria and guidance as referenced in the Urban Design Guide.”* This clause would give more weight on density in the UDG than within the local planning controls in Councils LEP.

Council is concerned about this imposition of density controls through a State level guideline and requests that it be changed to make density controls a consideration, subject to the specific characteristics of the place. This concern aligns with later comments regarding the UDG itself, which contains controls and design objectives more applicable to dense metropolitan settings and outcomes, rather than a range of urban outcomes.

Given the above, further clarification is required regarding the obvious occurrence of conflict between the ADG, UDG and a DCP, or LEP. Particularly, whether the ADG or UDG overrides LEP controls, is perhaps the most immediate issue. In the absence of such clarity

it may be that the appeal process is the arbiter of weight in this regard, which is not a sound planning approach.

4. Revised Apartment Design Guide (ADG)

As with the DP SEPP more broadly, there are changes proposed in the ADG that are supportable, however the ADG seems to be promoting highly urbanised and dense built form outcomes as the ideal, as opposed a more nuanced local place-based approach.

Specific additional comments are provided in relation to:

- Built form and siting issues around building separation and setback, building floorplates and building height require further clarification in order to be more site responsive.
- While the new guide increases the amount of deep soil requirements they still only represent 10% of the site area.
- Introduction of canopy targets is supported but a maximum of 20% of the site area is considered minimal.
- The removal of requirements for co-location of communal open space with deep soil is a highly urbanised outcome and not necessarily appropriate to less dense locations.
- As previously raised, there is a need for more clarity regarding the role of local character controls. Local character of areas is currently described in Development Control Plans and Local Environmental Plans. They recognise the input from the community within the context of a master plan and Local Character Studies. The ADG would need to recognise and integrate this input from local planning requirements in the DCP and LEP. As a base approach, local character controls must not be weakened or be made subordinate in the assessment process.
- The ADG requires waste management through the internal collection of waste only. In some cases, this is likely to have significant design and access issues, including impacts on the streetscape through and higher basement levels which also impacts on feasibility and the efficiency of layout. The ADG needs to recognise alternative solutions could deliver similar outcomes, rather than internal collection only.
- More clarity is needed around engagement and recognition of Traditional Owners in the design process. As noted previously, the ADG and other parts of the exhibition package reference the draft Connecting to Country guideline. This is not finalised and is unlikely to reference current Council process in engagement with local Traditional Owners. The ADG needs to encourage engagement to be streamlined and guided by authorities to avoid unnecessary speculation and time impost on local Traditional Owner communities.

5. Proposed new Urban Design Guide (UDG)

Efforts to integrate lodging Master Planning rationale as part of any Planning Proposal is a laudable addition to the planning process. Council recognises the efforts to elevate the role of Urban Design, integrating more holistic sustainability targets. Specifically the aim for increased tree canopy, support of active transport and limitation of unnecessary on-street parking and the efficient use of space. There remain concerns however as to the metrics and specifics of these matters and these are discussed further below.

Specific additional comments are provided in relation to:

- Design guidance often reflects a denser metropolitan context and outcome, particularly around design criteria on neighbourhood density. The impact of site specific constraints are discussed further below.
- Again, it is unclear as to the role of local character and other more local design considerations in the UDG, and the exhibition package more generally, specifically the weight given to these controls.
- The UDG should require more measurable design criteria and clearer design guidance where alternative design solutions are proposed.
- The role of constraints such as slope and bushfire are generalised and not elevated as design considerations (eg no mention of Planning for Bushfire Protection as a design guide). In particular, the UDG includes site requirements to trigger a master planning requirement such as minimum density requirements. These requirements are attached to the site and do not consider land that is undevelopable due to LEP and DCP controls. The Blue Mountains Local Government Area includes many sites that are large but heavily constrained through slope, bush fire and vegetation and these include sites within range of train stations. The UDG needs to either remove density controls completely, or change density and master planning requirements to relate to the unconstrained land of subject sites.
- Clarification is sought on the relationship of UDG to Council led master planning programs. Council is preparing several strategic master plans as guiding documents that in turn inform Planning Proposals but also other management plans for areas. These master planning processes also include detailed community engagement. The UDG needs to strongly advocate for these processes not to be duplicated and provide clarity on who is to carry out community engagement and when. The UDG also needs to encourage private developers to work together with Councils when preparing a master plan.
- There appears to be a lack of correlation between the UDG and other Departmental Planning reforms around business and industrial zonings. The UDG refers to a strategic hierarchy of centres being reinforced through urban design, while the reduction of such available zones through current planning reforms makes such delineation more difficult in the absence of locally specific planning controls.
- There is inconsistency with Open Space provision requirements in the UDG and those within the Blue Mountains Local Government Area. The specific linear nature of the Blue Mountains Local Government Area and the reality of constrained land well in to town and village centres, has resulted in locally appropriate controls that need to remain preeminent in order to provide appropriate levels of service.
- Landownership, staging and implementation appears unclear. It is considered likely that proponents may provide unrealistic contextual outcomes that are unfeasible for several reasons and this would set unrealistic expectation on behalf of the developer, land owner and community. The UDG needs to recognise the ownership, staging and implementation of the Master Plan as a required deliverable. This will make the process transparent to assessment, stakeholders and the broader community.
- Council has a clear focus and emphasis on sustainability and Planetary Health initiatives, and is an advocate for the sustainable use of resources. For instance, environmentally it is best to build upon land already disturbed and developed. Therefore, the UDG should emphasise the maintenance of existing buildings and other services and infrastructure assets wherever possible. The UDG also needs to encourage the circular economy. Treatments of roads and locally sourced materials of

buildings are some of the examples that need to be encouraged when preparing a master plan.

- The UDG should consider the promotion of a change in transport culture. Council has a cycling strategy that includes a focus of education and culture change that seeks a transport modal shift to cycling. The UDG should also consider encouraging safe active transport outcomes around schools to support this cultural change in the next generation.
- The UDG supports walkable neighbours, and providing affordable employment spaces for jobs and services is one of the elements that is part of a walkable neighbourhood. Increased use of technology makes it possible for employment spaces to be delivered closer to homes, in satellite offices and co-working spaces. The draft UDG should also encourage start-ups, co-working spaces and small local supporting businesses.
- The role of urban design in tourism is not acknowledged. The urban area of the Blue Mountain is surrounded by a World Heritage listed National Park. It is a unique but sensitive area that is affected by ever increasing tourism and associated impact on local amenity. The UDG should allow consideration of locally applicable principles, such as for slow tourism and local weekend recreation opportunities, to encourage people to use active travel for entertainment.
- The UDG should also seek to support recreational spaces that can host major events (particularly for holistic planning strategies > 10ha) for events to be held closer to denser areas rather than travelling large distances or impacting on environmentally sensitive areas such as the Blue Mountains.
- Council notes the significant administrative burden on planning assessment officers, including the validation process for the UDG and Design Verification Statements. This needs to be reconsidered. As an example, how will assessment officers evaluate the qualifications of Urban Designers?

6. Design Review Panel Manual for Local Government (DRPM)

As previously mentioned, the elevation of design in the planning and assessment system is strongly supported, and the content of the Manual is generally supported. However the new requirements represent an additional impost on local government. The ability for some fee recovery is welcome, however this is unlikely to cover the potential need for additional staff and the additional work requirements on existing Council staff will mean other work is deprioritised. This will come at a real cost, most likely to core assessment functions. The new requirements should be accompanied by additional funding for Councils so that administration of the new design review system does not come at the cost of other core functions.

Specific additional comments are provided in relation to:

- Mandatory criteria for sending a proposal to a DRP should include sites subject to design excellence clauses in LEPs (other than minor development proposals)
- The ability for councils to opt-in to a DRP process, regardless of whether formal criteria are met or not, is strongly supported.
- The selection of appropriate panel members will be important with the need to incorporate professionals with understanding of local character and planning considerations specific to the Blue Mountains.

- Clarification is required as to whether DRP panellists can also be LPP panellists, and if so, can a panellist provide design advice via the DRP and also determine the same development via the LPP.
- The guide (Fig. 5) states that council can require design review post approval. Clarification is sought regarding how this might work and what design matters could be left to post approval.
- Clarification is also sought in regards to who is legally liable for the advice given by the DRP, and how any claims of negligence could be handled, or if some form of arbitration is applicable. In particular, would Professional Indemnity Insurance be required for the panel, or its constituent members.

7. Updates to residential sustainability (BASIX) including BASIX sandbox tool

Council is generally supportive of improved BASIX controls, indeed such improvements were advocated for in the Local Planning Statement adopted by Council in March 2020. However there are some specific concerns in relation to material and operation of alternative pathway assessment.

Specific additional comments are provided in relation to:

- Need to permit local climate variations, particularly in area of high urban heat, as part of the BASIX tool
- Materials index should allow for consideration of longevity, resilience and embodied carbon
- Greater clarity required around implications of new embodied energy target. Need to ensure this doesn't disincentive building forms with embodied efficiency (e.g. apartment buildings made out of concrete near train stations) and incentivise inefficient and unsustainable building forms (e.g. low density sprawl).

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Friday, 25 February 2022 2:35 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: response-to-draft-design-and-place-sepp---25-february-2022.pdf

Submitted on Fri, 25/02/2022 - 14:33

Submitted by: Anonymous

Submitted values are:

Submission Type

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Last name

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Submission file

[response-to-draft-design-and-place-sepp---25-february-2022.pdf](#)

Submission

Please refer to attached submission

I agree to the above statement

Yes



24 February 2022

NSW Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Submission regarding the Draft Design and Place SEPP

Thank you for the opportunity to make a submission regarding the draft State Environmental Planning Policy – Design and Place 2021 and supporting guides (exhibited 10/12/21 to 28/2/22).

Byron Shire Council staff support the intent of the draft Design and Place SEPP. Greater consideration of design over significant development sites, the introduction of the Urban Design Guidelines and updating of the Apartment Design Guidelines is a positive step towards better design and improved built outcomes for the community.

However, the operational implementation of the policy will present a significant challenge on councils. Council staff resources are limited, current development assessment workloads are high with turnarounds longer than average. The language used for some of the design considerations in the policy is subjective, open to interpretation and difficult to implement from a DA and planning proposal perspective. For example, how do you define 'beauty' across a very broad range of land uses and building typologies which this SEPP covers? Implementation of the policy will require additional staff upskilling to effectively assess additional information required as part of the merits assessment process. Staffing and training support from the Department would assist with the effective delivery of the policy.

Additionally, the establishment and operation of a design review panel has major financial costs and staff impacts. Expectations of a 14-day turnaround of design assessments compounds this issue. If the design review panel system is not resourced and financed appropriately, there is a risk of longer DA assessment timeframes.

It is requested that the State Government review these cost and resource implications, especially as they relate to regional councils. A more considered implementation plan should be developed in close discussion with regional local governments to assist councils to establish and fund the implementation of the Design and Place SEPP.

To this extent, Council would be interested in exploring opportunities for a regional design review panel to be established to work between several councils. For example, one design review panel to assess applications for the north coast region or multiple regions. Additionally, consideration



should be given to trialling the design review panel framework in a small number of Councils first, so that impacts and learnings can be shared before a state-wide rollout.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sharyn French', with a stylized flourish at the end.

Sharyn French
Manager Environmental and Economic Planning

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 3:38 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: design-and-place-submission.pdf

Submitted on Mon, 28/02/2022 - 15:35

Submitted by: Anonymous

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Submission file

[design-and-place-submission.pdf](#)

Submission

Please see attached

I agree to the above statement

Yes

28 February 2022

Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir/Madam,

Submission – Design and Place SEPP

Thank you for the opportunity to make a submission on the draft State Environmental Planning Policy (Design and Place) 2021 (DP SEPP), proposed changes to the Environmental Planning and Assessment Regulation 2021 (EPA Regulation), proposed direction by the Minister under section 9.1 of the Environmental Planning and Assessment Act 1979, revised Apartment Design Guide, proposed Urban Design Guide, updates to residential sustainability (BASIX), the Design Review Panel Manual for Local Government and the Cost Benefit Analysis (Summary).

This is an interim submission pending consideration by Campbelltown City Council at its meeting on 8 March, 2022.

We are supportive of the intention of the NSW government to improve the NSW planning system.

We generally support the proposed consolidation of SEPP 65 – Design Quality of Residential Apartment Development and SEPP (BASIX: Building Sustainability Index) 2005 and preparation of the SEPP (Design and Place) and associated documents and the intention to improve the overall amenity of residential apartment development, provide urban design guidance and improve sustainability by way of amending the BASIX toolkit.

However, while it is stated on the NSW planning portal that ‘the new policy aims to simplify the way we plan for, and design, sustainable and resilient places in NSW’, in our opinion the new policy will significantly increase the time taken to prepare and assess planning proposals and development applications.

The proposed strong legislative requirements under the DP SEPP to strictly comply with a set of lengthy associated guides will add a significant level of complexity and rigidity to the design and development of residential apartment development and precincts.

This may also impact on design creativity and potentially result in a repetitive building typology, as we are already experiencing since the commencement of the ADG.

Nevertheless, the DP SEPP is considered to be a positive initiative. It will ensure that both design and place play a more important role in development and their themes are applied more broadly to development across the State.

Our submission raises a number of key matters that need to be further addressed prior to the finalisation of the DP SEPP and associated documents.

Key Concerns

- **Scope of the Design Review Panels**

The DP SEPP provides for a standardised Design Review Panel process, with a relatively limited scope in terms of the type of development applications to be considered by the panel (refer to Part 4 of the DP SEPP).

Campbelltown City Council's Design Excellence Panel (CDEP) has been in operation since early 2020. The CDEP has successfully reviewed a number of development applications and site specific DCPs involving high-rise residential development. In April 2021, the type of the development applications to be considered by the CDEP Panel was broadened to include boarding houses, in addition to seniors living development, commercial development and large scale multi dwelling housing development. We think this approach has resulted in a significant improvement to the design of such developments within our Local Government Area (LGA) and contributed significantly to better streetscapes and residential amenity. In our opinion, it would be to the detriment of all existing panels within the Sydney Region to restrict their scope. It is suggested that the DP SEPP be amended by including a new point (g) after Section 34 (f) that reads: 'Other development as specified and endorsed by the local Council'. This will provide Councils with greater flexibility in expanding the scope of their panel as it relates to the needs of their LGAs.

- **Urban Heat**

Amendments to the Urban Design Guide should be considered to provide specific design guidance with regard to resilience to mitigate the impacts of Urban Heat.

Greater consideration of urban heat management targets, particularly for Western Sydney, must be incorporated into the proposed changes to BASIX.

- **Assessment's time frame**

Consideration needs to be given to the increased assessment requirements placed on Council staff for planning proposals with regard to the Urban Design Guide, particularly in

light of the Local Environmental Plan Making Guideline, which seeks to reduce assessment times.

We have recently sought the advice of the CDEP in relation to two planning proposals within Leumeah Town Centre. The CDEP was requested to review the proposed design concepts submitted by the applicants in support of their request to significantly increase the building height. The process involved two sessions in addition to the first meeting with the CDEP. The outcome of this process was a significantly improved design for the two sites. We suggest that this may be a better process that would ensure better design outcomes compared to the need for preparing lengthy assessment by the applicant, under the proposed guide.

We also strongly suggest that Section 25 of the DP SEPP include a requirement that DCPs involving urban design development be referred to DEPs, similar to the requirements under Section 15 of the EP&A Regulation 2020 which requires DCPs for residential apartment development to be referred to DEPs.

- **Impacts on Council Resources**

Consideration needs to be given to the additional workload placed on Councils by the proposed changes, which in turn removes Council resources from other critical areas of the development process.

The SEPP and associated documents require substantial increases in submitted documentation for review by Council particularly the revised Design Verification Statement and Urban Design Guide Assessments, which will require additional resources from Council. The Department's Rezoning Review reforms are considering a set pricing structure for planning proposals and therefore if the DP SEPP and associated documents are adopted there needs to be a suitable fee structure in place to enable cost recovery.

- **RMS guide to traffic generating development**

When the Explanation of Intended Effect was exhibited the presentations provided by the Government Architect discussed the update of the 'RMS guide to traffic generating development'. We request an update on the progress of this review and would also request that if this document is continued to be relied upon in the DP SEPP, that the revised Guide for Traffic Generating Development is finalised in alignment with the implementation of this planning policy.

- **The National Construction Code (NCC)**

Clarification is sought as to whether or not the policy aligns with the Federal Government intentions with regard to increased standards under the NCC, particularly in regard to ventilation, air quality and positive air flow corridors. Where there is misalignment, it is important that the DP SEPP and supporting documents be revised to be consistent with the NCC.

Draft Design and Place SEPP (DP SEPP)

- We generally agree with the intent and the high level urban design principles and design considerations as proposed. However, as with any principles and considerations, there is room for subjective interpretation and therefore strong and unambiguous objectives need to be incorporated so as to increase an authority's ability to ensure consistency with the DP SEPP.
- Clarification is sought regarding Clause 8 (2) of the DP SEPP. In instances where there is additional development outside the scope of this clause relating to boarding houses, seniors development, and other development that may fall within the scope of Class 2 development i.e. 2 storey multi dwelling developments will the DP SEPP apply?
- Clarification is sought on the application of the policy with regard to rezoning applications, or concept development applications of large scale subdivision development over one hectare; the SEPP and UDG would be considered to apply, however, when the fine-grain development applications for specific subdivisions, particularly where the planning proposal is located over fragmented land (i.e. Menangle Park) are lodged with Council that are less than 1 hectare, the application of clauses 18 and 23 of the policy will be avoided.

It is recommended the DP SEPP be amended to specify that where a subdivision of less than 1 hectare forms part of an overall masterplan or planning proposal for residential subdivision that exceeds 1 hectare, the policy shall continue to apply.

- Clause 17 should be amended to clarify whether or not this refers to the public domain or public open space.
- Clauses 14-21 should be amended from the 'consent authority must consider' to 'the consent authority must be satisfied', to provide weight to the clauses for the assessment of applications.
- Clause 21 (a) requires minimisation of gas appliances when this is still an option in the BASIX toolkit. Satisfying this Clause would potentially eliminate gas options at subdivision stage and affect choices for owners when building in these areas in the future.
- Clause 22 requires further clarification and guidance to detail what measures should be incorporated into a specific development to "mitigate and adapt to the risks of natural hazards, including risks of climate change and compounding risks". Further guidance of how to assess this design guidance is required as it is not clearly defined.
- Clause 25 states "Development consent must not be granted to urban design development unless a development control plan applies to the land on which the development is to be carried out". Developing, assessing and finalising Development Control Plans prior to granting development consent will increase the time taken to navigate the planning process by either adding to determination times or preventing the submission of applications until the Development Control Plan has been adopted.

- It is unclear how the calculation of embodied emissions on a per/occupant rate will occur under Clause 27(1)(c) and Schedule 2 Part 4 Clause 5 (3). This needs to be clarified before the DP SEPP is adopted.

The occupation of developments will fluctuate over the life of the development, the base rate of occupants per development would need to be limited to align with the figures stipulated at the determination of the application.

The assessment of this requires further consideration, and could result in massive discrepancies between the developer claims and the realised number at the completion of the project.

- It is requested that Consultation be undertaken with Councils and the community on the Public Transport Accessibility Level (PTAL) 6 map referred to in Clause 33 (1) prior to the finalisation of this policy.

More details are required as to how these maps will be created and how the decision of where they apply will be made

- Further clarification is required as to the intention of Clause 38 (b) and (c) with regard to 2 year limits for modifications and concept applications.

Ministerial Direction

- We have concerns with regard to the assessment of a planning proposal against the Urban Design Guide which may be inconsistent with the local character or local design requirements of particular local government areas. Consideration needs to be given to the local area to avoid duplication of city centres to achieve compliance with the urban design guide which disregards local character and desired future character.
- Clarification is requested as to whether or not the Ministerial Direction is triggered with regard to LEP amendments which would technically apply to residential land greater than 1 hectare. Would this then require assessment against the Urban Design Guide?

Environmental Planning and Assessment Amendment (Design and Place Regulation) 2021

- Clause 99 refers to review of Green Travel Plans every two years, which would place unrealistic burdens on Council staff to review green travel plans every two years over the life of multiple developments.
- We support the modification to Schedule 1 Cl 2(1)(b), which would require design drawing and site analysis plans.

Local Government Design Review Panel Manual

- The amendments to the current design review panels and charter would place an additional administrative burden on Council and, would also risk the loss of the existing experienced members on our design review panels.
- The manual states “The panel pool should aim to include Aboriginal design professionals that can be called upon to provide integrated advice and an understanding of culture and Country”. While this underlying objective of providing greater inclusion is supported, no guidance has been provided on how a person demonstrates that they meet this requirement. It is suggested that the Department publish a list of professionals with this specific experience, and where relevant, Council can seek written advice from them for consideration by the design review panel. In addition, it is also suggested that the Department provide special training courses in aboriginal design and heritage for architects within existing panels.
- We support the proponent’s early engagement with the Aboriginal Community in order to develop appropriate ways of engaging with country. More specific guidance is required on pathways and standards of consultation and who should be consulted to satisfy the requirements for early engagement.
- The purpose of the design review panel needs to be amended to also include the review of development control plans as per the requirement under Section 15 EP&A Regulation 2021.

Apartment Design Guide (ADG)

1.2 Built Form and Siting

- Amendments to require building separation where adjacent sites are yet to be developed.
- Building length controls should be considered to require more separation of building bulk.

1.3 Site Access and Address

- Through site links should not be required on all sites, only in suitable situations. Some residential areas cannot facilitate through site links or have nowhere to link to.

1.4 Relationship to the Street

- It is recommended that further consultation is held with the relevant service providers and regulatory authorities to clarify this control.

1.5 Green Infrastructure

- There is a risk that poor species selection, poor installation and poor establishment could result in actual canopy cover being much lower than estimates made at the design stage.

Improved guidance on tree selection and a more rigorous methodology to estimate future canopy cover should be considered.

2.2 Communal spaces

- Offsetting non-compliant communal open space in commercial areas with increased private open space area could be considered where rooftop communal open spaces cannot achieve the required 25 per cent.
- The Apartment Design Guide should be amended to provide for a portion of communal open space to have a depth of 8-10 m at the ground floor, to provide a more functional space rather than landscaped setbacks within which to provide communal open space at a minimum. The increased depth will also provide ground floor articulation to the building. Larger sites should have increased depths for at least part of the communal open space areas at ground floor.
- The ADG needs to differentiate between urban development and suburban development communal open space requirements. Communal open space should, in part, be provided in conjunction with deep soil planting to provide shade and reduce the urban heat impact on these areas particularly in western Sydney.

2.3 Apartment mix and diversity

- Permitting 50 per cent studio and one bedroom units is too high and may not assist in the achievement of the Campbelltown Local Housing Strategy. Further work from home spaces are in high demand and this should be factored in to the requirements for studio and 1 bedroom apartments.
- The provisions of study rooms is supported, however should be reinforced with a suitable standard (e.g. minimum 50 per cent of all units to be provided with study rooms).
- It is suggested that a requirement be included where a small percentage of apartments within each development be above the minimum requirement for sizes to meet demand for more spacious apartments. This would be consistent with the Campbelltown Local Housing Strategy which identified a need for apartments suitable for larger families.

2.6 Sunlight, daylight shade and thermal comfort

- We do not support the alternative design responses which would enable consideration of solar access from 8:00 am. The design guidance should be prefaced that this is the last option.

3.2 Water

- There is no requirement for rainwater to be connected to irrigation or other outdoor uses, where increased water use could assist with mitigating the impacts of urban heat. The addition of this requirement is requested.

- The sizing requirement for rainwater tanks is unorthodox. Rainwater tanks should be sized based on many years of actual rainfall data (not design storm events) to account for seasonal and longer-term variability in rainfall. As they are constantly filling and emptying, they should be sized using a daily water balance model, to supply a proportion of total demand.

3.3 Waste

- Onsite basement collection of waste from residential apartment development requires significant head clearance for Council s to enter the basement. Alternatively onsite collection at ground level results in large blank hardstand collection areas at the front of the building, both options have negative streetscape impacts. More specific controls are required to address the issues that arise from large trucks entering the basement with the clearance heights required and subsequent impacts to the street and public domain.

Urban Design Guide (UDG)

- While the UDG doesn't make specific reference to the Healthy Streets Assessment Tool, it does reflect elements of the Healthy Streets Approach and at a high-level, appears to be aiming for consistent outcomes. The "Healthy Streets Indicators" should be referenced in this document.
- It could be useful for the UDG to refer to Future Transport 2056 particularly where EVs, charging stations and smart city considerations are mentioned.
- We support the way the UDG provides certainty with regard to what cannot be included as open space i.e. detention basins and offset areas. However the 15per cent control should not be limited and needs to acknowledge independent council policy with regard to the calculation of open space.
- Active play space needs to be addressed as part of the requirements for open space.
- There is a need to provide a definition of 'high frequency public transport' with a reference to a minimum number of services per hour.
- Walking distance should be defined in the UDG to provide numerical guidance on appropriate walking distances.
- A minimum requirement for 'excellent public transport' and 'excellent active transport' needs to be defined to provide guidance to Councils and developers.
- Objective 3 needs to provide further detail on what an appropriate walking catchment is.
- Other treatments for traffic calming need to be included in Design Guidance 7.3.

- The 2 per cent EV charging spaces appears to be contrary to the proposed amendments to Clause 99 of the EP&A Regulation.
- Street tree canopy targets in the Urban Design Guide are supported. However, being in this guide alone limits the ability of Council to enforce these targets where development applications for subdivision of less than 1 hectare are submitted for sites that are part of a major rezoning application i.e. Menangle Park, which has fragmented land ownership. To realistically achieve the tree canopy requirements at a suburb level there needs to be a mechanism in the SEPP to require development applications for subdivisions on land less than 1 hectare which are part of a larger redevelopment or rezoning application over hectare to comply with the UDG. Otherwise, there is a concern these targets will never be realised or will be sporadically applied i.e. smaller subdivisions interspersed with larger subdivisions of fragmented land and 70 per cent canopy cover vs no required canopy cover.
- The tree canopy cover requirements in industrial areas need to be reconsidered as these areas usually have limited side and rear setbacks and high levels of hard surface saturation for car parking, hardstands and vehicle access.
- Page 51 Tree Canopy guidelines for residential development, should be translated into an amendment to the SEPP(Exempt and Complying Development Codes)2008 for the targets to be realised through complying development. It would also require amendments to local Development Control Plans for small scale development applications for the targets to be realised.

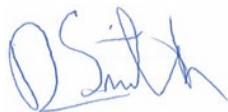
BASIX

- Council has had issues with fake BASIX certificates being lodged with Council, the department should consider additional members such as a QR code on the BASIX Certificate to prevent this occurring in future.
- The definition of “dark roofs” in BASIX should be amended to be brought in line with the NCC and for the target to be set at SA<0.6.
- We support the Department (DPIE) in dropping the trade-offs to thermal performance.
- The commitment from DPIE to review the targets every two years is critical to the ongoing performance of BASIX to reflect the current climate.
- The water module in BASIX should be revised, so that it is no longer purely focused on water efficiency but also designed to encourage more rainwater harvesting, sustainable landscape irrigation and other water uses for keeping cool.
- Relying on green energy forecasts may be problematic, a large number of people rely upon feed in tariffs to offset the cost of solar panels, particularly where panels are retrofitted to existing dwellings, with energy companies constantly reducing the feed in tariffs this

will potentially reduce interest in solar panels and overall green energy supply, which needs to be factored into future forecasts of green energy generation.

- Calculation of embodied emissions based on a per/occupant calculation can be overestimated or underestimated and will not be a true representation of embodied emissions over the life of the building and the number of occupants in a building will continually fluctuate.
- It is requested that the materials index standard be available outside of the BASIX tool for Councils to use for assessment purposes.

Yours sincerely



David Smith
Executive Manager Urban Release

22 March 2022

Ms Abbie Galvin
Government Architect
Government Architect NSW
4 Parramatta Square
PARRAMATTA NSW 2150

Dear Ms Abbie Galvin,

**Draft Design and Place SEPP –
Canterbury Bankstown Council Submission**

Thank you for the opportunity to comment on the Draft Design and Place State Environmental Planning Policy and supporting documents.

Council made an officer-level submission in February 2022, and the attached submission has been endorsed by elected officials at the Ordinary Meeting of 15 March 2022. At the meeting, it was resolved that:

Council endorse the submission to the Draft Design and Place State Environmental Planning Policy and supporting guides, as provided in Attachment A.

The Council report and endorsed submission are attached and raises the following issues in relation to the Draft SEPP and supporting documents:

1. Council does not support the proposal to set baseline residential density targets.
2. Provide design criteria that guide development in established urban areas, as the draft criteria is largely based on greenfield development scenarios.
3. Provide prescriptive controls rather than merit controls.
4. Allow councils to constitute their own design review panel and determine the membership, procedures, fees and thresholds.
5. Amend the Draft SEPP and supporting guides to ensure greater clarity and consistency.
6. In relation to accessible housing, require at least 20% of new dwellings in apartments to achieve the Silver Standard and a further 20% of new dwellings to achieve the Gold Standard.
7. Limit the consideration of Country to State significant development until the Department finalises the Draft *Connecting with Country* framework.
8. Ensure the higher BASIX standards are clear and concise.



If you have any enquiries, please contact Council officer Mauricio Tapia on 9707 9923.

Yours sincerely

A handwritten signature in black ink, appearing to be 'M Noble', with a long horizontal flourish extending to the right.

Mitchell Noble
Manager Spatial Planning

ITEM 5.2 Submission to the Draft Design and Place State Environmental Planning Policy

AUTHOR Planning

PURPOSE AND BACKGROUND

This report outlines Council's submission to the exhibition of the Department of Planning and Environment's Draft Design and Place State Environmental Planning Policy (Draft SEPP) and supporting guides, and requests Council's endorsement of the submission.

ISSUE

State Environmental Planning Policies contain planning rules for development and land use in a state-wide context. Rezoning applications and development applications must comply with the SEPPs. If there is an inconsistency with Council's planning rules, the State Environmental Planning Policies (SEPPs) prevail.

There are 17 SEPPs that currently apply to the State in relation to housing, transport and infrastructure, primary production, biodiversity and conservation, resilience and hazards, industry and employment, resources and energy, planning systems, codes, precincts, residential apartment design and building sustainability.

In December 2021, the Department commenced the exhibition of the Draft Design and Place SEPP (the Draft SEPP) to replace the existing SEPPs on residential apartment design and building sustainability. The intended outcome is to provide a consistent set of principles and considerations to guide the design of the built environment.

The Draft SEPP is proposed to apply to major residential, business and industrial development. Council would need to refer rezoning applications and development applications to its design review panel for advice.

The Draft SEPP is to be supported by an Urban Design Guide and Apartment Design Guide, which would provide design criteria. The Draft SEPP would require Council to apply the design criteria flexibly and to consider alternative solutions if these result in a neutral or better design outcome than meeting the design criteria.

Council has prepared a submission to the exhibition of the Draft SEPP policy package, which raises the following key issues:

- Council does not support the Urban Design Guide (Objective 3), which proposes to set baseline residential density targets. The targets may impact on Council's master planning process for local and neighbourhood centres. A detailed master planning process should determine appropriate densities in accordance with *Connective City* 2036 and community consultation.

- The Urban Design Guide should provide design criteria that guide development in established urban areas, as the draft criteria is largely based on greenfield development scenarios that are not suited to established localities like Canterbury Bankstown.
- The Guides should provide prescriptive controls rather than merit controls to provide certainty and enable Council to assess applications within the mandated assessment timeframes.
- Council does not support the proposal to make the Minister for Planning the responsible authority to establish Council's design review panel. The Draft SEPP should allow Council to establish its design review panel and determine the membership, procedures, fees and thresholds.

While Council advocates on many issues, this submission is forwarded to Council for endorsement given the importance of the proposed changes and the potential impacts on Council. Should Council endorse the submission, it will be forwarded to the Department for consideration. The Draft SEPP is expected to come into force in late 2022.

RECOMMENDATION

That Council endorse the submission to the Draft Design and Place State Environmental Planning Policy and supporting guides, as provided in Attachment A.

ATTACHMENTS

- A. Council Submission
- B. Draft SEPP Policy Package Overview

POLICY IMPACT

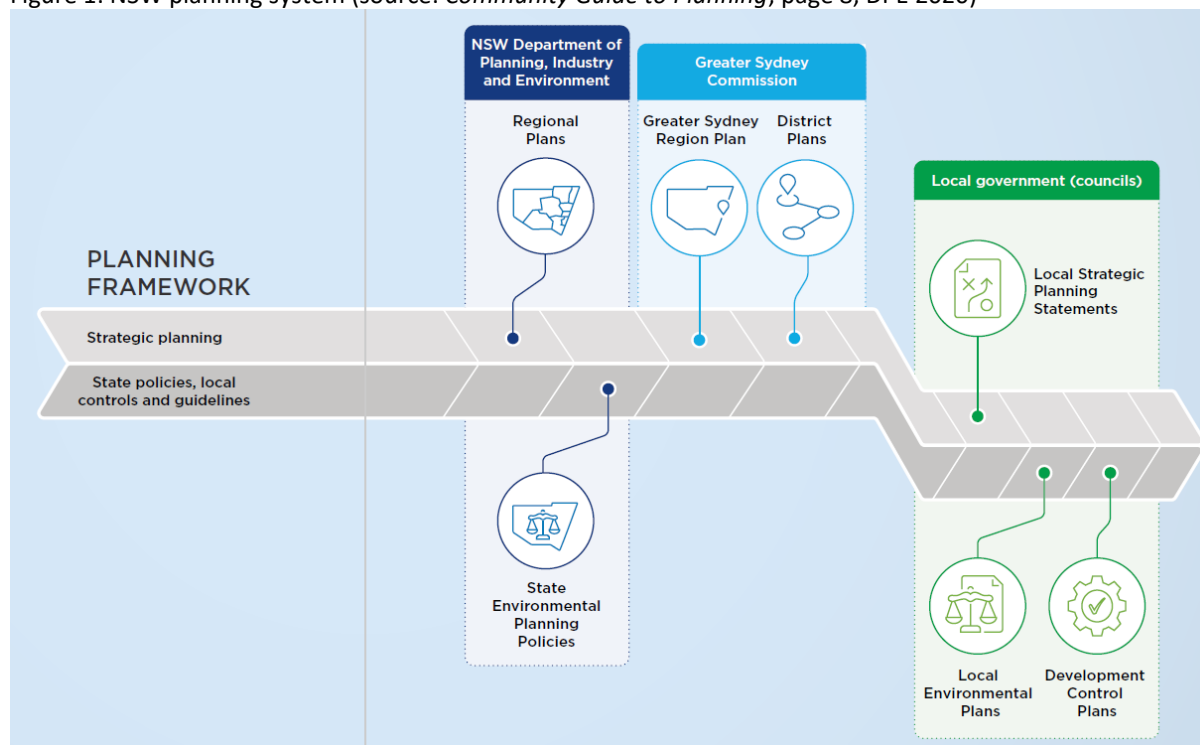
1. Overview of the NSW planning system

The *Environmental Planning and Assessment Act 1979* (the Act) is the State's primary planning legislation. The Act sets out the planning pathways and legal requirements to determine how we use land.

The Act is supported by the Department of Planning and Environment's State Environmental Planning Policies, as illustrated in Figure 1. The SEPPs contain planning rules for development and land use in a state-wide context. Rezoning applications and development applications must comply with the SEPPs. If there is an inconsistency with Council's planning rules, the SEPPs prevail.

There are 17 SEPPs that currently apply to the State in relation to housing, transport and infrastructure, primary production, biodiversity and conservation, resilience and hazards, industry and employment, resources and energy, planning systems, codes, precincts, residential apartment design and building sustainability.

Figure 1: NSW planning system (source: *Community Guide to Planning*, page 8, DPE 2020)



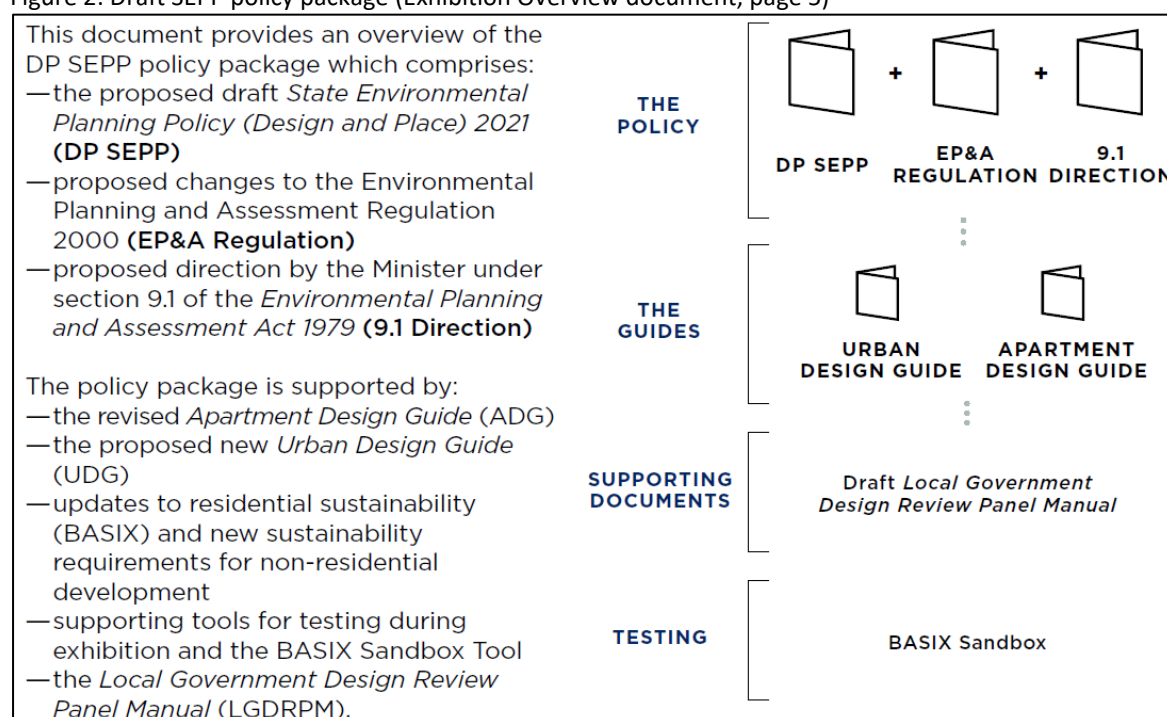
2. Overview of the Draft SEPP policy package

In December 2021, the Department commenced the exhibition of the Draft SEPP policy package, which comprises:

- Draft Design and Place State Environmental Planning Policy, which would be the primary source of design principles and considerations for rezoning applications and development applications on urban land. It would establish five design principles, ten considerations and a range of key outcomes. The Draft SEPP would replace the existing SEPPs on residential apartment design and building sustainability.

- Draft Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021 (the Draft Regulation), which would support the Draft SEPP by requiring development applications to submit contextual and site analysis, net zero ready statement, documentation that discloses embodied energy, verification statements for urban designers and landscape architects, and verification that the advice of design review panels has been incorporated.
- Draft Urban Design Guide (UDG), which aims to improve the planning and design of urban environments. It would apply design criteria to development over 1 hectare, development on industrial zoned land over 1 hectare and with a capital investment value of \$30 million or more, and where a master plan or DCP is required by another instrument.
- Draft Apartment Design Guide (ADG), which aims to improve the planning and design of residential apartment development. It would apply design criteria to residential apartments of three or more storeys and four or more dwellings.
- Ministerial Direction, to require rezoning applications for sites greater than 1 hectare to have regard to the Draft SEPP design principles and considerations, to be considered by a design review panel, to consider the Draft Urban Design Guide's objectives and to demonstrate how it responds to Country.
- Draft Local Government Design Review Panel Manual, which would guide the operation and function of design review panels. Proponents must prepare a design review report to demonstrate how they have considered the advice of the panel and justify any departure from that advice, and Council must have regard to this statement in determining an application.
- Updates to residential sustainability (BASIX) and new sustainability requirements for non-residential development.

Figure 2: Draft SEPP policy package (Exhibition Overview document, page 5)



The Exhibition Overview document, as provided in Attachment B, provides details of the draft documents.

3. Policy Implications for Council

In 2018, the Department and the Greater Sydney Commission introduced amendments to the Act to deliver a ‘plan-led’ system – an approach that ensures strategic planning is the foundation for all decisions about potential land use changes.

Council has invested significant resources and engaged widely to prepare its new planning framework as required by the Act. The new planning framework provides a pathway to manage growth and change across Canterbury Bankstown and include Council’s Local Strategic Planning Statement ‘*Connective City 2036*’ and the supporting Housing Strategy and Employment Lands Strategy. In 2020, Council adopted its new planning framework, and the Greater Sydney Commission has assured *Connective City 2036*, confirming it is consistent with State priorities. The Department has endorsed the Housing Strategy.

Council is currently master planning the centres and surrounding residential zones in accordance with the South District Plan, *Connective City 2036* and Housing Strategy. The South District Plan (Action 18, page 51) requires a place-based planning approach to inform the proposed built form controls, in consultation with the community.

Council has also implemented other improvements to its design processes, consistent with *Connective City 2036* as follows:

- Endorsed the establishment of a design review panel, in consultation with the NSW Government Architect’s Office.
- Established an Urban Design Team to provide in-house design expertise on rezoning applications, development applications and capital works projects.
- Introduced a design quality clause in the Draft Consolidated Local Environmental Plan.
- Reviewed the design quality provisions in the Draft Consolidated Development Control Plan.

The Draft SEPP policy package will have policy implications as it proposes to replace Council’s existing design processes as follows:

Council’s design processes under existing legislation	Proposed Draft SEPP policy package
<u>Design review panel</u> <ul style="list-style-type: none"> • Council endorsed establishing an independent Design review Panel. • Terms of Reference determine the membership, procedures and thresholds. • Council determines the fees. • Purpose is to provide expert design advice to Council and proponents on development applications, rezoning applications and other projects. Advice may be given at the pre-lodgement and post-lodgement stages. • Matters to be referred to the panel include 	<u>Design review panel</u> <ul style="list-style-type: none"> • Replaces Council’s Terms of Reference. • Minister for Planning to constitute the panel. May abolish the panel at any time and for any reason. • The Minister would determine the membership, procedures, fees and thresholds. • Purpose is to provide expert design advice to Council and proponents on development applications and rezoning applications. • Matters to be referred to the Panel include:

<p>certain major residential and non-residential development based on building size.</p> <ul style="list-style-type: none"> • Pre-lodgement meetings are recommended. 	<ul style="list-style-type: none"> — State significant development, — development with a capital investment value of more than \$30 million, — development with a capital investment value of between \$5 million and \$30 million if the development will be carried out by a council or the Crown, — development with a site area of at least 1 hectare, — residential apartment development, — other development specified by another environmental planning instrument. • Pre-lodgement meetings would be mandatory.
<p><u>LEP/DCP</u></p> <ul style="list-style-type: none"> • A DCP cannot be inconsistent with the ADG. • If a DCP contains requirements regarding visual privacy, solar and daylight access, common circulation and spaces, apartment size and layout, ceiling heights, private open space and balconies, natural ventilation and storage, the requirements will have no effect. 	<p><u>LEP/DCP</u></p> <ul style="list-style-type: none"> • Maintains existing requirement that a DCP cannot be inconsistent with the ADG. • Council cannot determine a development application unless a DCP applies to the site. • Design review panel may provide advice to Council about the design quality provisions in a LEP/DCP in force, a Draft LEP/DCP, or a draft master plan or other planning policy document.
<p><u>Rezoning applications</u></p> <ul style="list-style-type: none"> • Must comply with the existing SEPPs on residential apartment design and building sustainability. • There is no Ministerial Direction on design. • Council is currently master planning the centres and surrounding residential zones to determine appropriate densities in accordance with <i>Connective City 2036</i>. 	<p><u>Rezoning applications</u></p> <ul style="list-style-type: none"> • Must comply with the Draft SEPP and supporting guides. • Must comply with the Ministerial Direction to ensure the Draft SEPP is considered early in the planning process, and to respond to Country. • UDG proposes to set baseline residential density targets, which may impact on master planning process.
<p><u>Development applications</u></p> <ul style="list-style-type: none"> • Must comply with the existing SEPP on residential apartment design. • Applies to residential apartments of three or more storeys and four or more dwellings. • Prescriptive controls. • If a development application complies with the ADG's non-discretionary development standards (parking, internal areas and ceiling heights), Council cannot require more onerous standards for these matters. 	<p><u>Development applications</u></p> <ul style="list-style-type: none"> • Must comply with the Draft SEPP and supporting guides. • Applies to residential apartments and major non-residential development. • Maintains the non-discretionary development standards for residential apartments. • Council to apply UDG and ADG design criteria flexibly and to consider alternative solutions if it achieves a neutral or more beneficial outcome than meeting the design criteria. • Proponents to submit additional information with applications.

The issue is, at this late stage in the process, the Draft SEPP policy package does not consider Council's endorsed strategies and would erode the substantial body of strategic planning work this Council and others have put into the new planning framework.

The implications of shifting from prescriptive controls to ‘flexible’ design solutions are unclear and creates uncertainty for the integrity of Council’s planning rules and Council’s proven track–record in assessing applications within the mandated assessment timeframes. The submission outlines these issues in detail. The Draft SEPP policy package should ensure that Council’s effective design processes can continue.

FINANCIAL IMPACT

Council currently sets the referral fees to the design review panel and reviews the fees annually to align with operational costs. The Draft Regulation (Part 16B, page 11) proposes to replace Council’s existing fee structure with a mandated fixed fee, to be determined by the Minister for Planning. The exhibition material does not indicate a draft fee for comment. Council would not be able to amend the fee.

This matter will have financial implications as a ‘one size fits all’ approach does not consider Council’s operational costs. Council may need to increase its resourcing of the design review panel if the Draft SEPP proceeds with the following changes:

- Increase the quorum from Council’s two panel members to three.
- Increase the membership from Council’s pool of six panel members to ten members.
- Increase the frequency of meetings if the panel is required to provide advice within 14 days of a request from an applicant (refer to clause 268D, Draft Regulation).

COMMUNITY IMPACT

The submission is consistent with *Connective City 2036* (page 87) as endorsed by the Greater Sydney Commission, which advocates for a review of NSW Government guidelines to improve liveability and design quality.

DETAILED INFORMATION

Summary of Council's Submission

The submission, as provided in Attachment A, raises the following issues:

1. Council does not support the proposal to set baseline residential density targets

The Draft Ministerial Direction (clause 6) and Draft Urban Design Guide (Objective 3, page 26) propose to set baseline residential density targets, namely:

- Minimum gross residential densities of 30 dwellings per hectare to be provided in and around centres and high-frequency public transport.
- Minimum average gross residential density of 15 dwellings per hectare to be provided in other areas.

Council does not support this proposal as it is currently master planning the centres and surrounding residential zones in accordance with its new planning framework. The Greater Sydney Commission's South District Plan (Action 18, page 51) requires a place-based planning approach to inform the proposed built form controls, in consultation with the community and this planning should be reflective of the site and its capacity and appropriateness for redevelopment. Planning outcomes should not be dictated by a generic density target.

The issue is, at this late stage in the process, the Draft Ministerial Direction and Draft Urban Design Guide propose to set new baseline residential density targets, which are inconsistent with the place-based planning approach and do not consider Council's endorsed strategies or local context. It would erode the substantial body of strategic planning work this Council and others have put into the new planning framework. Furthermore, the implications of not meeting the targets is unclear and creates uncertainty for the integrity of Council's zoning controls.

2. Provide design criteria that guide development in established urban areas as the draft criteria is largely based on greenfield development scenarios

According to the Draft Urban Design Guide, the design criteria would apply to precinct planning, such as Council's current master planning process for centres. The design criteria are proposed to include:

- Maximum block lengths (Objective 6, page 36) – 220–250 metres for industrial areas and 160–220 metres for residential and mixed-use development.
- Mid-block connections (Objective 7, page 40) – Mid-block connections and through-site links for pedestrians are provided no more than 130 metres apart within walking catchments of key destinations such as centres, public open spaces, transport nodes and schools.
- Tree canopy targets (Objective 10, page 50) – Applicable to public open spaces, streets, precincts and development sites.

- Public open space targets (Objective 12, page 60) – For development over 5 ha, deliver a minimum of 15 per cent of the net developable land as freely accessible public open space, with the majority of this as dedicated RE1 zoned land. Open spaces should align with local council open space plans. If the local open space strategy does not consider open space appropriate on a site, the proponent will need to look for opportunities to provide connectivity and contribute to nearby open spaces (page A11).

The issues with the proposed design criteria are:

- The proposed design criteria and supporting diagrams relate to greenfield sites where there are no existing road networks and development to impede the delivery of public open space, mid-block connections and urban tree canopy. The Draft Urban Design Guide does not provide guidance on how Council is to achieve the same design criteria in established urban areas, other than to consider alternative design solutions. This approach will be open to various interpretations and will take greater time and resources of Council to resolve during the pre-lodgment and assessment stages.
- The design criteria are not supported by legal mechanisms to fund the delivery of land for public purposes. The Draft SEPP and Draft Regulation should establish appropriate legal / funding mechanisms to resolve how to deliver the public open space, mid-block connections and through-site links when preparing zoning changes or determining development applications.

3. Provide prescriptive controls rather than merit controls

The Draft SEPP (clause 24, page 12 and clause 30, page 14) requires Council to apply the design criteria in the Draft Urban Design Guide and Draft Apartment Design Guide flexibly and to consider alternative solutions if these result in a neutral or better design outcome than meeting the design criteria.

The issue is the shift to more ‘flexible’ design solutions will take greater time and resources of Council to consider during the pre-lodgment and assessment stages. This will make it difficult for Council to assess applications within the mandated assessment timeframes, such as the deemed refusal 40 days assessment period for development applications under the *Environmental Planning and Assessment Regulation 2021* and the *Environmental Planning and Assessment (Statement of Expectations) Order 2021*. If Council does not meet this expectation, the Minister for Planning may appoint a planning administrator or regional panel to exercise Council’s functions.

To address this issue, the preferred option is to retain the existing prescriptive design controls of the Apartment Design Guide and apply prescriptive controls in the Urban Design Guide. Complying with the mandated assessment timeframes will only work if there are strong prescriptive design controls in place for rezoning applications and development applications.

However, if the intent of the Draft SEPP is to allow more ‘flexible’ design solutions, the Department should equally be ‘flexible’ on the mandated assessment timeframes and provide financial support to Council to conduct detailed and ongoing urban design training sessions for Councillors and Council staff.

4. Allow Council to constitute its design review panel and determine the membership, procedures, fees and thresholds

The Draft SEPP (Part 4, page 16) proposes to mandate design review panels. The Draft Regulation (Part 16B, page 11) proposes to make the Minister for Planning the responsible authority to:

- Determine the fees to refer applications to a panel meeting (clause 248)
- Constitute a design review panel for a local government area, and abolish the panel at any time and for any reason (clause 268B)
- Appoint the Chairperson and panel members (clause 268C)
- Determine the term of panel members (Schedule 7(1))
- Appoint alternate panel members (Schedule 7(2))
- Determine the procedures to conduct panel meetings (Schedule 7(4)).

Council does not support this proposal as it has invested significant resources to establishing its design review panel in accordance with *Connective City 2036*. The Draft Regulation does not acknowledge the substantial body of work this Council and others have put into establishing its design review panel. A 'one size fits all' approach also does not consider local circumstances, such as Council's operational costs and administrative resources.

Council should be able to continue to operate its existing design review panel, and to determine the membership, procedures, fees and thresholds. The Draft SEPP, Draft Regulation and Draft Design Review Panel Manual need to ensure that Council's effective design processes can continue.

5. Amend the Draft SEPP and supporting guides to ensure greater clarity and consistency

The submission recommends the following key amendments to ensure greater clarity and consistency in the application of the proposed provisions:

Draft SEPP

- Remove reference to '*flexibly*' apply the Draft Urban Design Guide (clause 24) and Draft Apartment Design Guide (clause 30) as it would mean that no part of the Draft Guides can be applied with consistent effect.
- Define how an alternative solution would achieve a '*neutral or more beneficial outcome*' than meeting the design criteria (clauses 24 and 30).
- Require Council to be satisfied that design verification statements and design review reports achieve the Draft SEPP's objectives, rather than consider (clause 36).
- Include as a consideration the impact of sites facilities (such as utilities, building services, substations and waste storage areas) on the streetscape.

Draft Urban Design Guide

- Require complying development to meet the canopy tree targets (Objective 10, page 50), otherwise the Codes SEPP will undermine any opportunity for Council to achieve the target through the rezoning or development assessment process.
- Ensure the proposed street designs (Objective 13, page 66) comply with Council's minimum carriageway widths and other engineering standards.

Draft Apartment Design Guide

- Ensure the minimum floor-to-floor heights (page 18) and floor-to-ceiling heights (page 52) are consistent.
 - Review the minimum apartments sizes to meet additional bedroom and study demands, particularly as more people are working from home (page 52).
 - Confirm whether wintergardens are included in the calculation of floor space ratios (page 59).
 - Locate storage areas within apartments rather than in storage cages outside of apartments (page 59).
 - Provide design criteria for architectural roof features, as permitted under clause 5.6 of the Standard Instrument LEP (page 81).
6. Regarding accessible dwellings, require at least 20% of new dwellings in apartments to achieve the Silver Standard and a further 20% of new dwellings to achieve the Gold Standard

The Draft Apartment Design Guide proposes to provide a minimum of 20 per cent of apartments that incorporate the Livable Housing Design Guidelines' Silver Level universal design features (page 49). The issue is the Draft Apartment Design Guide proposes to apply lower targets compared to Council's livable housing targets.

In 2019, Council consulted the community, industry, social housing providers, aged care providers and state agencies to discuss options on how Council may proceed to address future demand for livable housing. In summary, most respondents supported the application of the Livable Housing Design Guidelines.

In 2020, Council decided to move from the Adaptable Housing Australian Standard to the Livable Housing Design Guidelines by requiring at least 20% of new dwellings in apartments and shop top housing to achieve the Silver Standard and further 20% of new dwellings to achieve the Gold Standard.

The submission recommends that development achieve the Draft SEPP or Council's livable housing targets, whichever is higher.

7. Limit the consideration of Country to State significant development until the Department finalises the Draft *Connecting with Country* framework

The Draft Ministerial Direction (clause 5(c)), Draft Urban Design Guide (page 13) and Draft Apartment Design Guide (page 13) propose to require rezoning applications and development applications to demonstrate how proposals respond to Country and how proposals have been informed by contributions from Aboriginal stakeholders of the land.

The issue is the Draft SEPP and supporting guides propose an inconsistent approach to the consideration of Country. The Draft SEPP (page 9) proposes to limit the consideration of Country to State significant development to which the Urban Design Guide applies. However, the Draft Ministerial Direction, Draft Urban Design Guide and Draft Apartment Design Guide propose to apply the consideration of Country to rezoning applications and development applications.

To address this issue, the preferred option is to limit the consideration of Country to State significant development to which the Urban Design Guide applies, consistent with the Draft SEPP. This will give time for the Department to finalise the Draft *Connecting with Country* framework to apply to rezoning applications. Development applications should not be required to consider Country as this would duplicate the research and engagement undertaken at the rezoning stage.

8. Ensure the higher BASIX standards are clear and concise

The Draft SEPP proposes to improve sustainability performance by updating the BASIX Tool for residential development, and applying non-residential sustainability targets for energy, water and electric vehicle readiness.

The submission seeks clarification on the building design and technological changes that would be required to meet the new targets, and to ensure the selection of materials considers durability and maintenance needs.

Next Steps

Should Council endorse the submission, it will be forwarded to the Department for consideration. The Draft SEPP is expected to come into force in late 2022.



**Canterbury Bankstown
Council Submission**

**Draft Design and Place
State Environmental
Planning Policy and
Supporting Guides**

March 2022





SUMMARY

Canterbury Bankstown Council raises the following issues in relation to the Draft Design and Place State Environmental Planning Policy and supporting guides:

1. Council does not support the proposal to set baseline residential density targets.
2. Council recommends providing design criteria that guide development in established urban areas, as the draft criteria is largely based on greenfield development scenarios.
3. Council recommends providing prescriptive controls rather than merit controls.
4. Council recommends allowing Councils to constitute their own design review panel and determine the membership, procedures, fees and thresholds.
5. Council recommends amending the Draft SEPP and supporting guides to ensure greater clarity and consistency.
6. Council recommends that in relation to accessible housing, the SEPP requires at least 20% of new dwellings in apartments to achieve the Silver Standard and a further 20% of new dwellings to achieve the Gold Standard.
7. Council recommends limiting the consideration of Country to State significant development until the Department finalises the Draft *Connecting with Country* framework.
8. Council requests that the Department ensure the higher BASIX standards are clear and concise.



Issue 1: Council does not support the proposal to set baseline residential density targets.

Draft Ministerial Direction and Draft Urban Design Guide

The Draft Ministerial Direction (clause 6) and Draft Urban Design Guide (Objective 3, page 26) propose to set baseline residential density targets, namely:

- Minimum gross residential densities of 30 dwellings per hectare to be provided in and around centres and high-frequency public transport.
- Minimum average gross residential density of 15 dwellings per hectare to be provided in other areas.

According to the Exhibition Overview document (page 16), ‘minimum density targets have been included in the DP SEPP in line with the submissions made in response to the EIE. For all development to which the UDG applies, a gross residential density target is proposed of at least 15 dwellings per ha to ensure that future development is serviceable. For development that has excellent transport accessibility (defined as ‘PTAL 6’ using a methodology developed in the UK and applied to NSW since 2019), a higher minimum density target of 30 dwellings per ha is given, to make best use of transport infrastructure and to discourage urban sprawl.

Development must be capable of achieving these gross density targets – that is, across the developable area of the site, the primary development controls (including zoning, height, floor space ratio and site coverage) must be capable of achieving a minimum yield, as demonstrated by the urban design strategy’.

Comment

Since 2018, Council has invested significant resources and engaged widely to prepare its new planning framework as required by State legislation. The new planning framework provides a pathway to manage growth and change across Canterbury Bankstown, and includes Council’s Local Strategic Planning Statement ‘*Connective City 2036*’ and the supporting Housing Strategy and Employment Lands Strategy.

Connective City 2036 creates opportunities for growth and improvement to deliver 50,000 new homes and 41,000 new jobs. The population is forecast to grow to 500,000 residents by 2036. The focus is to ensure growth is appropriately supported by an established and funded infrastructure delivery plan, whilst preserving the identity and character that make Canterbury Bankstown highly desirable.

In 2020, Council adopted its new planning framework, and the Greater Sydney Commission has assured *Connective City 2036*, confirming it is consistent with State priorities. The Department has endorsed the Housing Strategy.



Council is currently master planning the strategic centres, local centres and surrounding residential zones in accordance with the South District Plan, *Connective City 2036* and Housing Strategy. The South District Plan (Action 18, page 51) requires a place-based planning approach to inform the proposed built form controls, in consultation with the community.

The issue is, at this late stage in the process, the Draft Ministerial Direction and Draft Urban Design Guide propose to set new baseline residential density targets, which are inconsistent with the place-based planning approach and do not consider Council's endorsed strategies or local context. It would erode the substantial body of strategic planning work this Council and others have put into the new planning framework.

Experience with the Department's Draft Sydenham to Bankstown Urban Renewal Corridor Strategy highlights the difficulty in setting baseline residential density targets.

Furthermore, the implications of not meeting the targets is unclear and creates uncertainty for the integrity of Council's zoning controls.

For these reasons, Council does not support the proposal to set baseline residential density targets. Council should continue to determine appropriate densities in accordance with *Connective City 2036*, the Housing Strategy and community consultation.

Recommended Actions

- Do not set baseline residential density targets.
- Council to continue to determine appropriate densities in accordance with *Connective City 2036*, the Housing Strategy and community consultation.



Issue 2: Provide design criteria that guide development in established urban areas, as the draft criteria is largely based on greenfield development scenarios.

Draft Ministerial Direction and Draft Urban Design Guide

The Draft Ministerial Direction (clause 6) and Draft Urban Design Guide propose to set design criteria that would apply to precinct planning, such as Council's current master planning process for centres. The design criteria include:

- Maximum block lengths (Objective 6, page 36) – 220–250 metres for industrial areas and 160–220 metres for residential and mixed–use development.
- Mid–block connections (Objective 7, page 40) – Mid–block connections and through–site links for pedestrians are provided no more than 130 metres apart within walking catchments of key destinations such as centres, public open spaces, transport nodes and schools.
- Tree canopy targets (Objective 10, page 50) – Applicable to public open spaces, streets, precincts and development sites.
- Public open space targets (Objective 12, page 60) – For development over 5 ha, deliver a minimum of 15 per cent of the net developable land as freely accessible public open space, with the majority of this as dedicated RE1 zoned land. Open spaces should align with local council open space plans. If the local open space strategy does not consider open space appropriate on a site, the proponent will need to look for opportunities to provide connectivity and contribute to nearby open spaces (page A11).

According to the Exhibition Overview document (page 20), *'the urban design process defined in the UDG is universal and encourages applicants to respond to the unique qualities of places across NSW. This approach caters for the range of different contexts (metro, regional, inner/outer suburbs) and development types covered by the UDG'.*

Comment

The issues with the proposed design criteria are:

The design criteria do not guide development in established urban areas.

The proposed design criteria and supporting diagrams relate to greenfield sites where there are no existing road networks and development to impede the delivery of public open space, mid–block connections and urban tree canopy. The Draft Urban Design Guide does not provide guidance on how Council is to achieve the same design criteria in established urban areas, other than to consider alternative design solutions. This approach would be open to various interpretations and would take greater time and resources of Council to resolve during the pre–lodgment and assessment stages.



The Draft Urban Design Guide should be revised to provide specific design criteria for rezoning applications and development applications that propose development in established urban areas. This would apply to infill development, brownfield development, and development in and around existing centres.

The design criteria are not supported by legal mechanisms to fund the delivery of land for public purposes.

The Draft SEPP and Draft Regulation should establish appropriate legal / funding mechanisms to resolve how to deliver the public open space, mid-block connections and through-site links when preparing zoning changes or determining development applications.

There would be a significant flow on effect in terms of acquisition costs for the following reasons:

- The Land and Environment Court has confirmed that there is no power for a consent authority to require the dedication of land free of cost (refer to L & G Management Pty Ltd v Council of the City of Sydney [2021]).
- Works-in-kind by developers does not guarantee the delivery of open spaces, mid-block connections and through-site links. There is no legal mechanism that mandates developers to provide infrastructure via works-in-kind.
- Planning agreements are also not an appropriate mechanism to support substantial population growth. Planning agreements are voluntary and are negotiated on a case-by-case basis. Planning agreements do not address the cumulative needs of growth, or respond to the strategic infrastructure planning framework.
- It would be difficult for contributions plans to commit to new, high cost, land acquisition due to the development contributions caps.

Recommended Actions

- Provide specific design criteria for rezoning applications and development applications that propose development in established urban areas.
- Establish appropriate legal / funding mechanisms to resolve how to deliver the public open space, mid-block connections and through-site links when preparing zoning changes or determining development applications.



Issue 3: Provide prescriptive controls rather than merit controls.

Draft SEPP, Draft Urban Design Guide and Draft Apartment Design Guide

The Draft SEPP (clause 24, page 12 and clause 30, page 14) requires Council to apply the design criteria in the Draft Urban Design Guide and Draft Apartment Design Guide flexibly and to consider alternative solutions if these result in a neutral or better design outcome than meeting the design criteria.

According to the Exhibition Overview document (page 8), *'key changes in response to feedback and learnings since the last review include providing a clear framework for the flexible application of the ADG, and the need for design verification now being against the objectives of the ADG. The new mechanism will enable alternative solutions to those in the ADG that may better suit the needs of the local area and the site'*.

Comment

The existing prescriptive design controls of the Apartment Design Guide are found to work efficiently for the assessment of rezoning applications and development applications.

The issue is the *Environmental Planning and Assessment Regulation 2021*, LEP Making Guideline and *Environmental Planning and Assessment (Statement of Expectations) Order 2021* set mandated assessment timeframes for applications. If Council does not meet these expectations, the Minister for Planning may appoint a planning administrator or regional panel to exercise Council's functions.

The proposal to shift to more 'flexible' design solutions will take greater time and resources of Council to consider during the pre-lodgment and assessment stages. Due to the lack of prescriptive controls, the proposed approach will be open to various interpretations and will take considerably longer to resolve, compared to the existing approach.

This will make it difficult for Council to assess applications within the mandated assessment timeframes, such as the maximum 40 days assessment period for development applications under the *Environmental Planning and Assessment Regulation 2021* and *Environmental Planning and Assessment (Statement of Expectations) Order 2021*.

To address this issue, the preferred option is to retain the existing prescriptive design controls of the Apartment Design Guide:

- To provide certainty in the development assessment process.
- To demonstrate to all parties including the Land and Environment Court, how to best achieve the principles and design considerations in the Draft SEPP.



Complying with the mandated assessment timeframes will only work if there are strong prescriptive design controls in place for rezoning applications and development applications.

This position is supported by the NSW Productivity Commission's *White Paper 2021*, which reads '*industry stakeholders viewed that an over-reliance on 'merit assessment' added cost and delays disproportionate to the risk or impact involved. Planning involves several stages, from development of strategic plans to LEPs, Development Control Plans and then assessment of individual development proposals. Under the current system, projects need to justify their merit and undergo community consultation even if they are compliant with the agreed rules set out for the site in earlier stages. The 2013 NSW Planning White Paper recognised this and recommended that the use of merit assessment be reduced to around 20 per cent of applications, which would reportedly have brought New South Wales in line with other states (NSW Government, 2013)*' (page 291).

However, if the intent of the Draft SEPP is to allow more 'flexible' design solutions, the Department should:

- Equally be 'flexible' on the mandated assessment timeframes.
- Provide financial support to Council to conduct detailed urban design training sessions to upskill Councillors and Council staff, particularly in relation to considering 'flexible' design solutions.

Recommended Actions

- Retain the existing prescriptive design controls of the Apartment Design Guide and provide prescriptive controls in the Urban Design Guide.
- Increase the mandated assessment timeframes for rezoning applications and development applications if the Draft SEPP is to require Council to consider more 'flexible' design solutions.
- Provide financial support to Council to coordinate urban design training sessions to upskill Councillors and Council staff.



Issue 4: Allow Council to constitute its design review panel and determine the membership, procedures, fees and thresholds.

Draft SEPP and Draft Regulation

The Draft SEPP (Part 4, page 16) proposes to mandate design review panels.

The Draft Regulation (Part 16B, page 11) proposes to make the Minister for Planning the responsible authority to:

- Determine the fees to refer applications to a panel meeting (clause 248)
- Constitute a design review panel for a local government area, and abolish the panel at any time and for any reason (clause 268B)
- Appoint the Chairperson and panel members (clause 268C)
- Determine the term of panel members (Schedule 7(1))
- Appoint alternate panel members (Schedule 7(2))
- Determine the procedures to conduct panel meetings (Schedule 7(4)).

According to the Exhibition Overview document (page 6), the Minister for Planning identified certain issues for further attention following the exhibition of the Explanation of Intended Effect. This included the need to develop streamlined and consistent processes for design review.

Comment

Connective City 2036 (page 84) identifies the opportunity to lead improvements in the quality of the City's natural and built environment so that by 2036 the City's public and private places will be planned, designed, built and maintained to the highest quality design standards.

In accordance with *Connective City 2036* (page 87), Council has invested significant resources to strengthen its design processes by:

- Establishing its design review panel in 2020, in consultation with the NSW Government Architect's Office. The Terms of Reference is to provide expert design advice on major residential and non-residential development proposals in Canterbury Bankstown, including development applications for new:
 - buildings comprising residential development with three or more storeys within the business zones
 - residential development with three or more storeys outside of the business zones
 - commercial buildings with a floor space greater than 1,000m²
 - industrial buildings with a floor space greater than 5,000m²
 - warehouse or distribution centres with a floor space greater than 5,000m²
 - centre-based child care facilities
 - schools



- places of public worship
- registered clubs
- community facilities.
- Establishing Council's Urban Design Team to provide in-house design expertise on rezoning applications, development applications and capital works projects.
- Introducing a design quality clause in the Draft Consolidated Local Environmental Plan.
- Reviewing the design quality provisions in the Draft Consolidated Development Control Plan.
- Preparing place-based, design-led master plans for the Bankstown City Centre, Campsie Town Centre and local centres in accordance with the South District Plan, *Connective City 2036* and Housing Strategy.

The issue is, at this late stage in the process, the Draft Regulation (Part 16B) proposes to make the Minister for Planning the responsible authority to constitute design review panels. The Draft Regulation does not acknowledge the substantial body of work this Council and others have put into the new planning framework.

A 'one size fits all' approach also does not consider local circumstances, namely:

- Council's operational costs and administrative resources to manage a design review panel.
- The ability to appoint panel members with local knowledge to ensure their advice is relevant to developers that operate in the local area.
- The types of development which may require design advice.
- The timeframes to organise and hold panel meetings. It is impractical to expect Council to hold ad hoc meetings within 14 days of each person seeking to make a development application (refer to clause 268D, Draft Regulation).

For these reasons, Council does not support the proposal to appoint the Minister for Planning as the responsible authority. Council should be able to continue to operate its existing design review panel, and to determine the membership, procedures, fees and thresholds.

The Draft SEPP, Draft Regulation and Draft Design Review Panel Manual need to ensure that Council's effective design processes can continue. The Draft SEPP and Draft Regulation also need to confirm whether section 4.55 applications (applications to modify a development consent) must be referred to a design review panel.



Recommended Actions

- Do not make the Minister for Planning the responsible authority to constitute design review panels.
- Allow Council to continue to operate its existing design review panel and to determine the membership, procedures, fees and thresholds.
- Do not set timeframes for a design review panel to provide advice.
- Confirm whether section 4.55 applications (applications to modify a development consent) must be referred to a design review panel.



Issue 5: Amend the Draft SEPP and supporting guides to ensure greater clarity and consistency.

Draft SEPP, Draft Urban Design Guide and Draft Apartment Design Guide

The Draft SEPP and supporting guides propose a new approach to streamline planning processes and assist in the timely assessment of applications.

Comments

A review identifies the need to amend the Draft SEPP and supporting guides to achieve greater clarity in the application of the proposed provisions, achieve consistency with State and local policies, and improve the design and function of development.

Draft SEPP

Draft SEPP	Recommended Action
<p><u>Clause 5 (page 5) – Meaning of “residential apartment development”</u></p> <p>The draft definition means <i>a development for the purposes of residential flat buildings, shop top housing or mixed use development with a residential accommodation component if—</i></p> <p>(a) <i>the development consists of one or more of the following—</i></p> <ul style="list-style-type: none"> (i) <i>the erection of a new building,</i> (ii) <i>the substantial redevelopment or refurbishment of an existing building,</i> (iii) <i>the conversion of an existing building, and</i> <p>(b) <i>the building is at least 3 storeys, not including storeys that provide for carparking that are—</i></p> <ul style="list-style-type: none"> (i) <i>below ground level (existing), or</i> (ii) <i>less than 1.2 metres above ground level (existing), and</i> <p>(c) <i>the building contains at least 4 dwellings.</i></p>	<p>Action: Amend clause 5(a)(ii) by defining ‘substantial’.</p> <p>Reason: To remove any uncertainty or subjectivity when applying the definition.</p> <p>Action: Amend clause 5(b)(ii) to read: less than <u>1 metre</u> above ground level (existing).</p> <p>Reason: This ensures the proposed definition is consistent with the existing ‘basement’ definition in the Standard Instrument, which reads: <i>basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).</i></p>



Draft SEPP	Recommended Action
<p><u>Clause 14 (page 9) – Design consideration (overall design quality)</u></p> <p>The draft clause does not require development to consider the impact of sites facilities (such as utilities, building services, substations, waste storage areas) on active street frontages and the public domain.</p>	<p>Action: Amend clause 14 by requiring development to consider the impact of sites facilities on active street frontages and the public domain.</p> <p>Reason: Site facilities can detract from the streetscape, and create hazards for pedestrians. The Draft SEPP should ensure development considers the location and design of site facilities early in the design process.</p>
<p><u>Clause 21 (page 10) – Design consideration (resource efficiency and emissions reduction)</u></p> <p>The draft clause requires development to minimise waste from associated demolition, construction and during the ongoing use of the development, including by the choice and reuse of building materials.</p>	<p>Action: Amend clause 21(b) to read: <i>is designed to minimise waste and maximise recovery from associated demolition, construction and during ongoing use of the development, including by choice and reuse of building materials.</i></p> <p>Reason: Waste and recycling from ongoing use of the development needs to be separated, as the type of waste produced by residents is very different to demolition and construction waste.</p>
<p><u>Clause 22 (page 11) – Design consideration (resilience and adapting to change)</u></p> <p>The draft clause requires development to be resilient to natural hazards.</p>	<p>Action: Amend the clause by requiring development to also consider urban hazards.</p> <p>Reason: The NSW planning system plays an important role in limiting exposure of development to urban hazards such as contamination, poor air quality, noise and urban heat island effect. The Draft SEPP should ensure development considers urban hazards early in the design process to avoid current or likely future urban hazards.</p>



Draft SEPP	Recommended Action
<p><u>Clause 24 (page 12) – Objectives of Urban Design Guide</u></p> <p>The draft clause requires Council to:</p> <ul style="list-style-type: none"> • Apply the design criteria set out in the Urban Design Guide flexibly and consider alternative solutions. • Consider the objectives of the Urban Design Guide only in relation to the particular development application. 	<p>Action: Amend clause 24(3)(a) by removing the reference to <i>'flexibly and consider alternative solutions'</i>.</p> <p>Reason: The Draft SEPP creates the expectation that the starting point is to consider alternative solutions, meaning no part of the Draft Urban Design Guide could be applied with effect.</p> <p>Action: Amend clause 24(3)(b) by clarifying the intent of considering the objectives to the particular development application.</p> <p>Reason: The intended outcome of this subclause is unclear. Clarification is required to inform Council as to what this subclause is attempting to achieve.</p>
<p><u>Clause 26 (page 12) – Energy and water use standards for non-residential development</u></p> <p>Subclause 26(a) reads: <i>Development consent must not be granted to non-residential development unless the consent authority is satisfied the development—</i> <i>(a) enables the following—</i> <i>(i) the reduction and shifting of peak demand for electricity,</i> <i>(ii) storage of renewable energy, for example batteries,</i> <i>(iii) metering and monitoring of energy consumption, and</i></p>	<p>Action: Amend clause 26 by deleting subclause (a).</p> <p>Reason: The considerations relate to operational issues that cannot be assessed at the development application stage. The clause should be simplified to focus on the energy and water targets under subclause (b).</p>



Draft SEPP	Recommended Action
<p><u>Clause 30 (page 14) – Objectives of Apartment Design Guide</u></p> <p>Clause 30(2) reads: <i>Development may meet the objectives of the Apartment Design Guide by—</i> <i>(a) meeting the applicable design criteria, to the extent possible, and the design guidance set out in the Apartment Design Guide, or</i> <i>(b) an alternative solution that the consent authority considers achieves a neutral or more beneficial outcome than meeting the design criteria and design guidance set out in the Apartment Design Guide.</i></p>	<p>Action: Amend clause 30(2) by defining ‘neutral or more beneficial outcome’.</p> <p>Reason: Due to the lack of prescriptive controls, the proposed approach will be open to various interpretations and will take considerably longer (compared to the current approach) to resolve the differences on whether an alternative solution achieves a neutral or more beneficial outcome. The Draft SEPP should provide a definition to clarify what this clause is attempting to achieve.</p>
<p><u>Clause 30 (page 14) – Objectives of Apartment Design Guide</u></p> <p>Clause 30(3) reads: <i>In determining whether development meets the objectives of the Urban Design Guide, the consent authority must—</i> <i>(a) apply the design criteria set out in the Urban Design Guide flexibly and consider alternative solutions, and</i> <i>(b) consider the objectives of the Urban Design Guide only in relation to the particular development application.</i></p>	<p>Action: Amend the clause 30(3)(a) by removing the reference to ‘<i>flexibly and consider alternative solutions</i>’.</p> <p>Reason: The Draft SEPP creates the expectation that the starting point is to consider alternative solutions, meaning no part of the Draft Apartment Design Guide could be applied with effect.</p>
	<p>Action: Amend clause 30(3)(b) by clarifying the intent of considering the objectives to the particular development application.</p> <p>Reason: The intended outcome of this subclause is unclear. Clarification is required to inform Council as to what this subclause is attempting to achieve.</p>



Draft SEPP	Recommended Actions
<p><u>Clause 36 (page 16) – Design verification statements and design review reports</u></p> <p>Clause 36(3) reads: <i>Development consent must not be granted to development to which this Part applies unless the consent authority has considered a design verification statement or design review report that accompanied the development application under the Environmental Planning and Assessment Regulation 2000.</i></p>	<p>Action: Amend clause 36(3) by requiring the consent authority to be satisfied that the design verification statement or design review report achieves the relevant objectives of the Draft SEPP and supporting documents.</p> <p>Reason: The clause should enable Council to be satisfied that any alternative design solutions are justified, and the proposal responds to feedback from design review panels prior to determination.</p>

Draft Urban Design Guide

Draft Urban Design Guide	Recommended Actions
<p><u>Objective 4 (page 30) – Place-based risks are mitigated and ecological values sustained to ensure resilient communities</u></p> <p>The objective requires development to mitigate any hazards (whether natural or human-induced) such as air pollution and land contamination.</p>	<p>Action: Expand the examples to include airport noise and prescribed airspace.</p> <p>Reason: The NSW planning system plays an important role in limiting exposure of development to urban hazards such as airport noise and prescribed airspace. The Draft Urban Design Guide should ensure development considers urban hazards early in the design process to avoid current or likely future urban hazards.</p>
<p><u>Objective 5 (page 34) – Walkable neighbourhoods are vibrant and productive</u></p> <p>The objective requires all homes to be within a 15 to 20 minute walk of a collection of local shops, a primary school, public transport, a supermarket or grocery store.</p>	<p>Action: Require all homes to be within a 5 to 10 minute walk, or require a 'ped-shed' analysis to define walking catchments.</p> <p>Reason: The issue is the proposed 20 minute walking distance is inconsistent with current transport guidance. It is recommended that the method to calculate the walking distance is consistent with current practice i.e. 400 metres (5 minutes) and 800 metres (10</p>



	minutes), or a 'ped-shed' analysis is submitted to provide a more realistic view of urban walkability.
<p><u>Objective 10 (page 50) – Tree canopy supports sustainable, liveable and cool neighbourhoods</u></p> <p>The objective introduces canopy tree targets applicable to public open spaces, streets, precincts and development sites.</p>	<p>Action: Require complying development to adhere to canopy tree targets.</p> <p>Reason: The Department has introduced a broad range of development as exempt and complying development including schools, dual occupancies, group homes, secondary dwellings and infrastructure.</p> <p>The issue is the Codes SEPP, Educational SEPP and Infrastructure SEPP are not required to comply with the canopy tree target, undermining any opportunity for Council to achieve the target through the rezoning or development assessment process.</p>
<p><u>Objective 12 (page 61) – Public open space is high-quality, varied and adaptable</u></p> <p>The objective requires public open space to be free of hazards or constraints to public recreation and community use.</p>	<p>Action: Ensure the <i>Draft Environmental Planning and Assessment (Housing, Infrastructure and Urban Development – Dual and shared use of open space and public facilities) Direction 2022</i> is consistent with the Draft Urban Design Guide.</p> <p>Reason: The Department recently exhibited the Draft Direction requires rezoning applications to consider shared use of publicly owned land to enable more than one public amenity or public service (whether local or State) to be provided on that land.</p> <p>This proposed approach is inconsistent with the Draft Urban Design Guide, which discourages dual-use public open space (Appendix 2, page A6). The Draft Urban Design Guide should clarify which policy position prevails.</p>

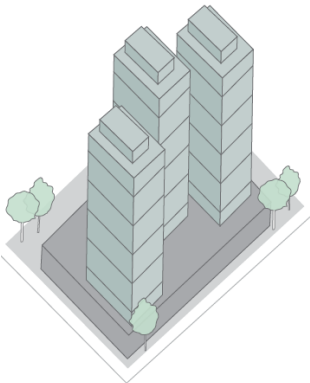
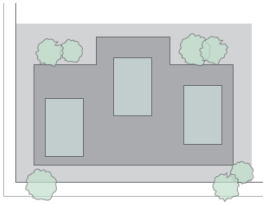


Draft Urban Design Guide	Recommended Actions
<p><u>Objective 13 (page 66) – Streets are safe, active and attractive spaces for people</u></p> <p>Figures 52–54 indicate a minimum 15 to 16 metre wide carriageway may be appropriate to achieve safe, walkable, and accessible streets. Proponents may demonstrate alternative design solutions.</p>	<p>Action: Ensure street designs comply with Council’s minimum carriageway widths and other engineering standards.</p> <p>Reason: The design guidance does not refer to Council’s engineering standards, which include minimum carriageway widths. It is recommended that the design consideration complies with Council’s minimum carriageway widths, which cater for the movements of waste service trucks and emergency vehicles.</p> <p>If there is an inconsistency, Council’s minimum requirements for carriageway and footpath widths should prevail over the Draft Urban Design Guide to inform the street network.</p>
<p><u>Objective 17 (page 76) – Scale and massing of built form responds to desired local character</u></p> <p>The objective does not include maximum efficiency ranges for converting Gross Building Areas or Envelopes to Gross Floor Area.</p>	<p>Action: Include maximum efficiency ranges for converting Gross Building Areas or Envelopes to Gross Floor Area.</p> <p>Reason: This is to ensure development at the rezoning stage is designed with proper regard to good design outcomes and not simply blocks that are maximising the future potential FSR. Section 2D of the existing Apartment Design Guide (page 32) reads:</p> <p><i>‘FSR is not a measure of the maximum capacity of the building envelope. The envelope provides an overall parameter for the design of the development. The allowable gross floor area should only ‘fill’ approximately 70% of the building envelope (see section 2B Building envelopes).’</i></p> <p>And:</p>

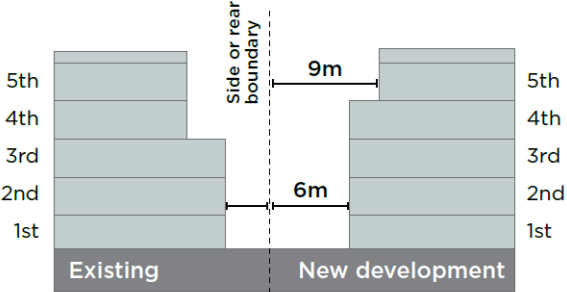


	<p><i>‘Where both residential and non-residential uses such as retail or commercial offices are permitted, develop FSR controls for each use. Commercial and retail generally fill 80-85% of their envelope. Allow for services, circulation, car park and loading requirements.’</i></p> <p>These efficiencies were accepted by the Independent Planning Commission, as confirmed by the Government Architect NSW and the Department in the IPC’s consideration of the Gateway Determination Review for 30-46 Auburn Road, Regents Park (https://www.ipcn.nsw.gov.au/projects/2020/11/gateway-determination-review-request-30-46-auburn-road-regents-park)</p>
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Draft Apartment Design Guide

Draft Apartment Design Guide	Recommended Action
<p><u>1.2 (page 15) – Built form and siting</u></p> <p>Figure 1.2.1 illustrates that staggering built form and including adequate tower separation protects access to sunlight and sky view for the surrounding public realm and neighbouring properties, and improves privacy and daylight within tall buildings.</p>   <p>Variation in tower setbacks and orientation increase perceived and actual separation distance</p>	<p>Action: Amend Figure 1.2.1 to illustrate variations in orientation and building heights.</p> <p>Reason: The diagram does not appear to show variations in orientation and building heights or provide clear information on the required separation distances.</p>



Draft Apartment Design Guide	Recommended Action
<p><u>1.2 (page 17) – Building floorplates, depth and articulation</u></p> <p>The design guidance reads: <i>Where any building length exceeds 40 m, division into separate elements will help reduce the overall bulk of the building.</i></p>	<p>Action: Amend the design guidance to clarify if ‘separate elements’ means a vertical articulation or a complete break in the built form.</p> <p>Reason: The design guidance is unclear if ‘separate elements’ means a vertical articulation or a complete break in the built form. The minimum distance/proportions of the break to provide appropriate articulation is also unclear.</p>
<p><u>1.2 (page 17) – Building floorplates, depth and articulation</u></p> <p>Figure 1.2.4 illustrates new development adjacent to existing buildings should provide adequate separation distances to the boundary in accordance with the design criteria.</p> 	<p>Action: Amend Figure 1.2.4 to clarify that new development should comply with the minimum building separation distances.</p> <p>Reason: There is an inconsistency in the minimum building separation distances between Table 1.2.1 and Figure 1.2.4. The figure suggests that new development is only required to provide its share of the separation distance, regardless of the distance that is currently provided by existing development.</p>
<p><u>1.2 (page 18) – Building height</u></p> <p>The design guidance reads: <i>Align floor-to-floor heights of new development with existing built form.</i></p>	<p>Action: Clarify if Table 1.2.2 or this design guidance prevails should there be an inconsistency.</p> <p>Reason: It is unclear if Table 1.2.2 applies to infill development adjacent to existing heritage or lower-scale buildings, or whether the desired future character should prevail.</p>



Draft Apartment Design Guide	Recommended Action																				
<p><u>1.3 (page 21) – Through-site links</u></p> <p>The design guidance reads: <i>Through-site links reduce the impact of large building mass on its surroundings and promote fine-grain connectivity and permeability, and improve walkability in the immediate street network.</i></p>	<p>Action: Provide minimum dimensions for through-site links.</p> <p>Reason: The design guidance should indicate appropriate clear widths for through-site links depending on the expected level of pedestrian activities and the proposed interface with the adjoining properties.</p>																				
<p><u>1.2 (page 18) – Building height</u></p> <p>Recommends floor-to-floor heights for mixed use development to maximise future flexibility of use (refer to Table 1.2.2).</p> <table border="1"> <thead> <tr> <th>AREA</th><th>RECOMMENDED FLOOR-TO-FLOOR HEIGHT (MIN.) FOR MIXED-USE DEVELOPMENT</th></tr> </thead> <tbody> <tr> <td>Ground floor non-residential uses</td><td>4.2 m</td></tr> <tr> <td>Ground floor residential uses</td><td>3.6 m</td></tr> <tr> <td>First floor residential uses</td><td>3.6 m</td></tr> </tbody> </table> <p><u>2.4 (page 52) – Apartment configuration</u></p> <p>Recommends floor-to-ceiling heights for apartment buildings and mixed-use development (refer to Table 2.4.2).</p> <table border="1"> <thead> <tr> <th>AREA</th><th>FLOOR-TO-CEILING HEIGHT (MINIMUM)</th></tr> </thead> <tbody> <tr> <td>Habitable rooms</td><td>2.7 m</td></tr> <tr> <td>Non-habitable rooms and kitchens</td><td>2.4 m</td></tr> <tr> <td>2-storey apartments</td><td>2.7 m for main living room floor area 2.4 m for second floor, where the area doesn't exceed 50% of the apartment area</td></tr> <tr> <td>Attic spaces</td><td>1.8 m at the edge of the room with a 30-degree minimum ceiling slope</td></tr> <tr> <td>Ground floor non-residential uses</td><td>3.3 m</td></tr> </tbody> </table>	AREA	RECOMMENDED FLOOR-TO-FLOOR HEIGHT (MIN.) FOR MIXED-USE DEVELOPMENT	Ground floor non-residential uses	4.2 m	Ground floor residential uses	3.6 m	First floor residential uses	3.6 m	AREA	FLOOR-TO-CEILING HEIGHT (MINIMUM)	Habitable rooms	2.7 m	Non-habitable rooms and kitchens	2.4 m	2-storey apartments	2.7 m for main living room floor area 2.4 m for second floor, where the area doesn't exceed 50% of the apartment area	Attic spaces	1.8 m at the edge of the room with a 30-degree minimum ceiling slope	Ground floor non-residential uses	3.3 m	<p>Action: Amend Table 2.4.2 by:</p> <ul style="list-style-type: none"> Increasing the floor-to-ceiling height for ground floor non-residential uses to read 3.8 metres. Inserting a floor-to-ceiling height for the first floor in mixed use zones to read 3.2 metres. <p>Reason: There is an inconsistency in the building heights between Tables 1.2.2 and 2.4.2. The heights in Table 2.4.2 should align with Table 1.2.2, taking into account a 400mm slab between floors for services like pipes.</p> <p>The ground floor height should also consider the vertical clearance required for loading spaces and truck manoeuvring on site.</p> <p>Amend Figure 1.2.8 by increasing the floor-to-floor height (above the first floor) to read 3.1 metres.</p> <p>Reason: There is a need to amend Figure 1.2.8 to correctly reflect Table 1.2.2. The floor-to-floor height (above the first floor) should read 3.1 metres.</p>
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Draft Apartment Design Guide	Recommended Action
<p><u>1.3 (page 22) – Accessibility and serviceability</u></p> <p>The design guidance reads: <i>Minimise conflicts between pedestrians, vehicle access and movement routes adjoining the site. Provide clear sightlines where vehicles cross pedestrian pathways.</i></p>	<p>Action: Make reference to service vehicles (such as waste collection) and ensure the safety of all users including services (such as waste collection).</p>
<p><u>1.3 (page 22) – Accessibility and serviceability</u></p> <p>The design guidance reads: <i>Consider larger than minimum widths of common pathways to allow people with prams, wheelchairs and mobility aids to pass each other easily.</i></p> <p><i>Consider access for deliveries, especially for bulky items, and where parcels may be left without contact with the addressee.</i></p>	<p>Action: Provide minimum dimensions for common pathways.</p> <p>Reason: The design guidance should indicate the minimum width (metres) for common pathways to avoid any confusion or different interpretations.</p>
<p><u>1.4 (page 22) – Transition between public and private space</u></p> <p>The design guidance reads: Limit the length of blank and solid walls, particularly along street frontages.</p>	<p>Action: Provide a maximum length/percentage for blank walls.</p> <p>Reason: The design guidance should indicate the maximum dimensions to avoid any confusion or different interpretations.</p>
<p><u>1.4 (page 26) – Mixed–use and non–residential interfaces</u></p> <p>The design guidance reads: <i>Consider incorporating non–residential uses by providing commercial, retail, community or public spaces, informed by local needs and planning policies.</i></p>	<p>Action: Provide controls in relation to facade articulation.</p> <p>Reason: Facade articulation controls are required to provide clear, unobstructed views into and out from ground floor uses facing the public realm, particularly, if fronting streets, parks, and open space to enrich the urban experience for pedestrians and building occupants alike.</p> <p>Transparency in the building facade adds visual interest, contributes to a sense of liveliness on the street, and improves safety through natural surveillance. Attempting to</p>

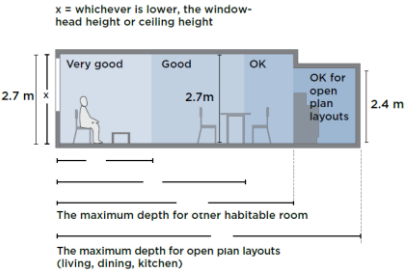


Draft Apartment Design Guide	Recommended Action
	obscure these views (e.g. through the use of posters, paint, shelving or non-transparent glass) creates an uninviting pedestrian realm and is strongly discouraged.
<p><u>1.4 (page 27) – Utilities and building services</u></p> <p>The design guidance reads: <i>Reduce the visual impact of utilities and building services on public space by locating them in basement car parks wherever possible, including substations, pump rooms, water tanks and waste storage areas.</i></p>	<p>Action: Provide controls in relation to waste storage areas.</p> <p>Reason: Waste and recycling collection should be considered as an essential service, with guidance to ensure the design of waste storage areas and collection facilities are:</p> <ul style="list-style-type: none"> • Accessible and reduce risk for all users including maintenance (such as caretakers) and collection staff. • Integrated within the building form and landscape to avoid adverse visual impacts on the streetscape.
<p><u>1.6 (page 35) – Car parking</u></p> <p>The design guidance reads: <i>Consider deep soil zones, stormwater management and the retention of trees during initial design stages, as these can affect the size and shape of a car park footprint.</i></p>	<p>Action: Amend the design guidance to consider access requirements for services, including waste collection.</p> <p>Ensure waste storage areas can be accessed without crossing car parking spaces.</p> <p>Reason: Servicing requirements (such as waste) can affect the size and shape of a car park footprint and basement design (including height clearances).</p>



Draft Apartment Design Guide	Recommended Action
<p><u>1.6 (page 35) – Vehicle entries</u></p> <p>The design guidance reads:</p> <ul style="list-style-type: none"> • <i>Design and locate vehicle access points to achieve safety, minimise conflicts between pedestrians and vehicles, and create high-quality streetscapes. Where possible locate vehicle access to the site for servicing and car parking on secondary streets, to minimise the impact on public space.</i> • <i>Minimise the width and number of vehicle access points, ramp length and visual impact.</i> 	<p>Action: Amend the design guidance to avoid limiting the ability to safely and efficiently service (such as waste collection) and access the site.</p> <p>Reason: The dimensions of service vehicles need to be considered and integrated into the overall development to reduce the impact on the built environment and streetscape.</p>
<p><u>2.1 (page 41) – Lifts</u></p> <p>The design guidance reads: <i>To determine the location, number, size and capacity of lifts, consider:</i></p> <ul style="list-style-type: none"> • <i>functional uses, including allowing for prams, mobility equipment, bicycles and shopping, and movement of goods, waste and furniture</i> • <i>access to parking levels including bicycle parking and mobility equipment.</i> 	<p>Action: Limit the use of residential lifts for the movement of waste and recycling bins.</p>
<p><u>2.3 (page 51) – Apartment mix and diversity</u></p> <p>An alternative design solution reads ‘<i>where proposals are considered under State Environmental Planning Policy (Affordable Rental Housing) 2009, the consent authority may be flexible in applying the design guidance for the provision of apartment mix and configuration, and consider the design guidance in Part 2.4: Apartment configuration</i>’.</p>	<p>Action: Delete the alternative design solution.</p> <p>Reason: The Department has repealed the <i>State Environmental Planning Policy (Affordable Rental Housing) 2009</i>. The Apartment Design Guide should apply to apartment development under the new Housing SEPP such as build-to-rent housing.</p>



Draft Apartment Design Guide	Recommended Action
<p><u>2.4 (page 52) – Apartment size</u></p> <p>The design guidance maintains the minimum apartment sizes prescribed under the existing Apartment Design Guide.</p>	<p>Action: Review the minimum apartments sizes.</p> <p>Reason: The design criteria is inconsistent with the proposal to increase bedroom sizes. This would result in smaller living spaces. The design criteria should increase the apartment size requirements to meet the additional bedroom/study demands. It would be beneficial to have minimum room sizes for studies, and to ensure that these spaces are not converted to bedrooms at any future date.</p>
<p><u>2.4 (page 54) – Ceiling height</u></p> <p>Figure 2.4.1 illustrates the depth of a single aspect apartment relative to the ceiling height directly influences the quality of natural ventilation and daylight access.</p> 	<p>Action: Amend Figure 2.4.1 by indicating the maximum numerical depths.</p> <p>Reason: The figure appears to be missing the horizontal distance information.</p>
<p><u>2.5 (page 59) – Private open space and balconies</u></p> <p>The design guidance recommends wintergardens to temper noise and harsh conditions but not limit natural ventilation or natural cross-ventilation within the apartment.</p>	<p>Action: Confirm whether wintergardens are included in the calculation of floor space ratios.</p> <p>Reason: This will help to provide a consistent state-wide approach to addressing this issue and may require an amendment to the standard gross floor area definition.</p>



Draft Apartment Design Guide	Recommended Action
<p><u>2.10 (page 59) – Storage</u></p> <p>The design guidance recommends providing storage areas in common areas with lockers or cages, or outside apartments to meet the needs of the residents.</p>	<p>Action: Provide storage areas within apartments.</p> <p>Reason: The Draft Apartment Guide allocates a higher proportion of storage volume to be outside apartments (i.e. in storage cages).</p> <p>This requirement should be reversed, where more storage is required within apartments. Accessible storage within apartments should be prioritised as people need better access to goods and utilities that are needed on a daily basis, such as food, clothes, cleaning products and other daily utilities.</p>
<p><u>2.11 (page 81) – Building articulation</u></p> <p>The design guidance reads: <i>The composition and detailing of a facade is important to the appearance of a building, including its perceived scale.</i></p>	<p>Action: Provide facade controls in relation to tall buildings.</p> <p>Reason: Given the prominence of tall buildings, careful considerations should be given to the facade design and articulation of tall buildings to ensure development make positive contributions to the public realm, and fit harmoniously within the surrounding context and skyline.</p> <p>Tall buildings should reflect design excellence and innovation to acknowledge the important civic role they play in defining the image of the City. Potential design guidelines for tall buildings may include:</p> <ul style="list-style-type: none"> • Tall buildings should consist of three carefully integrated parts: a base building, middle, and top. • Avoid free-standing towers without bases or a direct relationship to the street. • Encourage variation in the architectural expression, including variation in tower shape, orientation and the design of each facade for the purpose of visual interest.

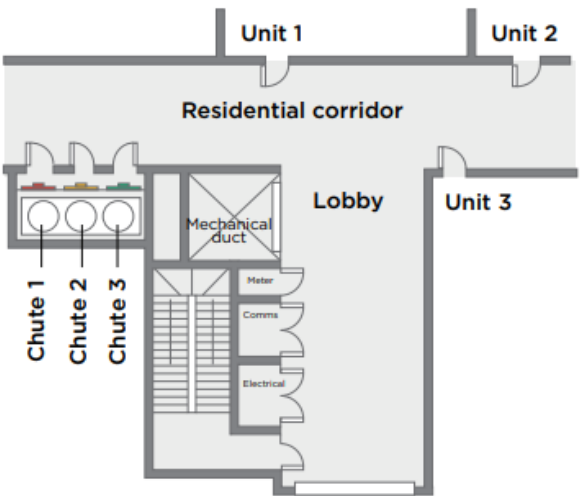


Draft Apartment Design Guide	Recommended Action
<p><u>2.11 (page 81) – Building articulation</u></p> <p>Does not provide guidance for architectural roof features.</p>	<p>Action: Provide design criteria for architectural roof features, as permitted under clause 5.6 of the Standard Instrument LEP.</p> <p>Reason: Design criteria will help to provide a consistent state-wide approach to the implementation of this standard provision, and promote good design outcomes.</p>
<p><u>2.11 (page 81) – Building articulation</u></p> <p>Does not provide guidance for the integration of building services in facades.</p>	<p>Action: Provide design criteria for the integration of building services in facades.</p> <p>Reason: Design criteria will help to address the impact of services and utilities (e.g. substations, kiosks and fire hydrants) on street frontages. The review is an ideal opportunity for the Department to consult with utility providers and to recommend a standard set of design criteria to screen services and utilities when viewed from the street, and identify thresholds for when services can be underground or sleeved.</p>
<p><u>3.3.1 (page 90) – Waste</u></p> <p>The objective reads: <i>Minimise waste storage impacts on the streetscape, building entries and amenity of residents.</i></p>	<p>Action: Amend objective to read ‘<i>waste storage <u>and collection areas</u> are designed to minimise impacts on the streetscape, building entry and amenity of residents</i>’.</p>
<p><u>3.3.2 (page 90) – Waste</u></p> <p>The objective reads: <i>Minimise occupants’ waste to landfill by providing safe and convenient onsite organic and inorganic waste and recycling facilities.</i></p>	<p>Action: Amend objective to read ‘<i>minimise occupants’ waste to landfill by providing safe, convenient and <u>co-located</u> onsite organic and inorganic waste and recycling facilities, <u>beginning with source separation infrastructure in the apartment</u></i>’.</p>

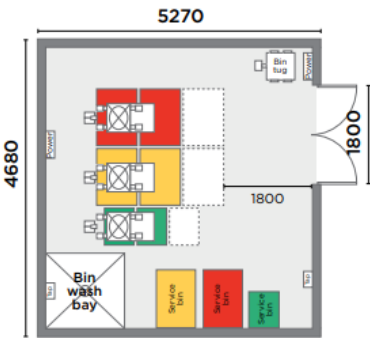


Draft Apartment Design Guide	Recommended Action
<p><u>3.3.3 (page 90) – Waste</u></p> <p>There is no objective in relation to the servicing of waste storage areas.</p>	<p>Action: Insert a new objective to read <i>‘provide adequate waste storage capacity (for minimum 3 days generation) and access to ensure that the development can be serviced safely and efficiently and to maximise resource recovery’</i>.</p> <p>Reason: This objective would strengthen the need for developers to design waste storage spaces and truck access that can be serviced as part of the standard council service, avoiding the need for bespoke arrangements, high frequency of servicing and unintended on–street servicing due to access issues.</p>
<p><u>3.3 (page 91) – Waste collection</u></p> <p>The design guidance reads: <i>Encourage waste separation at the source, ideally in the kitchen, by providing a dedicated waste storage area within each apartment to accommodate 2 days’ worth of waste, recycling and organics.</i></p>	<p>Action: Amend ‘recycling’ to ‘recyclable’.</p> <p>Reason: This would ensure the consideration of additional recyclable collections such as light globes, soft plastics textiles and batteries.</p>
<p><u>3.3 (page 91) – Waste collection</u></p> <p>The design guidance reads: <i>Prepare an operational waste management plan for residents (and other occupants in mixed-use developments) addressing waste collection, separation and storage, including locations of collection points, bin cart routes and equipment such as chutes.</i></p>	<p>Action: For large buildings, a loading dock management plan should be included along with maintenance agreements for any large–scale infrastructure such as turntables, hoists, and bin lifts.</p>




Draft Apartment Design Guide	Recommended Action
<p><u>3.3 (page 91) – Waste collection</u></p> <p>Figure 3.3.1 illustrates waste chutes.</p> 	<p>Action: Amend this figure to reflect the following matters:</p> <ul style="list-style-type: none"> • Chutes are not acceptable for food organics. • Recycling chutes are not accepted currently in Council’s DCP. • Description refers to diverter chute systems. These are not acceptable and lead to contamination issues. • Chute access would not meet AS 1428 (Set)–2003: Design for access and mobility.
<p><u>3.3 (page 91) – Waste storage</u></p> <p>The design guidance reads: <i>For onsite waste storage facilities, provide:</i></p> <ul style="list-style-type: none"> • <i>hot and cold water</i> • <i>drainage connected to the sewer</i> • <i>self-closing, sealed and outward-opening dual doors</i> • <i>automated lighting</i> • <i>mechanical ventilation</i> • <i>waterproofing.</i> 	<p>Action: Facilities need to ensure that access for all intended users is safe and convenient and in accordance with AS 1428 (Set)–2003: Design for access and mobility.</p>



Draft Apartment Design Guide	Recommended Action
<p><u>3.3 (page 91) – Waste storage</u></p> <p>The design guidance reads: <i>Locate collection infrastructure for council waste collection services wholly with in the development’s basement and within close proximity to the onsite loading dock to permit unobstructed access for contractors.</i></p>	<p>Action: Amend to read ‘<u>where feasible, locate collection infrastructure for council waste collection services wholly with in the development’s footprint and within close proximity to the onsite loading dock to permit unobstructed access for waste collection staff.</u></p> <p>Reason: Not all sites can physically fit a Council HRV in the basement and the option needs to be for ground floor on site access for council vehicles with design for largest vehicle. The site needs to be of adequate size to accommodate Council’s largest vehicle on-site.</p>
<p><u>3.3 (page 91) – Waste storage</u></p> <p>The existing Apartment Design Guide ensures development provides adequately sized waste storage areas. The Draft Apartment Design Guide removes this guidance.</p>	<p>Action: Reinstate the following design guidance:</p> <ul style="list-style-type: none"> • Adequately sized waste storage area that meets Council requirements for storage and separation of streams. • Waste storage area is designed to allow bins to be easily manoeuvred within and between storage and collection points.
<p><u>3.3 (page 91) – Waste storage</u></p> <p>Figure 3.3.2 illustrates integrated waste rooms.</p> 	<p>Action: Amend this figure to reflect the following matters:</p> <ul style="list-style-type: none"> • Council’s DCP requires 2 metre wide doorways. • EPA Best Practise Guideline requires 2.5 metre wide doorways. • The figure does not depict the possible need for carousels / linear track system to manage 3 days' worth of waste/ recycling generation under chute.



Draft Apartment Design Guide	Recommended Action
<p><u>3.3 (page 91) – Waste storage</u></p> <p>Figure 3.3.3 illustrates waste collection room bin infrastructure for each waste stream: residual, recycling, organics</p> 	<p>Action: Amend this figure to reflect the following matters:</p> <ul style="list-style-type: none"> • Figure should show aisles between bins for access and bin manoeuvrability for residents, cleaners/caretakers and collection staff. • Council’s DCP requires 2 metre wide doorways. • EPA Best Practise Guideline requires 2.5 metre wide doorways.
<p><u>Appendix 5.2 (page A28)</u></p> <p>Kitchen furniture schedule</p>	<p>Action: The diagrams should include:</p> <ul style="list-style-type: none"> • A recycling bin in all diagrams. • Drawing and dimensions for waste, recycling and organics bins for all apartment types. Bin sizes should increase in size relative to number of bedrooms. • An additional bin for the storage of recyclables such as batteries, textiles, soft plastics and light globes.



Draft Apartment Design Guide	Recommended Action												
<u>Glossary (page A47)</u> Deep soil zone: <i>an area of soil that is unimpeded by buildings or structures above and below ground and has a min dimension of 3m.</i>	<p>Action: Amend the definition to be consistent with Table 1.5.1.</p> <p>Reason: Table 1.5.1 (page 28) requires a minimum 3 metres and 6 metres to qualify as a deep soil zone.</p> <table><tr><th>SITE AREA</th><th>MINIMUM DIMENSION</th><th>DEEP SOIL ZONE % OF SITE AREA</th><th>MINIMUM CANOPY TARGET (%) OF SITE AREA</th></tr><tr><td><1500 m²</td><td>3 m</td><td>10%</td><td>15%</td></tr><tr><td>1500 m² +</td><td>3 m, with a wider contiguous portion that is a minimum 6m wide and at least 25% of the minimum deep soil area</td><td>15%</td><td>20%</td></tr></table>	SITE AREA	MINIMUM DIMENSION	DEEP SOIL ZONE % OF SITE AREA	MINIMUM CANOPY TARGET (%) OF SITE AREA	<1500 m ²	3 m	10%	15%	1500 m ² +	3 m, with a wider contiguous portion that is a minimum 6m wide and at least 25% of the minimum deep soil area	15%	20%
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Issue 6: Regarding accessible dwellings, require at least 20% of new dwellings in apartments to achieve the Silver Standard and a further 20% of new dwellings to achieve the Gold Standard.

Draft Apartment Design Guide

The Draft Apartment Design Guide proposes to require a minimum of 20 per cent of apartments to incorporate the Livable Housing Design Guidelines' Silver Level universal design features (page 49).

Comment

In 2019, Council consulted the community, industry, social housing providers, aged care providers and state agencies to discuss options on how Council may proceed to address future demand for livable housing. In summary, most respondents supported the application of the Livable Housing Design Guidelines. In 2020, Council decided to move from the Adaptable Housing Australian Standard to the Livable Housing Design Guidelines as follows:

Housing types	Proposed planning rules
Secondary dwellings and houses	Require all new secondary dwellings and houses to achieve the Silver Standard.
Dual occupancies and semi-detached dwellings	Require one dwelling in new dual occupancies and semi-detached dwellings to achieve the Gold Standard and the second dwelling to achieve the Silver Standard.
Multi dwelling housing and attached dwellings	Require at least 20% of new dwellings to achieve the Silver Standard and further 20% of new dwellings to achieve the Gold Standard.
Apartments and shop top housing	Require at least 20% of new dwellings to achieve the Silver Standard and further 20% of new dwellings to achieve the Gold Standard. It is noted that shop top housing will not deliver dwellings at the ground floor as this would contradict the LEP definition. Shop top housing however generally provides lift access to residential floors of development.
Boarding houses	Require at least 20% of boarding rooms in new boarding houses to achieve the Silver Standard.

In applying the planning rules such as the requirement for step-free pathways in front yards, flexibility would be given to difficult sites. It is not proposed to apply the planning rules to steeply sloping sites or to modifications to existing dwellings.



The issue is the Draft Apartment Design Guide proposes to apply lower targets compared to Council's livable housing targets. It is recommended that development achieve the Draft SEPP or Council's livable housing targets, whichever is higher.

Recommended Actions

- Require development to achieve the Draft Apartment Design Guide or Council's livable housing targets, whichever is higher.
- The NSW Government should establish a search engine for dwellings certified as livable housing, and providing this information at the point of rent or sale.



Issue 7: Limit the consideration of Country to State significant development until the Department finalises the Draft *Connecting with Country* framework.

Draft Ministerial Direction, Draft Urban Design Guide and Draft Apartment Design Guide

The Draft Ministerial Direction (clause 5(c)), Draft Urban Design Guide (page 13) and Draft Apartment Design Guide (page 13) propose to require planning proposals and development applications to demonstrate how proposals respond to Country and how proposals have been informed by contributions from Aboriginal stakeholders of the land.

According to the Draft Apartment Design Guide (page 13), *‘at the scale of an individual site, particularly a site within an established area, the design team are encouraged to research the local story of Country as it applies to the site, starting with accessing local government resources and advisory committees’*.

Comment

The issue is the Draft SEPP and supporting documents propose an inconsistent approach to the consideration of Country.

The Draft SEPP (page 9) proposes to limit the consideration of Country to State significant development to which the Urban Design Guide applies. However, the Draft Ministerial Direction, Draft Urban Design Guide and Draft Apartment Design Guide propose to apply the consideration of Country to rezoning applications and development applications.

To address this issue, the preferred option is to limit the consideration of Country to State significant development to which the Urban Design Guide applies, consistent with the Draft SEPP.

This will give time for the Department to finalise the Draft *Connecting with Country* framework (GANSW 2020) to apply to rezoning applications to:

- Provide formal guidance on best practice engagement with Traditional Custodians and knowledge-holders.
- Identify appropriate resources to research local stories of Country rather than relying solely on local government and advisory committees.
- Provide an education program for councils, industry and design profession.

Development applications should not be required to consider Country as this would duplicate the research and engagement undertaken at the rezoning stage.



Recommended Actions

- Limit the consideration of Country to State significant development to which the Urban Design Guide applies.
- Finalise the Draft *Connecting with Country* framework to apply to rezoning applications to:
 - Provide formal guidance on best practice engagement with Traditional Custodians and knowledge-holders.
 - Identify appropriate resources to research local stories of Country.
 - Provide an education program for councils, industry and design profession.
- Do not require development applications to consider Country as this would duplicate the research and engagement undertaken at the rezoning stage.

Issue 8: Ensure the higher BASIX standards are clear and concise.

Draft SEPP

The Draft SEPP proposes to improve sustainability performance by updating the BASIX Tool for residential development, and applying non-residential sustainability targets for energy, water and electric vehicle readiness.

Comment

The proposed update should clarify the building design and technological changes that would be required to meet the new targets, and to ensure the selection of materials considers durability and maintenance needs.

Recommended Actions

- Clarify the building design and technological changes that would be required to meet the new targets.
- Ensure the selection of materials considers durability and maintenance needs.

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 8:24 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: d15056769-220224---response-to-dpie---design-and-place-sepp.pdf

Submitted on Mon, 28/02/2022 - 20:17

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Jared

Last name

Phillips

I would like my submission to remain confidential

No

Info

Email

jared.phillips@centralcoast.nsw.gov.au

Suburb/Town & Postcode

WYONG 2259

Please provide your view on the project

I support it

Submission file

[d15056769-220224---response-to-dpie---design-and-place-sepp.pdf](#)

Submission

Dear Sir/ Madam,

Central Coast Council welcomes the opportunity to provide comment on the NSW Governments Design and Place State Environmental Planning Policy (DP SEPP).

Councils feedback on the Design and Place State Environmental Planning Policy, including the design principles and supporting documents (UDG, ADG and BASIX) has been detailed in the attached submission file.

Thanks again,

Jared Phillips.
Section Manager Centres Planning and Urban Design.
Central Coast Council.

I agree to the above statement

Yes

25 February 2022



[JP] / [Jared Phillips]

F2021/00993

NSW Department of Planning and Environment
12 Darcy Street
PARRAMATTA NSW 2150

designandplacesepp@planning.nsw.gov.au

Dear Sir/Madam

NSW Department of Planning, Industry and Environment - Design and Place SEPP

Central Coast Council welcomes the opportunity to provide comment on the NSW Governments Design and Place State Environmental Planning Policy (DP SEPP).

Central Coast Council (CCC) recognises and supports the intentions of the DP SEPP and the embedded Design Principles in curating sustainable and resilient places and the delivery of good design. This includes the introduction of the Urban Design Guide (UDG) and subsequent updates to the Apartment Design Guide (ADG) and Building Sustainability Index (BASIX). This commitment to sustainable and resilient places and good design is evidenced in Council's Community Strategic Plan and various strategies and plans such as the Central Coast Greener Places Strategy and Pedestrian Access and Mobility Plan (PAMP).

Councils feedback on the Design and Place State Environmental Planning Policy, including the design principles and supporting documents (UDG, ADG and BASIX) has been detailed in Attachment 1.

Should you wish to discuss this submission further please contact Jared Phillips on Jared.Phillips@centralcoast.nsw.gov.au or on 0439 035 264.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "D Milliken".

David Milliken

Acting Director, Environment and Planning

Reference: D15056769



Attachment 1

Table 1:

Draft Local Government Design Review Panel Manual				
Page	Heading	Comment		Summary
N/A	Mandating the establishment of a Design Review Panel for Regional Councils	Design Review Panels (DRP's) can add value to the assessment process and achieve better outcomes as a result. For NSW Regional Councils mandating the establishment of a DRP could be challenging for some Councils from a resourcing and funding perspective. It is suggest that the total cost to run a DRP be explored in detail to ensure Regional Councils are able to appropriately fund and resource the panel if it is to be mandated.		Consider – the financial impacts of mandating DRP's in Regional Areas and consider other alternatives which could achieve the same or similar results.

Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021				
Page	Heading	Comment		Summary
8	99A Condition relating to green travel plan	2(a) reviewed every 2 years.	The SEPP states a review at the end of 3 years.	Note – inconsistency with timeframes.
			Confirmation of who is responsible to monitor these targets? What actions are taken, and by who, if the targets aren't met.	Suggest – clarification of who is responsible.

State Environmental Planning Policy (Design and Place) 2021

Page	Heading	Comment		Summary
8	12 Design Principles and Design Considerations	All principles.	There are currently up to twelve basic principles of design. These are contrast, balance, emphasis, proportion, hierarchy, repetition, rhythm, pattern, white space, movement, variety, and unity. Suggest the principles in the SEPP are identified as objectives or deliverables rather than principles.	Suggest – renaming the principles to objectives or deliverables.
		1(a) to deliver inviting public spaces and enhanced public life to create engaged communities.	Suggest clarifying the definition of 'beauty' and 'sense of belonging'. How are these measured and assessed? What are the benchmarks for good objective design?	Suggest – clarification of terms is provided and how they will be assessed.
		1(b) to deliver inviting public spaces and enhanced public life to create engaged communities.	Suggest clarifying the definition of inviting and engaged. What makes a space inviting? How do these spaces enhance public life and how can this be measured? It is difficult to know if a design will achieve this.	Suggest – clarification of terms is provided and how they will be assessed.
		1(c) to promote productive and connected places to enable communities to thrive.	Suggest clarifying the definition of productive. What is it referring to?	Suggest – clarification of term is provided and how it will be assessed.
		1(d) to deliver sustainable and greener places to ensure the well-being of people and the environment.	Suggest this is measured based on volumes of vegetation, water quality treatment, soil volumes and topsoil enhancement. Do landscape / urban designs need to measure their predicted Carbon Footprint?	Clarify – if the need to measure predicted carbon footprint required?

State Environmental Planning Policy (Design and Place) 2021

Page	Heading	Comment		Summary
		1(e) to deliver resilient, diverse places for enduring communities.	Diversity can only be measured across a range of projects as opposed to assessment of individual projects. Suggest any planning / development proposal would need to define how the project is resilient, and to what – fire, flood, climate change. How will developments demonstrate this?	Suggest – clarification of terms required and how these will be assessed.
9	16 Design consideration— culture, character and heritage	Overall comment: This does not include concepts of conservation, it only mentions being near a heritage item or conservation area and responding to them. This will be difficult to assess without more description of what an appropriate response would be.		Suggest – this clause should be more specific and list some basic concepts of good conservation such as: a. Restoration b. Repair and maintenance c. Infill development d. Adaptive reuse e. Interpretation, f. Streetscape design g. Sense of place
		(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.	The provisions to include input from Aboriginal stakeholders is supported but should be broadened beyond State Significant Development.	Suggest – input from Aboriginal stakeholders is broadened beyond SSD's.
9	17 Design consideration – public spaces and public life	(d) the development contributes to connectivity between existing and proposed landscape corridors, public spaces and walking and cycling networks near the site.	Confirmation required, does this mean it contributes financially, or connects to existing networks?	Suggest – clarification of type of contribution.

State Environmental Planning Policy (Design and Place) 2021

Page	Heading	Comment		Summary
15	33 Car parking requirements for new buildings and green travel plans	(1) Consultation note – the final policy will include a map that is similar....	Suggest the map is included now so that comment can be provided on the suitability of land earmarked for reduced parking provision.	Suggest – clarification of areas and mapping is included where reduced parking will apply.
		(2) Development consent must not be granted unless the consent authority is satisfied that a plan (a green travel plan) that complies with subclause (3) has been prepared by a qualified transport planner or traffic engineer.	Suggest the following is added: <i>and the plan has been approved by the consent authority.</i>	Suggest – inclusion of text provided.
		(3) A green travel plan must include the following....	Suggest the inclusion of an additional point (e) around what actions are to be taken if the plan fails to reach its targets?	Suggest – clarification of what actions are to be taken.
N/A	General Comment	Heritage: The SEPP focuses on good design and places, especially in the public domain. It rightly identifies heritage, in all its forms, as a major consideration when designing good places. However, it does not take this far enough and fails to recognise that good design alone, without sound heritage conservation initiatives, will not make desirable places. There needs to be more emphasis in the SEPP on heritage conservation in all its forms. This in conjunction with good design creates innovative and attractive places where people want to be.		Suggest – more emphasis on heritage conservation initiatives.

Draft Apartment Design Guide

Page	Heading	Comment		Summary
34	1.6 Parking: Non-discretionary development standard car parking	Car parking requirements for residents and visitors are set out in the <i>Guide to Traffic Generating Developments (RTA 2002)</i> in a nominated regional centre	Reliance on a 20-year-old document to set the minimum parking requirements at a nominated regional centre could be problematic. In this case Gosford and Tuggerah / Wyong are the nominated regional centres.	Consider – Reliance on controls in a 20-year-old document could be problematic.
35	1.6 Parking: Design guidance car parking	Various points included, but none addressing servicing.	Consider including the following point: 'Provide areas for servicing the development including waste collection and loading / unloading areas for removalist vans and the like'	Suggest – include servicing areas in car parking requirements.
36	1.6 Parking: Bicycle Parking	If the development includes a major retail destination, provide proximate public bicycle parking close to and integrated with the public space and street design.	Consider including: 'If a development includes a commercial component, provide end of trip facilities (showers, lockers, etc)'	Suggest – include end of trip facilities for bicycle parking in commercial development.
57	2.5 Private open space and balconies: Design Guidance Private open spaces and balconies.	Provide balconies with minimum dimensions as shown in Figure 2.5.2.	It is unclear from the image if the dimension of the balcony excludes handrails and walls. The minimum dimension should be usable space, not including walls, glazing and frames and handrails.	Clarify – provide clearer controls around minimum balcony dimensions.
60	2.6 Sunlight, daylight, shade, and thermal comfort.	Design criteria in the Sydney Metropolitan Area, and Newcastle, Gosford, and Wollongong LGAs...	There is no longer a Gosford LGA as the two councils merged are now the Central Coast LGA. Suggest 3 hours of sunlight is the requirement across the Central Coast LGA. This would be consistent with Councils such as Lake Macquarie LGA.	Consider – limiting the 2 hour sunlight requirement to the area covered by the Gosford city SEPP. The remainder of the LGA should be 3 hours and consistent with other regional Councils such as Lake Macquarie.

Draft Urban Design Guide

Page	Heading	Comment		Summary
N/A		Overall Comment: Design is arguably subjective, but overall, it will be useful to have the UDG form part of the new SEPP. This will provide developers with a benchmark of what is expected in terms of designing places of value and will also provide consent authorities with the tools and guidelines necessary to help review and approve proposals. The requirement of the Design Statement should provide consent authorities with evidence that the objectives of the SEPP have been followed and adhered to.		Support – introduction of the UDG.
16	Part Two Objectives for good urban design.	Overall comment: generally, provides design guidance and will be useful for consent authorities to measure and assess proposals against.		Support – the use of Objectives for good urban design.
23	2.3 Locate and integrate development with highly accessible public transport.	In less frequently serviced residential areas, location of homes within 400m of public transport.	This needs to be supported with infrastructure connections. 400m is a good start. A footpath connection would be even better.	Suggest – the inclusion of more supportive infrastructure.
26	Compact and diverse neighbourhoods connect to good amenity.	Design criteria for neighbourhood density and minimum gross residential densities of 30 dwellings per hectare are provided	This may not be appropriate to neighbourhoods in regional areas with a limited number of services, infrastructure and public transport. For the Central Coast the train is only taking you north or south, not out to the beach or other towns.	Consider – regional areas unable to meet targets.
			What happens where existing LEPs do not support this e.g. minimum lot sizes, FSR, zoning.	Consider – this may not be possible under existing LEPs.
41	7.3 Provide low-traffic and slow-traffic streets	Where possible, adopt speed limits that minimise the risk of fatality for vulnerable road users (e.g. 30 or 40 km/hour or less).	This needs to be supported by TfNSW Speed Zoning Policy to provide Local Government with some guidance on assessment and implementation.	Consider – provide guidance via TfNSW Speed Zoning Policy.

Draft Urban Design Guide

Page	Heading	Comment		Summary
42	Objective 8 Parking is minimised, adaptable and integrated Assessment Guidance	Car parking is minimised	Agree with concept but needs to be supported with a variety of public transport / active transport options. For Central Coast, possibly only viable near major transport interchanges or along major corridors with high frequency buses.	Consider – regional areas unable to meet targets.
			Need clarification as to who is responsible for measuring / monitoring total parking demand requirements	Clarify – who is responsible for measuring / monitoring the requirements.
43	8.2 Minimise parking, manage demand and explore strategies to accommodate new technologies	Provide a minimum of 2% of all parking spaces with EV-charging equipment (except where local controls exceed this).	Need further clarification on the 2% targets for EV charging and car share parking within Council at-grade car parks i.e. not related to development, subdivision, etc.	Clarify – what are the targets for Council car parks.
		Consider car share parking, with a minimum 2% of all parking spaces provided for car share parking in high-density urban places.		
48	Objective 9 Landscape features and microclimates enhance human health and biodiversity	Assessment Guidance – the proposal demonstrates adequate amenity and human comfort can be achieved.	How is 'adequate amenity and comfort' measured.	Clarify – how will this be measured.
		Assessment Guidance – public open spaces include features to support human comfort and mitigate against negative sensory experiences.	How is 'mitigating against negative sensory experiences' measured and / or demonstrated	Clarify – how will this be measured and / or demonstrated.

Draft Urban Design Guide

Page	Heading	Comment		Summary
50	Objective 10 Tree canopy supports sustainable, liveable, and cool neighbourhoods	Design criteria for tree canopy targets. Urban tree canopy is enhanced and supported in accordance with benchmarks	Recognition that street tree canopy requirements would relate to new development / greenfield sites. Clarification required regarding Council projects in existing street.	Clarify – if the targets apply to Council projects in existing streets.
		Assessment Guidance.	New targets for tree canopy can't be measured in the short and long term. Tree planting rates can be measured.	Consider – measurement requirements.
56	Objective 11 Water is retained, and water quality improved in urban places	Assessment Guidance.	Consider including a measurement requirement of number and measurable success of SWUD devices.	Consider – a measurement requirement.
57	11.2 Reduce water consumption, reduce stormwater run-off and improve water quality	Various points.	Consideration required regarding the life cycle and maintenance costs associated with water sensitive urban design. Wherever possible this should be incorporated within developments to ensure private ownership and management.	Suggest – including an additional point to incorporate within developments
64	Objective 13 Streets are safe, active and attractive spaces for people	Definition of attractive.	How do you assess and measure this?	Clarify – what the definition of attractive is.
65	13.3 Provide landscaped tree-lined streets that integrate services	Various points.	This must be accompanied by lower speeds, otherwise trees pose a safety risk to occupants of vehicles.	Consider – speed zones when requiring street trees.

Draft Urban Design Guide

Page	Heading	Comment		Summary
66	13.4 Create streets which are safe, walkable, and accessible	Various points.	Suggest including: 'Lower signposted speed limits to support the desired road environment'.	Suggest - including an additional point.
			Change the language to be more inclusive. Not every person who uses a pathway 'walks'.	Suggest – a change in language to be more inclusive.
			Safe and accessible streets should be able to be used by those on mobility scooters or wheelchairs, as well as walkers. Include a point to refer to design that can cater for these.	Consider - including an additional point on the use accessible streets.
80	Objective 18 Built form enlivens the ground plane and activates and frames public space	Overall comment: Good design guidance and assessment guidance, but could be considered subjective. The developer would need to provide a strong design statement on how this is all achieved.		Support – design guidance and assessment guidance.
86	Part Three Implementing good urban design practice	Overall comment: urban design process is well defined and could be beneficial to planners and development assessment officers.		Support – urban design process.
	Appendix 1 Application Requirements	Overall comment: good assessment tools / checklists for consent authorities.		Supportive – tools and checklists.
A14	Appendix 4 Street Dwell Space	Overall comment: 'dwell space' is a good concept. Relates directly to good street design.		Supportive – dwell space concept.
A16	Appendix 4 Street Dwell Space Clear path of travel (pedestrians)	As a minimum, 2,000m is....	2,000m should read 2,000mm.	Correction – 2,000m should be 2,000mm

Draft Urban Design Guide

Page	Heading	Comment		Summary
A21	Glossary	Walkability refers to measures that support safe, comfortable, and direct walking...	Change the language to be more inclusive. Not every person who uses a pathway 'walks'.	Consider – a change in language to be more inclusive.

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 12:13 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: design-place-state-environmental-planning-policy-_submission-_cessnock-city-council.pdf

Submitted on Mon, 28/02/2022 - 12:12

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Jenny

Last name

Mewing

I would like my submission to remain confidential

No

Info

Email

jenny.mewing@cessnock.nsw.gov.au

Suburb/Town & Postcode

Cessnock 2325

Submission file

[design-place-state-environmental-planning-policy-_submission-_cessnock-city-council.pdf](#)

Submission

Dear Sir/Madam,

please find attached Cessnock City Council's Submission to the Design and Place SEPP.

Kind regards

I agree to the above statement

Yes



28 February 2022

Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Contact: Jenny Mewing
Our Ref: DOC2022/024778
Your Ref: Draft Design and Place State
Environmental Planning Policy

Via Planning Portal

Dear Sir / Madam

Submission
Draft Design and Place State Environmental Planning Policy

Thank you for the opportunity to provide feedback and commentary on the suite of documentation relating to the draft *Design and Place Statement Environmental Planning Policy* (D&P SEPP).

Cessnock City Council (CCC) is a regional Council located partially within the Greater Newcastle Metropolitan Growth Area. Council is experiencing considerable growth pressures, particularly in relation to the creation of new Urban Release Areas (URAs), and the ability to provide adequate support infrastructure for existing and new communities.

Council is supportive of measures that will improve the livability of our communities, both new and existing, and increase the well-being of its residents.

Based on a review of the documentation on exhibition, and the type of development occurring within the Local Government Area (LGA) it is understood that the primary impacts of the proposed reforms for CCC will relate to Planning Proposals and Development Applications (DAs) for residential subdivisions of land greater than 10,000m² (1 hectare). There may also be some impact for retail/industrial development subject to site consolidation.

As such, the proposed new Section 9.1 Ministerial Direction, Urban Design Guidelines (UDG) together with referrals to the Design Review Panel (DRP) will be relevant matters for consideration during the PP and DA processes if the reforms are implemented as currently proposed. The following commentary is provided on this understanding.

Design Review Panel

CCC does not currently have a panel constituted under *State Environmental Planning Panel 65* (SEPP 65), nor is it required to have a Local Planning Panel (LPP). Consequently, the introduction of a DRP will be a considerable shift in the assessment process for both PPs and DAs.

As a regional Council, limited funds and staff resources exist. A DRP will likely introduce time and cost implications for the assessment of both PPs and DAs.

In the event the DRP becomes mandatory within the LGA, Council requests that a panel be constituted which considers matters for a number of other regional Councils within the Hunter Region (e.g. Maitland, Singleton, Muswellbrook, Upper Hunter etc.).

It is also recommended that the opportunity for full cost recovery be made available, (including but not limited to payment of panel members, administrative costs, venue and catering costs and staff time).

It is also uncertain to what extent either Council staff, or the elected Council may be able to approve a PP or DA which is inconsistent with the advice provided by a DRP. This matter needs to be addressed.

Design Verification Statements

It is understood that Design Verification Statements (DVS) will be required to be submitted with PPs and DAs. For the applications within the Cessnock LGA, these statements will primarily be required to be prepared by qualified Urban Designers.

It is uncertain as to the extent assessing officers of the DVS also are required to conform to the same qualifications and experience as the Urban Designers, i.e. at least five years' experience in precinct or master planning. Given the regional nature of CCC, opportunities for precinct and master planning may not always be available. External resources may be required to be brought in to assess the DVS, which is an additional cost to Council.

Density Targets

The UDG sets a residential density target of 30 dwellings per hectare where located:

- in and around activity centres within 5 minutes' walk of neighbourhood shops, neighbourhood centres or local centres;
- within 10 minutes' walk of strategic and metropolitan centres, regional towns and cities;
- within 10 minutes' walk of high frequency public transport.

Or 15 dwellings per hectare in other instances.

These targets will require a considerable change in the delivery of dwelling diversity within the Cessnock LGA and the mindset of developers.

Density in the URAs within the Cessnock LGA is typically in the range of 8 – 10 dwellings per hectare, with most development occurring being single detached dwellings or on occasion, dual occupancies.

There appears to be a reluctance from the market to supply alternative forms of housing which might enable these densities. The statutory controls only apply minimum lot sizes and the downgrading of non-statutory development controls to *guidance* mean that density decisions are wholly market led and any higher densities, aspirational.

Notwithstanding, it is considerably difficult for Council to negotiate the supply of suitable open space and community infrastructure to support the current level of density, as well as cater for the needs of the established population in surrounding urban areas. Council is already facing challenges to retrospectively address infrastructure gaps, which have arisen due to ad-hoc and unplanned development and caps on contributions.

As growth within the Cessnock LGA is located in and around existing urban areas, with established character, the introduction of a density which is double or triple the current supply is fraught with political challenges. The densities do not appear to have been derived with regional areas in mind. The elected Council, responding to strong community pressure has recently installed a local clause to limit opportunities for dual occupancies in new areas. This clause was installed to protect the expectations of new residents to these areas.

It would be preferable for Council to consider where these densities should be promoted through its local strategic planning, as opposed to being applicable to existing urban areas through a DA process.

Application to Other Zones

The RU4 Primary Production Small Lots zone of *Cessnock Local Environmental Plan 2011 (CLEP 2011)* is the primary zone applied in and around the vineyard area within the Cessnock LGA. As such, it permits many forms of tourist development, including tourist and visitor accommodation.

There have been instances in the past of poorly designed tourist development which have not had adequate guidance for density and scale, positioning and built form, resulting in poor physical and social outcomes. It is recommended that the UDG and range of uses it addresses be expanded to include tourist and visitor accommodation more broadly than the hotel and motel accommodation which is currently proposed. Smaller scale developments should also be considered.

SEPP Principles, Urban Design Guideline Objectives & Ministerial Direction

The proposed Ministerial Direction requires PPs to be consistent with the design principles and design considerations of the D&P SEPP, in conjunction with requiring PPs to be consistent with the general objectives of the UDG.

The extent of assessment for PPs is becoming increasingly repetitive. The similar and numerous matters for assessment under strategic planning framework duplicate work and effort, without necessarily providing tangible benefits or better outcomes. A solid move to consolidating and streamlining requirements for assessing PPs is required.

There also needs to provide greater guidance for Councils being able to determine how the benefits of one aspect of a proposal (e.g. economic growth) are to be given more or less consideration or weight against another aspect (e.g. environmental protection).

Development Control Plans

The objectives of the UDG provide good guidance for planning of URAs and subdivisions.

It is not apparent nor clear within the exhibition material whether existing DCPs need to be reviewed for consistency of the principles set out, or whether the requirements only relate to the preparation of new DCPs. There will be quite an extensive volume of work for Councils if this requirement were to be implemented retrospectively.

Development Assessment - Pre-Lodgement

The proposed reforms also recommend a pre-planning process. It is agreed that ultimately this will see the lodgement of an improved DA at lodgement. However, whilst Council already offers a pre-lodgement forum, the necessary investigations and assessments required to assess a preliminary proposal against the UDG will be considerable.

It would be expected that Council should be able to charge for full cost recovery, including associated costs for staff time.

Development Assessment - Appeals

There is insufficient information within the documentation to understand how approvals or refusals based on the reforms will be managed through legal challenges. In particular, given the advice provided by the DRP is non-binding, any decision by an approval authority which incorporates or considers these views could be potentially leaving itself open to challenges of the outcome, without the certainty that the advice provided by the DRP has legal standing.

Draft Standard Instrument Local Environmental Plan Clause for Solar Absorption

It is understood a new draft clause is proposed within the *Standard Instrument – Principal Local Environmental Plan (2006)* (SILEP) which specifies restrictions in relation to solar absorptance of roofing.

Whilst Council does not maintain an issue with the intent, the inclusion of a new clause within the SILEP is not considered necessary. This should be a standard requirements within the BASIX amendments, which would apply to all new dwellings.

Connecting with Country Framework

At present, the Connecting with Country Framework is a draft document. It is understood that it is still within a testing period, and not scheduled for implementation prior to the end of 2022.

It is recommended that this aspect of the D&P SEPP be given a longer transitional period for implementation than the remainder of the SEPP, as the full extent of requirements will be unknown.

General Commentary on Planning Reforms

Council appreciates the opportunity to be involved in reforms to the current planning framework. It is important though that the Department of Planning and Environment give consideration and due regard to the pressures facing local government. This is particularly important for regional areas. Staff and resources are limited, and the recent timing and range of reforms are voluminous and intricate, requiring extensive amounts of staff time. It is requested the DP&E consider this in good faith moving forward.

If you require any further information, please do not hesitate to contact Council's Senior Strategic Planner, Mrs Jenny Mewing on telephone 02 4993 4248.

Yours faithfully

A handwritten signature in black ink, appearing to be 'MJ', followed by a horizontal line extending to the right.

Martin Johnson
Manager
Strategic Planning

Submitted on Thu, 24/02/2022 - 08:49

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Helen

Last name

Wilkins

I would like my submission to remain confidential

No

Info

Email

[HYPERLINK "mailto:helen.wilkins@canadabay.nsw.gov.au" helen.wilkins@canadabay.nsw.gov.au](mailto:helen.wilkins@canadabay.nsw.gov.au)

Suburb/Town & Postcode

Drummoyne

Please provide your view on the project

I support it

Submission file

[city-of-canada-bay-council---submission-draft-place-and-design-sepp.pdf](#)

Submission

The City of Canada Bay Council strongly supports the intent of the SEPP. The submission also includes recommendations to further strengthen the intent.

I agree to the above statement

Yes

24 February 2022

Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

By online submission:

To Whom It May Concern,

City of Canada Bay submission to the Draft Place and Design SEPP

The City of Canada Bay Council would like to thank the Department of Planning, Industry and Environment for the invitation to provide feedback on the Draft Place and Design SEPP (Draft DP SEPP). This correspondence is the City of Canada Bay's submission to the Draft DP SEPP and draft supporting instruments, guidelines and manuals.

Council strongly supports the intent of the Draft DP SEPP and the proposed sustainability measures.

The DP SEPP has the potential to improve the amenity and quality of apartments in high density precincts throughout the metropolitan area and specifically in the City of Canada Bay.

The submission also summarises concerns and issues for consideration by the Department of Planning and Environment. It is requested that the NSW Government responds to the issues raised before the DP SEPP is finalised.

If you have any questions in relation to this submission, please contact Helen Wilkins, Senior Strategic Planner on 9911 6292 or by email to helen.wilkins@canadabay.nsw.gov.au.

Yours sincerely,



Paul Dewar
Manager, Strategic Planning

Draft State Environmental Planning Policy (Design and Place) 2021

Introduction

Council strongly supports the intent of the Draft DP SEPP and the proposed sustainability measures.

The DP SEPP and associated Guides have the potential to improve the amenity and quality of apartments in high density precincts throughout the metropolitan area and specifically in the City of Canada Bay.

Council raises the following matters for consideration prior to finalisation of the DP SEPP and guidelines.

Draft DP SEPP and Regulation

Council strongly supports the draft DP SEPP and Regulations.

The following points are raised for consideration:

- Design Considerations should be elevated to more than just mere considerations. The SEPP will only be able to deliver the objectives if the principles are implemented, and the principles will only be implemented if the design considerations are implemented. The considerations should be linked directly to the Principles, similarly to the way the design quality principles are currently applied in SEPP 65.

Recommendation: Link clauses 14 to 23 directly to the principles and make these criteria matters that the consent authority must consider under clause 13(2) and 13(3).

- The term 'flexibly' should be deleted from clauses 24(3)(a) and 30(3)(a). The current inclusion of the term in relation to applying to the design criteria set out in the ADG and UDG implies that the whole of the ADG and UDG can be applied flexibly and with no limits to the amount of flexibility. Unlimited and mandatory flexibility will result increased uncertainty, extended assessment times, and see numerous more matters referred to the Land and Environment Court, further delaying the process. The wording in these clauses "and consider alternative solutions" is sufficient to ensure the ADG and UDG can be applied flexibly but within defined limits.

Recommendation: Delete the term 'flexibly' from clauses 24(3)(2) and 30(3)(a) and clarify only proposals that are 'alternative solutions' can apply flexible controls.

Clarify the 'grounds for refusal' and provide examples in the ADG and the UDG, to assist in the assessment of proposals that are seeking an 'alternative solutions' pathway.

- Clause 5(1)(b) of the Regulations states that a storey does not include space that is less than 1.2 metres above ground level. The 1.2m does not align with the 1.0m in the Standard Instrument LEP definition of basement.

Recommendation: The definition in the Regulation should be amended to refer to 1.0m.

Draft Apartment Design Guide

The Apartment Design Guide has been instrumental in improving the quality of apartment design and the mitigating the impact of new development on the public domain. It is imperative that the updated Apartment Design Guide continue to promote and facilitate best practice.

The following points are raised for consideration:

- There needs to be a clear line of sight between the ADG objectives and the relevant DP SEPP Design Criteria and Design Guidance to ensure the design guidance is interpreted correctly and is relevant to individual proposals and land use circumstances.
- The ADG also needs to tighten the measurability of the Design Criteria and Design Guidance for 'alternative design responses', to more easily and clearly describe how the guidance has been satisfied to an equal or better standard, by using criteria that relate to measurable outcomes. For example, the alternative response for Objective 2.1 requires "a high level of amenity" to be provided, but there is no detail about what constitutes "a high level of amenity".

Recommendation:

Connect the ADG objectives more directly to the DP SEPP Design Criteria and Design Guidance.

Apply more measurable alternative design responses to be able to more clearly define what constitutes the same or better outcomes.

- Council strongly supported the inclusion of maximum tower floor plates in the original DP SEPP EIE. Oversized apartment tower floorplates do not create good outcomes at ground level and lead to poor internal amenity. Not including this requirement in the draft ADG design criteria fails to respond to the prevalence of new buildings above 9 storeys in urban areas and the impacts they create.

Recommendation: Amend the ADG to specify a maximum apartment tower floorplate of 700 sqm.

- Council strongly supports:
 - the use of minimum deep soil and canopy cover requirements, and that the local controls take precedence should they be higher than these minimums;

- the requirement for habitable rooms to have a window in an external wall, thereby limiting borrowed daylight;
- Winter garden design requirements that ensure cross ventilation and solar penetration are not compromised.

Recommendation: Retain the above requirements in the updated ADG to ensure the objectives of the document are realised.

- The new text in relation to permitting less than two hours of sunlight will be open to abuse and lead to poor planning outcomes. In circumstances where limited sunlight penetration is possible at 8am, it is recommended that this text be removed from the draft ADG.

Recommendation: Remove advice that permits less than two hours of sunlight.

- Residential buildings with a depth of 18m are very deep when combined with the width of balconies. Building depth should be a maximum of 18m inclusive of balconies.

Recommendation: It is recommended that the draft ADG advice that a maximum apartment building depth of 12-18m overall, be reinstated (not glass to glass line).

Draft Urban Design Guide

Council strongly supports the intent of the UDG.

The following points are raised for consideration:

- There needs to be a clear line of sight between the UDG objectives and the relevant DP SEPP Design Criteria and Design Guidance to ensure the design guidance is interpreted correctly and is relevant to individual proposals and land use circumstances.
- The UDG also needs to tighten the measurability of the Design Criteria and Design Guidance for 'alternative design solutions', to more easily and clearly describe how the guidance has been satisfied to an equal or better standard.

Recommendation:

Connect the UDG objectives more directly to the DP SEPP Design Criteria and Design Guidance.

Apply more measurable alternative design responses to be able to more clearly define what constitutes the same or better outcomes.

- The walking distances outlined in the UDG are not appropriate. Council supports walkable neighbourhoods and defines a walkable neighbourhood as within 10-minute walk (each way) of daily services (local supermarkets, small parks, primary schools, bus stops or light rail).

Recommendation: That the criteria for walkability be further refined to include a 10 minute walk.

- Council specifically supports the requirement for a minimum 15% public open space and would like to see this further enhanced by the introduction of a minimum 50% public space requirement where precinct planning is undertaken, for streets and roads, community facilities and infrastructure, and other public spaces.

Recommendation: That the minimum 15% public open space requirement be supplemented with a minimum 50% public space requirement.

- There is a high degree of variance in land uses, economies, societies and landscapes (built and natural) that the one-size-fits-all UDG will have to respond to and there will also be developments and sites that are unable to achieve all of the provisions in the UDG. There therefore needs to be more customised consultation before the UDG is finalised and rolled-out across the whole State.

Recommendation:

Extend the consultation period for the UDG before it is finalised.

Introduce the UDG incrementally across the State and as the draft UDG is amended to respond to feedback from different regions and end-users.

Draft sustainability measures

Council strongly supports the sustainability measures in the DP SEPP, including the increased BASIX standards.

The following points are raised for consideration:

- More coverage needs to be given in the draft DP SEPP to building resilience in the built environment. Resilience needs to be included as a Design Principle and the definition that has been applied in the Design Considerations needs to be expanded to include other types of shocks and stresses. The current narrow definition, applying to only natural hazards, will constrain the ability of communities to absorb and respond to shocks and stresses such as disease, cyber-attack, financial crashes, rising energy costs, lack of social cohesion, rising inequality, and political instability. Any plan that seeks to address resilience that does not address the full spectrum of known and unknown future risks is not addressing resilience.
- Council encourages the Department to apply the approach to resilience that has been adopted by Infrastructure Australia in *Reforms to meet Australia's future infrastructure needs – 2021 Australian Infrastructure Plan*, which recognises that resilience requires more than just resilience to natural hazards. Resilient communities are able to absorb the effects of shocks and stresses to enable “positive sustainable economic, social, environmental and governance outcomes”. The Plan defines shocks as “disaster events” (both natural and man-made) and stresses as “chronic long-term or cyclical trends that

undermine systems over time, such as rising inequity, ageing infrastructure or rising sea levels.”

- The guidance on how to address resilience, especially social resilience needs to be amended to be more easily actionable. The *2021 Australian Infrastructure Plan* also includes an assessment framework for assessing resilience, which requires consideration of criteria including strategic fit, societal impact and deliverability. The framework provides guidance for assessing qualitative sustainability and resilience outcomes to determine whether the various criteria are key drivers or supporting considerations for proposals.
- The Urban Design Guide references a ‘design for resilience’ template, which has not been included.

Recommendation:

Add resilience to the DP SEPP as a Design Principle.

Incorporate into the DP SEPP the approach to resilience that has been adopted by Infrastructure Australia in “Reforms to meet Australia’s future infrastructure needs – 2021 Australian Infrastructure Plan”, which recognises that resilience requires more than just resilience to natural hazards.

Include in the DP SEPP a framework for assessing social, economic, environmental and governance shocks and stresses to determine whether they are key drivers or supporting considerations for proposals.

Exhibit the ‘design for resilience’ template and have it robustly trialled by future users before implementation.

Regulatory, Planning and Assessment. MBisson
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Reference: PB2021/11876

24 March 2022

NSW Department of Planning and Environment
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Submission via email:
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Dear Sir/Madam

SUBMISSION ON THE DRAFT DESIGN & PLACE STATE ENVIRONMENTAL PLANNING POLICY, REGULATION AMEMDEMENT, MINISTERIAL DIRECTION AND RELATED GUIDACNE MATERIAL

Thank you for the opportunity to provide our final feedback on the proposed State Environmental Planning Policy (Design and Place) 2021 (D&P SEPP), changes to the Environment and Planning Assessment Regulation 2021 (EPA Regulation), direction by the Minister under section 9.1 of the *Environmental Planning and Assessment Act 1979* (9.1 Direction), revised Apartment Design Guide (ADG), new Urban Design Guide (UDG) and other associated exhibition material. The below is generally consistent with the draft feedback City of Newcastle (CN) provided on 28 February 2022.

Background

CN previously provided a detailed submission in response to the Explanation of Intended Effect (EIE). This submission outlined CN's support for many of the positive changes proposed and the benefits this will have for our community and achieve a better built environment. CN's previous submission also raised matters for concern or further consideration which were requested to be addressed.

Following the exhibition of the EIE, CN was invited to join the D&P SEPP Policy Working Group for regional councils. We extend our thanks to the Government Architect for facilitating these workshops, they have been a useful tool for us to digest and remain engaged throughout the development of the proposed D&P SEPP and other material and provided us an opportunity to offer ongoing feedback.

Proposed Design and Place SEPP

CN supports the adoption of this reform and believes that the proposed D&P SEPP will have a positive impact on the built environment by setting clear principles and requirements for the delivery of good place outcomes. However, some further considerations and guidance is required for it to be successfully implemented.

A clear implementation plan is considered necessary for the D&P SEPP once it is adopted. This plan should take into account other reforms, the time and resources needed to adapt to the changes proposed, and any gap in skills at both a council and industry level which needs to be filled. An implementation tool kit for councils would be greatly appreciated.

The Department of Planning and Environment (DPE) must provide support or training for acquiring new skills necessary to implement the D&P SEPP and increased and clear communication with industry about the new requirements, processes and the benefits of the reform. Providing a cost benefit analysis of the proposed D&P SEPP was considered a positive approach.

There must be an understanding that with any new process, especially one that focusses strongly on design principles and performance-based outcomes, that it will take time to adapt to. CN continues to have significant concern that a performance-based approach will have ongoing impacts to assessment timeframes, particularly for development applications which is why the implementation phase of this policy will be critical.

Submission structure

CN's attached comments build on previous comments made in our submission to the EIE and new comments in response to the exhibition material.

This submission has been broken up into each of the exhibited documents.

Comments are provided with a reference to the relevant clause or section (where available) to allow for ease of reference. The comments address the below documents in the following order:

- Proposed draft State Environmental Planning Policy (Design and Place) 2021
- Proposed changes to Environment and Planning Assessment Regulation 2021 (EPA Regulation)
- Proposed direction by the Minister under section 9.1 of the Environmental Planning and Assessment Act 1979 (9.1 Direction)
- Revised Apartment Design Guide (ADG)
- New Urban Design Guide (UDG)
- Updates to residential sustainability (BASIX) and BASIX sandbox tool
- Design Review Panel Manual (DRPM) for Local Government

Relationship with other reforms

CN maintains that ongoing reform to the planning system for it to operate more efficiently must also succeed at achieving the best possible outcomes for our community.

The numerous reforms to the planning system currently occurring are unprecedented and have various interrelationships which make it somewhat difficult to ascertain or comment on the true impacts or outcomes each will have collectively on the planning system, let alone the ability of councils to implement them. In the past 12 months CN has seen the following significant reforms, updates or amendments in addition to the D&P SEPP:

- Draft Hunter Region Plan 2041
- Complying Development in Business and Industrial Zones reform
- Adding resilience to Local Strategic Planning Statements
- New Approach to Rezoning
- New Local Environmental Plan Making Guideline
- Amendments to EP&A Regulation
- Employment Zone Reform
- Infrastructure Contributions Reform
- Conservation Zone name change

- Fun SEPP
- Regional Housing taskforce
- Inquiry on the Integrity of the NSW Biodiversity Offsets Scheme
- National Climate Resilience and Adaptation Strategy
- New Housing SEPP and Reform
- Move to Planning Portal for development related applications and Planning Proposals
- Minister's Planning Principles

CN would like to take this opportunity to request that a holistic approach to how reforms are undertaken is utilised in the future and considers their pacing in conjunction with their ongoing implementation.

If councils, industry and community are to be able to provide insightful input we must be presented with not only the individual reforms but how they will perform together and the details of their implementation upfront. Each reform should also incorporate an implementation toolkit for councils to use which support the implementation phase. This will specifically help to better understand where and when we will need to direct resources so we can maintain our normal day-to-day activities during periods of high demand.

Summary

CN continues to acknowledge the importance of design and place and the need for the planning system to reflect and be consistent with broader policy frameworks and the importance of place. However, DPE's guidance and clarification on the issues raised in the above and attached comments is required prior to the D&P SEPP and associated material being finalised.

CN also understands that the Government's current priority is on providing housing, particularly in regional areas. However, it is crucial that development of new housing is well designed, liveable, resilient, equitable and contribute to place. CN supports the D&P SEPP being introduced into the planning system as it will support the delivery of better-quality housing and neighbourhoods which are supported by open space, public places and higher quality built form.

CN look forward to the D&P SEPP coming into effect as it will support us in continuing to champion for and delivering better places and development outcomes across the city. CN continues to be willing and available to engage in any additional training sessions, workshops and the Policy Working Group discussions.

Thank you for the opportunity to comment on the proposed D&P SEPP. Please find attached CN's final. If you require any further information, please contact me on (02) 4974 2793 or mbisson@ncc.nsw.gov.au.

Yours faithfully

Michelle Bisson
MANAGER REGULATORY, PLANNING AND ASSESSMENT

Proposed Draft State Environmental Planning Policy (Design and Place) 2022	
Clause	CN Comments
Clause 2 Commencement	The delayed commencement of D&P SEPP 6 months after its publication is a good idea. However, as mentioned in the cover letter there are various reforms occurring at the same time. DPE will need to provide ongoing support, resources and work with councils to implement these reforms, including the D&P SEPP, and additional time may be required. A holistic review of all reforms and associated implementation requirements should be considered by DPE, in consultation with councils and industry, to determine if 6 months will be sufficient.
Clause 5 Meaning of "residential apartment development"	The word 'substantial' under (1)(a)(ii) needs to be defined for certainty.
Clauses 5, 6 and 7	The D&P SEPP should clarify if a development can potentially be all three or two types of development referred to in these clauses (residential apartment development, urban design development and non-residential development).
Clause 6 Meaning of "urban design development"	<p>CN has concern that the trigger for 1ha will not capture all developments. Development involving entire blocks still have a significant impact on the built environment, sense of place and the opportunity to facilitate urban repair but may be less than 1ha. There are examples of sites in Newcastle which have had or will have a significant impact on the built environment but will not activate this trigger.</p> <p>Newcastle has very limited greenfield sites remaining, with infill development expected to cater for 80% of new development. There is far greater focus on urban renewal around our existing centres, renewal corridors and Catalyst Areas (as identified in the Greater Newcastle Metropolitan Plan 2036). Infill development also provides an important opportunity to achieve better design and place outcomes in existing areas and fix existing issues. However, this type of development is often undertaken at a scale less than 1ha at a time. The D&P SEPP not applying to infill development is considered a major flaw within this policy and a lost opportunity if not addressed.</p> <p>The 1ha trigger should be reconsidered to incorporate different triggers for different contexts. We need design guidance and the right triggers to apply it that will help development better contribute to public places and spaces. A static 1ha control is unlikely to provide the flexibility we need to achieve this in infill or renewal situations.</p> <p>Further clarity should also be provided to confirm that 'a site area greater than 1 hectare' includes the total balance of all sites/lots subject to the proposal even if they are disconnected by roads and/or other lots.</p>
Clause 8 Land to which this policy applies	CN has serious concerns with subclause (2)(d) which states the policy does not apply to strata subdivision, and furthermore Clause 9 which clarifies that the SEPP prevails over the Newcastle LEP.

	<p>The Newcastle LEP includes a local provision (Clause 6.3) which requires the strata subdivision of existing serviced apartments to be considered as if it were a residential flat building.</p> <p>The proposed D&P SEPP in its current form would remove our ability to ensure serviced apartments are not being subdivided without first considering if they are suitable to be used for residential flat building purposes if a change of use is sought in the future. If not addressed this may lead to assessment and compliance issues for CN in the future.</p>
Clause 12 Design principles and design considerations	The policy excludes itself from giving effect to Section 1.3 Objects of the EP&A Act (d) 'to promote the delivery and maintenance of affordable housing', however, refers to affordable neighbourhoods as a design consideration in this clause. The meaning of what an 'affordable neighbourhood' is should therefore be clarified.
Clause 13 Consideration of design principles and design considerations by consent authority	CN notes that there is no clause which nominates specifically the type of development to which this policy applies. Regarding subclause (1), CN is concerned that the SEPP does not clearly identify 'development to which this policy applies'.
Clause 14 Design consideration – overall design quality	It is recommended that 'economical use of space' is reworded to efficient so its meaning cannot be misconstrued. Economical use of space does not necessarily equal a good amenity outcome.
Clause 15 Design consideration – comfortable, inclusive and healthy places	Regarding subclause (a) it is not clear if 'residents' refers to future residents of the development, neighbours, or both. CN believes that this should refer to both and should be clarified.
Clause 16 Design consideration – culture, character and heritage	In regard to subclause (a), the 'desired character of the area' can have multiple meanings such as local LEP and DCP controls which apply to wider areas or local character statements which are more explicit.
Clause 18 Design consideration – vibrant and affordable neighbourhoods	<p>The terms 'walkability' and 'within walking distance' should be defined in the D&P SEPP.</p> <p>CN also has concern regarding subclause (b). The meaning of what a 'local population' is and what their needs are is not clear. For example, for a greenfield site there is no current local population so ensuring that there is a diverse mix of dwelling types, sizes and tenure would be appropriate. For an infill site it may be identified that there is a homogenous local population and residential development targeting those not represented in the local population could be required. This clause should be amended to include a consideration about what proportions of housing types/tenures are required to create a functional community.</p>
Clause 20 Design consideration – green infrastructure	Subclause (c) should not limit the period of which green infrastructure is maintained to 12 months. This should occur in perpetuity/throughout the life of the development.
Clause 21 Design consideration – resource efficiency and emissions reduction	Subclause (a) is considered too vague. Gas is a finite resource which the D&P SEPP is clearly seeking us to move away from. A clear position on this should be provided in the policy.

Clause 22 Design consideration – resilience and adapting to change	The policy should include a definition of 'natural hazards' in order for applicants to be certain what natural hazards a consent authority expects to be considered.
Clause 20 Design consideration – optimal and diverse land uses	<p>Subclause (b) should be expanded to be more specific about the range of lot sizes or at least the outcome sought. For example, 'to cater for a range of housing types and tenures' and include desired lot sizes for each type (terraces, 150-200m²; manor houses 500-700m²) may be a better approach.</p> <p>Subclause (c) notes that urban design development is to include appropriate residential density, however, the definition of urban design development is defined as not necessarily including any residential development.</p>
Clause 24 Objectives of the Urban Design Guide	<p>Subclause (2)(a) is vague. Is it up to the consent authority or applicant to deem the proposal has achieved the objective of the UDG? CN believes this should be the final decision of the consent authority.</p> <p>CN has concern that the wording of subclause (3)(a), by stating that the consent authority 'must be flexible' will remove any discretionary ability from the consent authority to properly and reasonably apply the objectives and design criteria. This subclause should be reworded in a way that does not prevent a consent authority from enforcing the objectives or criteria of the UDG. This may also erode local provisions that overlap with the UDG.</p> <p>Subclause 3(b) should read 'only where relevant to the particular development application' as the current wording is unclear.</p>
Clause 25 Development control plans for urban design development	The end of subclause (1) should include that the development must also be consistent with the development control plan too.
Clause 26 Energy and water use standards for non-residential development	<p>The way energy and water use sustainability are assessed for non-residential development must be as straightforward and logical as possible to allow development assessment officers to easily confirm that a development can achieve the standards at the DA stage.</p> <p>This should follow a similar process as BASIX certificates which confirm the measures and commitments proposed in the development (via a certified person) and are then able to be included as a condition of development consent. The principal certifying authority can then easily determine whether these measures and commitments have been implemented prior to releasing the subsequent Construction and Occupation Certificates.</p>
Clause 27 BASIX standards	CN welcomes increased building sustainability standards; however, further clarity needs to be provided by DPE regarding how BASIX will be handled in the assessment process. CN maintains that the BASIX Certificate is suitable for the assessment of development applications, although higher standards are needed. Any changes to BASIX, such as merit assessments, must not require re-assessment by the consent authority or other specialists at the DA

	<p>stage as this may lead to increased assessment timeframes. The end product must be similar to or the same as a BASIX certificate for the merit assessment pathway.</p> <p>Without highly audited and regulated consultants CN continues to raise concern that this process could lead to undesirable outcomes unless planners are significantly upskilled to understand the various methodologies and calculations associated with the merit-based assessment. It is positive that DPE have identified that audits will occur.</p>
Clause 29 BASIX commitments not to be displaced	The SEPP identifies the competing provisions of an LEP or a DCP regarding BASIX, however, it does not address the competing interests between BASIX and built form. There should be a clearer position on this in the policy.
Clause 30 Objective of Apartment Design Guide	Same comments as those above in relation to Clause 24 regarding the wording of 'must be flexible'.
Clause 31 Development control plans cannot be inconsistent with Apartment Design Guide	<p>Currently, identifying what 'specific matters in the Apartment Design Guide' are being referred to by sub-section 31(1)(a) Visual privacy is quite clear as the current Apartment Design Guide has a corresponding subsection – Part 3F Visual Privacy. However, the draft Apartment Design Guide no longer includes a specific 'Visual Privacy' subsection.</p> <p>In general, further clarification should be provided to make it clear exactly which design criteria and design guidance set out in the draft Apartment Design Guide are intended to prevail over any provision of a development control plan.</p>
Clause 35 (1)(a)	<p>CN supports the introduction of provisions in the D&P SEPP to mandate review by a Design Review Panel (DRP). Furthermore, CN acknowledges that review by a DRP is of greatest value while a proposal is in the early concept and schematic design stages.</p> <p>Whilst the Draft Local Government Design Review Panel Manual includes a loose framework for when design review by a local DRP should take place, it is unclear from subclause 35(1)(a) of the draft D&P SEPP when in the life cycle of a development proposal the mandated review by a local DRP needs to occur relevant to the assessment of a development application to satisfy subclause 35(1)(a).</p> <p>For example, where a development proposal has been reviewed by a local DRP prior to lodgement of a development application and the subsequently lodged development application is considered to have adequately responded to the advice of the local DRP, does the development proposal still require additional design review by the local DRP during the assessment of the development application in order to satisfy the requirements of subclause 35(1)(a) of the draft D&P SEPP?</p> <p>Furthermore, where a development proposal has been reviewed by a local DRP prior to lodgement of a development application and the</p>

	<p>subsequently lodged development application is considered to not have adequately responded to the advice of the local DRP, can the applicant refuse to have the development proposal re-reviewed by the local DRP (and refuse to pay the associated fees) during the assessment of the development application because technically 'a design review panel has reviewed the development' and therefore satisfied the requirements of subclause 35(1)(a) of the draft D&P SEPP?</p> <p>CN would support further clarification that any development proposal reviewed by the local DRP prior to lodgement of a development application will require subsequent design review by the DRP during the assessment of any subsequently lodged development application to provide consistency amongst assessment.</p>
Clause 33 carparking requirements for new buildings and green travel plans	The policy needs to be clear on who enforces the targets in subclause (b) once the development is complete. DPE should provide further guidance and support for this to be implemented.
Clause 38 savings and transitional provisions	<p>CN raises serious concern to subclause (1)(c)(ii). This provision states that the D&P SEPP will not apply to a modification application lodged within 2 years after the determination of the original development consent. Therefore, modifications could be sought that did not achieve the design quality of the original proposal.</p> <p>The only safeguard to this would be the "substantially the same" test. This appears to be a serious loophole which must be addressed.</p>

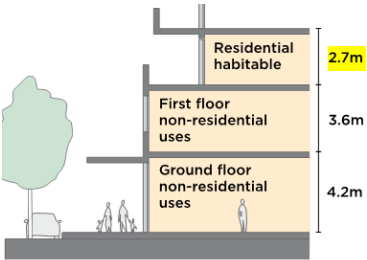
Environment and Planning Assessment Regulation 2021 (EPA Regulation)	
Clause	CN Comments
[1] Clause 3 Definitions	The definitions for landscape architect and urban designer include professionals with a certain number of years' experience in either precinct or master planning or landscape design. Further guidance from DPE is required around how or if this is to be confirmed during the assessment process. The industry will need more certainty about what constitutes 'experience'. For many urban designers they may be in roles which entail them doing a mix of master or precinct planning along with general town planning.
[3] Clause 16(3) Content of development control plan	<p>This clause will require councils to consider the D&P SEPP and UDG when preparing DCPs. Guidance and support from DPE is sought as to how this should occur. When do DCPs need to be amended, can they apply a higher requirement than the UDG, may they overlap? Standardised controls or structures may be a useful resource to help councils to consider the UDG in DCPs. This could be done by providing a toolkit or an example DCP.</p> <p>Amending or creating new DCPs is an intensive exercise for councils to undertake and funding or resources provided by DPE to update DCPs would be appreciated.</p>
[8] Clause 57D Net zero statement	CN is pleased that relevant developments will need to provide a statement outlining that the building will be able to achieve net zero by 2035. However, the form of these statements and how they will be enforced is not clear. Further guidance from DPE is required to confirm if these statements are commitments which the development must achieve by 2035 and who is responsible for certifying or enforcing them. For example, are they to be included as conditions of consent? If so, how will they be implemented, monitored and certified under current processes if it's occurring after the Occupation Certificate is released?
[9] Clause 99 Condition relating to charging facilities for electric vehicles	CN believes that this clause should be reworded to apply electric vehicle charging facilities to be required for developments such as car parks (class 7a buildings) rather than excluding them.
[9] 99A Condition relating to green travel plan	Further guidance from DPE is required to ascertain the process for reviewing green travel plans. Would such a condition require applicants/owners to submit detail of the review to council every two years? If so, this would require further council administration and technical officer resources to maintain and review these submissions. If this is not undertaken such a condition would be meaningless. Support and/or further guidance from DPE is requested in order to manage this review process.
[14] Clauses 154A, 154AA, 154AB and 154AC	These amendments significantly increase the role of certifiers in ensuring that developments achieve the intent and commitments of the D&P SEPP relating to sustainability. CN requests that DPE provides support and training to equip certifiers with the correct knowledge and skills of the new policy to ensure its implementation is successful and timely.
[15] Clause 164A BASIX certificates	CN raises concern that detail of the other arrangements under which the sustainability of proposed development may be assessed has not been provided. CN maintains our previous position that

	<p>proposed developments should be certified by a qualified practitioner thereby allowing development assessment officers to review the certificate to ensure it meets the requirements of legislation rather than complete a full review and assessment of the sustainability commitments proposed. Any other arrangements should not push further responsibility to the development assessment process. Full detail of what constitutes a qualified practitioner in relation to sustainability assessments also must be clear.</p>
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Proposed direction by the Minister under section 9.1 of the Environmental Planning and Assessment Act 1979

Paragraph	CN Comments
(4) When this direction applies	CN is concerned that the 1ha trigger referenced in this draft direction and new UDG will result in the industry only looking at sites in 1ha increments where possible to avoid the application of this direction and the UDG. This trigger is also particularly concerning as the trigger does not capture infill sites as previously raised above.
(5) What a relevant planning authority must do if this direction applies - general	<p>The new requirements outlined in this direction are generally accepted, however, CN is concerned that it does not align with the new expectations expressed by DPE in the '<i>A new approach to rezonings</i>' Discussion paper, December 2021.</p> <p>The new steps and timeframes identified in the discussion paper do not align with the iterative nature of ensuring the UDG and other matters in the direction are achieved. For example, ensuring all of this information has been provided and is adequate within 7 days is considered to be extremely presumptuous for complex sites.</p> <p>There is also a concern that leaving merit assessment until after the exhibition period and discouraging information requests will also hinder the ability to obtain the adequate information if it is not identified in the initial 7-day period.</p> <p>The discussion paper identifies that some of the above concerns could be addressed through the initial scoping process, however, there is no clarity regarding how this will be resourced by councils or supported by DPE. Providing and issuing significant and complex submission requirements to proponents which address all of these matters will be intensive. This should form part of the formal process and be associated with a fee as Planning Proposals are a request to amend an LEP and not the same as a DA which is an application to undertake a legal land use.</p> <p>Overall, CN accept the requirements of the direction, however, there must be an understanding from DPE that these new matters add time to the process which should be considered in any reforms to Planning Proposals.</p>
(5) What a relevant planning authority must do if this direction applies – (c)	CN recognises that responding to Country and working with Indigenous stakeholders is important and lacking from the current planning system. DPE should support this approach by investigating the expansion of the Connecting with Country Framework outside of Sydney to include regional areas and/or support pilot projects.
(6) What a relevant planning authority must do if this direction applies	The draft Hunter Regional Plan 2041 includes residential density and connectivity targets which differ to the new UDG. Guidance from DPE to confirm which are to be applied is requested. This matter is further discussed in the UDG section further below.

Revised Apartment Design Guide (ADG)	
Section/Page	CN Comments
Part 1.1: Site and context analysis	<p>The site analysis is a fundamental starting point of the design process.</p> <p>A separate, comprehensive site analysis prepared in accordance with the requirements of the ADG should be a DA submission requirement, not just the commentary in the Design Verification Statement. The site analysis should be a separate statement of fact whereas the Design Verification Statement is more a statement of opinion.</p> <p>Very limited information has been provided in regard to how an applicant would demonstrate a development has a "consideration of Country".</p> <p>Whilst Appendix 2.2 identifies that some specific documentation supporting the development application is required to explain the approach to connecting with Country, further details on what form this documentation would take (written report, diagrammatic analysis?) and who would be qualified to prepare such documentation, needs to be considered.</p> <p>CN is conscious that the guidance provided needs to also be tailored for the purpose of development assessment. How would an assessing officer determine not only if the documentation provided is suitable, but also if the design response of the development itself had provided an acceptable response to Country?</p>
Part 1.2: Built form and siting	<p>CN recognise the importance of ensuring a suitable floor to floor heights is provided for ground floor levels to facilitate adaptability for future non-residential uses. However, the provision of necessary ceiling heights to accommodate commercial services alone is ineffective if the service connections are not also provided in the initial build. For example, it is difficult to retro fit mechanical ventilation for a ground floor restaurant where the discharge of exhaust air needs to occur above the building to meet environmental requirements if suitable service risers are not provided in the design and construction of the residential building above.</p> <p>The inclusion of design guidance address this would provide the consent authority a means of addressing this.</p>
Part 1.2: Built form and siting (page 18)	<p>Figure 1.2.8 shows a floor-to-<u>floor</u> height of 2.7m for the 'residential habitable' floor (highlighted yellow in extract below). However, this is inconsistent with the minimum floor-to-<u>ceiling</u> height required under Part 2.4: Apartment configuration.</p>

	<p>Figure 1.2.8 Higher floor-to-floor heights are encouraged for retail and commercial floors of mixed-use developments, to promote flexibility of use and allow larger ceiling spaces for additional services.</p>  <p>The diagram illustrates a building cross-section with three distinct levels. The ground floor is labeled 'Ground floor non-residential uses' with a height of 4.2m. Above it is the 'First floor non-residential uses' with a height of 3.6m. The top level is labeled 'Residential habitable' with a height of 2.7m. A tree and a car are shown on the ground level to the left of the building.</p>
Part 1.3: Site access	<p>The draft says “Consider access for deliveries, especially for bulky items, and where parcels may be left without contact with the addressee” but provides no further guidance on how this is to be achieved. Inclusion of references to TfNSW work re ‘last mile freight services’ will assist with accommodating parcel/food delivery services (all of which have dramatically increased during the pandemic) but will have flow on effects to carpark designs, ceiling heights for service vehicle clearances (min. Small Rigid Vehicles which will exceed 3.3m ceilings in Section 2.4), defined parcel loading/unloading areas, parcel locker systems and vehicle trip generation rates.</p> <p>This section should also be more descriptive about the need to ensure appropriate access for on-site council waste collection services and removalist trucks.</p>
Part 1.5: Green infrastructure	<p>This is generally a well-considered and well written section. It is noted that the recommended minimum deep soil zones have been increased from the figures in the current ADG and this is strongly supported. It is important that the provisions within the current draft version are not made more lenient in the final version of the ADG.</p> <p>The minimum soil areas described in Table 1.5.4 for small, medium and large trees are somewhat eroded by the phrase 'or equivalent'. It is understood that a degree of flexibility is necessary, however, there is concern that without a nominated minimum width for small, medium and large trees, this could result in developments providing long narrow planting beds (for example, 2m wide by 50m long) which technically meet the minimum soil area for large trees but realistically would not be wide enough to support the growth of large trees.</p>
Part 2.3 Apartment mix and diversity (page 51)	<p>The draft Apartment Design guide encourages the provision of a study room as a separate habitable room. CN acknowledges and supports the intention of the study rooms. However, without an increase to the minimum apartment sizes, CN is concerned this requirement will likely result in a ‘trade-off’ for the amenity of the living areas within the apartment with developers often being reluctant to provide apartment sizes greater than the minimums specified (the additional sqm provided within the</p>

	<p>apartment bedrooms will essentially be 'taken' from the sqm of the living/ dining/ kitchen areas).</p> <p>If it was already the intention that when a study room is provided the minimum internal areas described in Part 2.4: Apartment configuration are to be increased by 7sqm, this needs to be clearly noted in both Part 2.3 and Part 2.4.</p>
Part 2.3 Apartment mix and diversity (page 51)	<p>The design considerations for study rooms include providing 'a higher level of acoustic privacy than a typical bedroom'.</p> <p>Consideration is required about how the consent authority would ensure a higher level of acoustic separation for these areas is achieved, given acoustic separation of 'study' or 'work' areas within an apartment is not a BCA requirement.</p> <p>CN also has concern that there is no guidance regarding the reasonable maximum size of study rooms. There is potential for 3-bed apartments to be labelled as 2-bed apartments with study rooms as large as bedrooms. This creates uncertainty for councils when applying development contribution levies under Section 7.11 plans as they usually rely on the number of bedrooms (1-, 2-, or 3-bedrooms+ per apartment) to identify the appropriate contribution rate based on expected demand.</p>
Part 2.6: Sunlight, daylight, shade, and thermal comfort (pages 62&63)	<p>The design guidance referring to overshadowing of public open space and neighbouring properties does not set minimum solar access provisions but refers back to the design criteria formulated for proposed apartments and not mentioning neighbouring dwellings. It should be specifically clarified that the same minimum standards apply to both proposed and existing adjoining dwellings. The provision that states a re-design and greater building separation than the minimum required is necessary where neighbour's solar access is 'significantly reduced' needs to quantify what constitutes a 'significant reduction.'</p> <p>New and updated requirements to address shading control are described in the draft Apartment Design Guide.</p> <p>Worked examples demonstrating how to undertake the 'façade calculations' need to be provided. It is unclear from the word alone (which only list what is excluded from a façade calculation') how and for what purpose this calculation needs to be undertaken?</p> <p>Worked examples in general are strongly encouraged for all requirements which involve a numerical calculation to be undertaken, as it establishes how documentation should be presented to council for assessment. CN's experience generally in this regard is that an application will provide a calculation, but insufficient documentation is provided to understand how the calculation has been made or to confirm the accuracy of the calculation.</p>
Appendix 1: Application Requirements	<p>CN strongly support the inclusion of completed templates, showing both a 'good' and 'bad' example, alongside the blank templates provided in Appendix 1.</p>

	<p>CN's experience generally in this regard is that an application will include some sort of 'ADG compliance table' which will simply list the objectives of the ADG and say 'complies' as the response. In cases where a written response is actually provided against each objective of the ADG, it is often clear that this is just generic wording which could (as is) be used for any project. The responses provided need to be specific to the actual development proposal and need to include enough detail to demonstrate how the proposal is complying with each of the objectives.</p>
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New Urban Design Guide (UDG)	
Section/pg.	CN Comments
General – Overview of UDG	<p>Overall CN believes that the new UDG is a great resource which consolidates various guidance in one document. This will benefit the community by setting clearer expectations and considerations for councils and industry to work towards when planning for larger developments and precincts.</p> <p>The UDG has a strong focus on the design process and outcomes, however, CN believe that there is a lack of focus on the human-scale or infill contexts. The UDG should be flexible and prompt designers to 'zoom-in' from the broader precinct scale to consider the human scale early in the design process. Missing the human-scale in urban design development will not achieve the purpose of the D&P SEPP, to create better places, if these opportunities and desired outcomes are not identified and worked towards early on.</p> <p>The process and context of the UDG is just as important for smaller infill sites as it is for larger and greenfield sites. CN recommends that a different trigger is used to capture "urban design development" rather than the "1ha" figure. There will be less and less greenfield and infill sites which are over 1ha in the future, so these sites will provide the biggest opportunity to create better places and outcomes for the community. To address this, DPE could consider a different trigger for infill development. It could be zone based or site/precinct based (such as whole blocks or sites within important precincts such as renewal areas or city centres).</p> <p>While CN has some concerns with the UDG and its implementation we believe that it is a good document which will benefit the design process and lead to a better built environment across NSW. We look forward to the UDG being adopted into the NSW Planning System and hope that it will continue to evolve to incorporate new best practices as they emerge. The UDG should not be reduced overtime, but continuously improved to ensure it continues to champion best practice and good design outcomes.</p>
General Comment – Implementation	<p>The introduction of the UDG and verification requirements under the SEPP are considered positive, however, DPE must provide ongoing support during the implementation phase for it to be successful. CN would like to see:</p> <ul style="list-style-type: none"> • A strong PR campaign to raise development and property industry awareness of the changes so new requirements of the D&P SEPP are identified and considered early in projects. This campaign should focus on the positives and outcomes being sought. The UDG will change the way things are done so it is likely there may be some negative rhetoric.

	<ul style="list-style-type: none"> • Provide training and support to councils that will upskill officers and their knowledge of the UDG objectives and principles. • Continue to engage at regular periods with councils and industry to receive feedback on issues associated with the UDG once it has been put into practice and potential issues arise. • The SEPP will increase the need for qualified professionals in regional and rural areas where they may not necessarily be as available as they would be in the Sydney metro area. DPE should consider ways to support these areas where, for example, urban designers may not be as prevalent. It will take time for local skills to develop in more remote areas. • Recognise that this will take time to implement.
General Comment – Relationship with Development Control Plans	<p>The amended EP&A Regulation will require DCPs to consider the D&P SEPP and more specifically UDG. Updating DCPs takes time and is a resource intensive exercise for councils. There is concern that for the interim there may be potential conflict between some DCPs and the UDG. Some clarification from DPE is requested regarding how this should be handled.</p> <p>Further, DPE should provide guidance to councils, such as standardised DCP structures and/or provisions, to help implement the UDG and other guidance material. A toolkit for updating DCPs could also be beneficial tool. DPE should also provide funding or resources to help councils update DCPs in a timely manner to integrate with this new material and the D&P SEPP more generally.</p>
General Comment – Relationship with Local Provisions	<p>CN is generally supportive of the design criteria in the UDG, however, there is a concern that this criterion will impact our ability to apply more relevant or higher local standards if and when required. The UDG should include a clear statement or guidance that the higher standard applies to the extent of any duplication or inconsistency.</p>
General Comment – Design Verification Statements	<p>Similar to concerns relating to the ADG, CN is pleased that the UDG includes a template which sets the standard for how Design Verification Statements are to be prepared to avoid them being a 'tick the box' exercise. This could be expanded to include preparing a 'good' and 'bad' example of a statement to provide additional guidance for industry to set clear expectations. This will greatly assist councils in achieving the desired timeframes for Development Applications and Planning Proposals.</p> <p>While CN understands the verification statement exists to confirm the proposal is consistent with the UDG they should not be solely relied upon. The notion of documentation being completed by qualified professionals is not considered sufficient to negate the need for a detailed and onerous assessment by the consent authority or plan making authority. This may require either the acquisition of holistic design evaluation skills for individual</p>

	planners and/or teams. DPE should provide support or resources for councils to acquire these skills in order for this principle-based approach to be implemented.
General Comment – Relationship with Place Strategies	<p>CN is preparing a Place Strategy for Broadmeadow, an identified Catalyst Area in the Greater Newcastle Metropolitan Plan 2036 and a Regionally Significant Growth Centre identified in the draft HRP 2041. This precinct will undergo significant urban renewal in the future which will be catalysed by the regeneration of Hunter Park being led by Venues NSW and Hunter Central Coast Development Corporation, and other investment such as the extension of light rail, faster rail, and development of large ex-industrial land holdings. CN has identified that a Place Strategy is required to manage this growth and achieve good place outcomes for the city as a result.</p> <p>The UDG states that it can be applied to inform Place Strategies and it will likely be an extremely useful resource in this regard. However, a Place Strategy itself does not change planning controls, rather it focuses on tying strategic planning to infrastructure provision and sets a sequence for future growth and the associated Planning Proposals. If Place Strategies are not required to use the UDG and the sequencing of the strategy identifies sites less than 1ha in various stages, there will be no requirement for the UDG to be used in future applications (either Planning Proposals or Development Applications).</p> <p>While this issue relates to the 1ha trigger already discussed, this is a specific issue for areas where a Place Strategy applies. These precincts are likely to be more than 1ha in total, but the subsequent stages as identified in the strategy may be less. Guidance from DPE is required to understand how this can be managed or addressed to ensure all stages go through the same rigour of the UDG process.</p>
1.1 Importance of place in urban design	As mentioned above, the UDG focusses on a masterplan approach when what's needed is urban repair, better use of what's already been disturbed and creating better places rather than only new ones. A place-based approach considers how any site fits in its context, how it adds or not to quality of place, and should be a requirement for infill and smaller proposals too.
1.2 Public space as urban design outcome	<p>There is a lack of acknowledgement in the UDG about the important role and function of urban public squares as a place of public and civic life in centres. In many sections its subsidiary to parks or completely absent. It's suggested that separate headings and criteria for 'streets, urban public squares and civic spaces' is included in the UDG.</p> <p>The UDG also doesn't address a critical issue which is that often the 'best places' are public places and retrofitting them in existing urban areas is a difficult and expensive undertaking that often requires collaboration from a range of stakeholders in order to achieve good urban design outcomes.</p>

	<p>In 2021, CN adopted the Community Infrastructure Incentives Policy (CIIP). An action of the Wickham Master Plan 2021 Update (WMP 2021) is to apply this policy in the Wickham area. Wickham is a suburb adjoining the new CBD at Newcastle West and is expected to undergo transformation over the coming years with increased mixed-use development and urban renewal.</p> <p>The WMP 2021 outlines the land suitable to achieve a development incentive and identifies the community infrastructure projects to be delivered via the policy. These projects were identified in collaboration with the community and include pocket parks, 'street dwell spaces', community gardens and more space for tree canopy.</p> <p>The CIIP in Wickham, when implemented, will be a voluntary mechanism that allows increased densities in suitable locations provided they supply community infrastructure. Its implementation will require a Planning Proposal to amend NLEP 2012.</p> <p>CN considers this an effective way of achieving community benefit in an area undergoing significant transformation. Often, areas undergoing significant change and development are not afforded the community infrastructure required to meet the needs of its growing population, with new places and public domain improvements lagging behind new development. The CIIP aims to deliver these works concurrently with new development in a way that ensures maximum community benefit. DPE should consider mechanisms such as the CIIP in order to facilitate public places/urban design outcomes in existing neighbourhoods. The draft SEPP/UDG should also encourage collaboration between landowners, councils, the community and other stakeholders in order to achieve good urban design outcomes and deliver the vision set out in the applicable strategic planning framework.</p> <p>CN is currently collaborating with a landowner in the Newcastle CBD to plan the Harbour to Cathedral Park project. An integrated approach involving CN, the landowner and the community aims to create a landmark destination for the community and visitors to enjoy. The project will protect and enhance view corridors from the Newcastle Harbour to Cathedral Park and is aligned with long-held strategic objectives of CN and the NSW Government.</p>
1.3 Components of Successful Places	<p>CN is pleased to see 'publicly accessible bushland' described as a component of public space.</p> <p>Both 'green infrastructure like parks, urban tree canopy and waterways' are seen as distinct from 'the natural environment and local ecologies'. However, in the design practice examples there is a heavy lean on the idea of 'formal landscaping' delivering biodiversity outcomes. A lot of the guidance and examples within the UDG pertain to 'constructed' green infrastructure.</p>

	The term 'natural assets' is used (something you look out to from the urban form e.g., 'optimise views and vistas to natural assets') but 'natural assets' are not defined.
Objective 1 – Projects start with nature, culture and public space	'To provide central urban places that foster social and civic life, exchange of ideas, al fresco trade and events' should be included under the heading 'Why is this important'.
1.4 Establish connected public space networks that integrate and support natural features and 1.5 Provide an integrated and connected blue and green infrastructure framework	These principles and guidance are acceptable for new release areas or large sites, however, the UDG needs to address adding density in existing centres where there's a historical absence or shortfall of urban public space or small urban parks.
1.6 Integrate a high-quality public open space network into the urban structure to provide a forum for public life	It's recommended that guidance addressing the relationship of a developments interface to public space or street (edge effect) is included with a diagram/s to illustrate. Development should be shaped around high quality existing public space.
Objective 3 – Design Criteria: Neighbourhood Density	<p>CN would like to point out an inconsistency between the UDG and Draft Hunter Regional Plan 2041 and seek that DPE confirms how these conflicts are to be dealt with.</p> <p>The UDG states a minimum of 30 dwellings per hectare as a minimum density, while the draft HRP 2041 looks towards a higher optimal density of 50-75 dwellings per hectare. Another conflict was that the Draft HRP 2041 seeks to create 15-minute neighbourhoods (ie. 15-minute walk or cycle to daily needs/services or public transport) while the UDG generally seeks that these daily services are within a 5-minute walk. Further clarity regarding how these objectives relate to each other needs to be addressed. Generally, CN believes that the more localised provisions (such as the HRP) should apply, but do not want to be limited to these provisions if there is a more beneficial one in the UDG.</p> <p>The UDG also lacks any consideration regarding how this criterion can be applied to existing areas. This objective is considered an appropriate place to address where neighbourhood hubs are missing. Another key strategy of the draft HRP 2041 is retro fitting existing neighbourhoods to be walkable and more diverse by inserting neighbourhood shops, cafes, other services, pocket parks, shared paths and medium density development around them in existing low-density residential settings. The UDG should provide guidance on how to create these places so that they function well.</p>

	CN also raises that without significant investment from the State into public transport it will be impossible to provide increased densities within 10 minutes' walk of high frequency public transport as outlined in the design criteria. Without the investment from State government this would create a type of loophole for avoiding the design criteria and allowing lower density development and less efficient use of land.
3.2 Ensure key land uses are well-sited and integrated for amenity, safety and productivity	CN has concerns that new (and existing) Complying Development provisions would hinder the ability to achieve the guidance in this section (integrating major retail with walkable pedestrian focussed public realm) relating to new commercial development. In general, there is a disconnect between the objectives of the D&P SEPP and complying development. Precincts can undergo extensive and detailed planning, however, development that doesn't respond to 'place' can still occur through a CDC without the scrutiny it would have received through the Development Assessment process.
3.3 Provide mixed and diverse neighbourhoods with high amenity	The UDG should provide guidance on the optimal lot sizes for different residential types and potential mix of these lot types needed for creating a functional community. Without this guidance it is likely that the industry will just assume that the standard lots can be developed for various uses, be amalgamated, re-subdivided or strata subdivided, leaving it up to 'the market' to decide what's needed – often still resulting in single dwellings.
3.5 Provide a compact urban footprint that minimises impact on adjacent productive sites	While the Alternate Design Criteria is understood, CN raises concern that this may be used by proponents to not achieve the minimum density provision and use neighbouring undeveloped sites as their reasoning. This may create future problems for the neighbouring sites which then need to provide a higher density than otherwise required. Instead, these sites should have to look at different types of dwellings that could be used to achieve the desired density rather than rely on future releases/development to make up for the deficit.
Objective 5 Walkable neighbourhoods are vibrant and productive	The Design Criteria from Objectives 3 and 5 do not align with the time-distance walked to local services. Further amendment/clarification should be provided in the UDG to address this inconsistency.
7.3 Provide low-traffic and slow-traffic streets	CN supports the trial and implementation of 30km/h zones in appropriate locations, however, support from TfNSW is required to implement these trials on classified roads.
7.4 Integrate safe cycling	CN raises concern that no consideration is given to mixed mode trips in the UDG. This is an issue in places such as Newcastle where bikes are not permitted on the Light Rail. The UDG should include mixed mode trips as they are an important part of changing people's behaviour. For instance, cycling to work may take too long and catching public transport may not take people close enough to their destination. Using a mix of both active and public transport could make it more desirable for some people in certain situations. This should be reflected in the UDG and supported by TfNSW.

Objective 10 – Tree canopy supports sustainable, liveable and cool neighbourhoods	<p>CN is pleased to see design criteria for street tree canopy. It is requested the DPE consider including additional guidance regarding:</p> <ul style="list-style-type: none"> • Species diversity: Diversity of tree species to account for climate change scenarios and biosecurity risks to avoid significant impacts on tree canopy from pathogens/disease • Infill: CN has concern that retrofitting infill areas to provide tree canopy of 40% may not be achievable. This would require significant alteration to existing infrastructure within the road reserve which would need to be relocated to provide sufficient soil volume. • Footway: CN also notes that many utility providers do not accept vaults or cells for their utilities and the minimum separation distances required for various utilities quickly adds up. CN therefore raises that minimum footway widths for new development be widened to accommodate services, allow for sight lines, street lighting, and sufficient space for trees. Making lower hierarchy streets in residential neighbourhoods one-way and using the additional space for trees could be one way of achieving this • Private land: Sufficient space must be provided on private land to compliment and support the tree canopy of the street.
Objective 11 – Water is retained and water quality improved in urban places	<p>The intent of the UDG outlined in Objective 11 and the implications of this document wholistically is consistent with current CN and Australian approach for integrating WSUD elements. The issue is that the implementation (design/construction) is not specified, therefore, there is no control over what is delivered. Required design guidelines and deliverable outcomes for the actual details such as ARR and ARQ would be helpful to ensure state-based controls are achieved.</p>
Objective 12 – Public Open space is high-quality, varied and adaptable	<p>This objective, and Objective 5 – Walkable neighbourhoods are vibrant and productive, covers the requirements for larger RE1 open spaces/parks well. It contains good criteria for solar access to public squares and plazas, however, there is a missing requirement for public squares and plazas adjacent to neighbourhood centres for social exchange or al fresco trade. Additional criteria to include these public spaces at a minimum rate of 400m² is suggested and could apply to both new and infill development.</p> <p>Another concern CN raises it that often applicants only ever achieve the minimum requirements or request variations to minimum provisions in the ADG. We can see a similar issue occurring with the open space provisions of the UDG.</p>
15.3 Provide a mix and diversity of lots	<p>Guidance or design criteria should be provided to inform a functional mix of lot sizes required to support diverse housing types and what size is generally required for specific types of housing.</p>

8.3 Consolidate access to parking, and minimise conflicts	The UDG should promote the investigation, wherever possible, for basement and above ground parking to be interconnected across blocks and/or future buildings to minimise the number of accesses required. This can also reduce the number of vehicles needing to travel through streets to find parking.
18.1 Design public-private realm interfaces to support the public realm	<p>This is good guidance; however, many buildings are designed ahead of any consideration of the street or public space they interface with. This objective needs to be elevated to improve building interface consideration early on in the process. This also highlights the issue which many infill areas face in terms of sequencing. Councils do not have the resources to complete public domain upgrades at pace to keep up with development often leading to subpar interfaces with new buildings. For example, different or newly identified constraints or opportunities can be identified when completing public domain works leading to a different outcome than what was expected.</p> <p>This guidance should also specify awnings as part of active frontages.</p>
18.4 Integrate services and infrastructure	Guidance should be expanded to limit the visibility of services from the public domain. The diagram should be amended to show how landscaping (including in the public domain) can be considered to conceal this infrastructure from the public realm.
Green Grid	<p>In the definitions section, the 'green grid' only references a document for the Sydney region.</p> <p>The references include other key NSW documents to broaden its application to councils who are not in the greater Sydney metro region so that principles can be better adapted to other regions or local government areas. One such document could be Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions.</p> <p>CN believe that 'blue and green infrastructure frameworks' should recognise and include local priorities for biodiversity and natural values. This is in keeping with a number of other design principles within the UDG such as "working a local scale" and "neighbourhood scale".</p> <p>Considering the "blue green grid" of Newcastle through the lens of the greater Sydney strategy would mean most of the grid falls within the Hexham swamp. This doesn't deliver local amenity or biodiversity as most people don't have access to the swamp. This can also influence how larger projects view their environmental impacts such as by only measuring impacts to the swamp rather than also considering local water waterways which are also of value to residents and local biodiversity.</p>

Updates to residential sustainability (BASIX) and BASIX sandbox tool	
Topic	CN Comments
General	<p>Councils and the development industry should be engaged with further regarding the changes to BASIX, non-residential building sustainability standards, net-zero statements and merit assessment pathways. These changes have the potential to create various implications not just at the development assessment and determination phase (particularly regarding conditions of consent) but also at Construction Certificate and Occupation Certificate stages for certifying authorities.</p> <p>It also seems counterintuitive that there will be different types and streams for certification of building sustainability. DPE is strongly encouraged to consider ways to incorporate all building sustainability requirements and the processes for certifying them into a single system.</p>
Merit Assessments	<p>The exhibited material does not provide enough detail on how the merit-based BASIX system will operate. This may create inconsistent processes for how building sustainability commitments are approved and consequently certified. The process must be similar to how BASIX certificates currently operate to reduce the burden on assessment planners and certifiers. CN is pleased to hear that DPE will audit merit-based BASIX certificates.</p>
Non-residential building sustainability standards	<p>Similar to the concerns regarding merit-based BASIX, there must be a consistent and simple way for non-residential development sustainability requirements to be presented in DAs, incorporated into determinations, and subsequently certified. DPE must provide the information, guidance and process to councils and industry to support this implementation.</p>
Net-zero statements	<p>Further guidance is required regarding how net-zero statements will work. How and who will be responsible for ensuring buildings with net-zero commitments actually achieve net zero in 2035? CN has serious concern that this will result in a significant compliance burden on councils in the future if councils are to enforce these commitments.</p>

Design Review Panel Manual for Local Government (DRPM)	
Section	CN Comments
Part 1.1: When does design review by local panel take place (page 6) and Part 3.1 Timing of design review panel sessions (page 10)	<p>Please note these comments are the same as those raised earlier in regard to Clause 35 of the draft D&P SEPP.</p> <p>CN supports the introduction of provisions in the draft D&P SEPP to mandate review by a Design Review Panel (DRP). Furthermore, CN acknowledges that review by a DRP is of greatest value while a proposal is in the early concept and schematic design stages.</p> <p>Whilst the Draft Local Government Design Review Panel Manual includes a loose framework for when design review by a local DRP should take place, it is unclear from subclause 35(1)(a) of the draft D&P SEPP when in the life cycle of a development proposal the mandated review by a local DRP needs to occur relevant to the assessment of a development application in order to satisfy subclause 35(1)(a).</p> <p>For example, where a development proposal has been reviewed by a local DRP prior to lodgement of a development application and the subsequently lodged development application is considered to have adequately responded to the advice of the local DRP, does the development proposal still require additional design review by the local DRP during the assessment of the development application in order to satisfy the requirements of subclause 35(1)(a) of the draft D&P SEPP?</p> <p>Furthermore, where a development proposal has been reviewed by a local DRP prior to lodgement of a development application and the subsequently lodged development application is considered to NOT have adequately responded to the advice of the local DRP, can the applicant refuse to have the development proposal re-reviewed by the local DRP (and refuse to pay the associated fees) during the assessment of the development application because technically 'a design review panel has reviewed the development' and therefore has satisfied the requirements of subclause 35(1)(a) of the draft D&P SEPP?</p> <p>CN would support further clarification that any development proposal reviewed by the local DRP prior to lodgement of a development application will require subsequent design review by the DRP during the assessment of any subsequently lodged development application to provide consistency amongst assessment.</p>

Submission

To the Department of Planning and Environment

Exhibition of the Design and Place State
Environmental Planning Policy,
Supporting Guidelines
and Reports

28 February 2022

Endorsed by Council 14 March 2022



**CITY OF
PARRAMATTA**



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1. EXECUTIVE SUMMARY

1.1. Introduction

City of Parramatta Council (Council) is pleased to provide comment on the Design and Place SEPP (DP SEPP) – Public Exhibition inclusive of the following:

- proposed Draft Design and Place Statement of Environmental Planning Policy 2021 (DP SEPP)
- proposed changes to the Environment and Planning Assessment Regulation 2021 (EPA Regulation)
- proposed direction by the Minister under section 9.1 of the Environmental Planning and Assessment Act 1979 (9.1 Direction)
- the revised Apartment Design Guide (ADG)
- the proposed new Urban Design Guide (UDG)
- updated to residential sustainability (BASIX)
- BASIX sandbox tool
- Design Review Panel Manual for Local Government (DRPM)
- Design & Place – Cost Benefit Analysis

1.2. Position of City of Parramatta

City of Parramatta strongly supports the intent of the draft SEPP, which seeks to elevate design quality, unify design guidance documents in NSW, and better integrate with the planning process, including the inclusion of accredited design professionals in architecture, landscape architecture and urban design. Council recognises that making good cities for everyone requires design leadership and a partnership between design and planning professions

Council values the elevation of good design within planning and the introduction of design expertise and process. Council offers specific support for the:

- The principles/objectives of the proposed SEPP as a unifying reference for all design guidance documents in NSW.
- The requirement for accredited design skills necessary to prepare and evaluate the design merit of future precincts, state significant and other development.
- The proposed aim of the new SEPP to “Start with Country as a foundation for place-based design and planning as set out in the draft Connecting with Country Framework”.
- Strengthening of ESD considerations and resilience focus, and the alignment of the DP SEPP to the NSW Government’s Net Zero emissions target (net zero by 2050). Council’s adopted ESS energy emissions reduction target is 60% emissions reduction by 2038, which is consistent with the NSW Government’s interim target of 50% emissions reduction by 2030.
- A New Design Review Guide (DRG) that provides robust and consistent Design Review processes across NSW.

The City of Parramatta has been a strong supporter of good design and process, and a leader in advocating for and embracing integrated design processes through design review, design quality and design competitions for many years. Council currently supports a specialised City Design Unit of approximately 30 design professionals with qualifications in urban design, architecture and landscape architecture (and those with a combination of both). While acknowledging the good intentions of the draft DP SEPP, and supportive of the DP SEPP policy direction, Council expresses concern that the evolution of

the policy since the exhibition of the Explanation of Intended Effects (EIE), has remained generic in its approach to the variety of urban context types within NSW and their spatial design outcomes. In particular, the lack of acknowledgement of different densities and its direct implications for urban form outcomes and nuanced design guidance.

Council encourages the State Government to evolve the current draft policy to be more responsive to the broader diversity of urban contexts within NSW.

Council considers that the application of the DP SEPP is limited by its lack of a rigorous assessment framework and guidelines with clear standards and a robust variation mechanism. Urban design is fundamentally tied to place and a generic policy and guideline approach has limited capacity to effectively respond to the complexity and diversity of specific urban environments.

1.3. Summary of Key Issues and Recommendations

City of Parramatta offer the following key recommendations for review of the draft DP SEPP as outlined in the table below. Additional detail is provided in summary table as Appendix 1 to this submission. Given the nature and sum of the concerns raised by Council, it considers that the draft DP SEPP should be further refined with industry and local government and re-exhibited prior to becoming operational.

	Key Issue	Recommendation
1 Greater Certainty	Aims to foster better design outcomes through qualitative performance and merit assessment over prescriptive outcomes, but the policy and supporting guidelines requires greater clarity around application, benchmarks and definitions to deliver certainty for Parramatta	<ul style="list-style-type: none"> a) <i>Revise the DP SEPP to clarify intent with a clear line of sight between DP SEPP principles and guideline objectives underpinned by key definitions across the suite of documents.</i> b) <i>Provide worked examples demonstrating how to apply and evaluate design outcomes from the SEPP to the ADG and UDG.</i>
2 Design Expertise	Increases the role of qualified designers and expertise to facilitate good design outcomes and to support the planning and assessment process but is unclear in requirements for qualification and when and how design advice is sought.	<ul style="list-style-type: none"> c) <i>Clarify the timing of DRP meetings in relation to development proposal processes</i> d) <i>Acknowledge role of City of Parramatta's established design team and design review panel processes to ensure these are aligned.</i> e) <i>Amend definition of urban designer to certify DP SEPP is underpinned by the intended expertise and core professional competencies confirmed through peer recognition.</i>
3 Alignment with Planning	Champions a design process but lacks demonstrated alignment with the planning process.	<ul style="list-style-type: none"> f) <i>Define how design process interfaces early in the planning process to influence strategic design and planning as well as later stages of development assessment.</i> g) <i>Clarify how the DP SEPP aligns with the current NSW Planning Proposal reforms and how the design review process</i>

		<i>supports, and is not counterintuitive to, the government's ambition to improve this process.</i>
4 Urban Design Guide	UDG is a welcome opportunity to deliver guidance across a range of contexts and development types within NSW, but in its current form is not effective at guiding good, place-specific outcomes in Parramatta.	<p><i>h) Refine the UDG in consultation with industry and government practitioners and re-exhibit the UDG before DP SEPP is operational (early 2023).</i></p> <p><i>i) Council seeks further clarity and definition on how sites less than 1 hectare are considered.</i></p>
5 BASIX and Net Zero	BASIX and net zero targets supported but lack detail	<i>j) Exhibit for industry and government review the complete BASIX changes, including the Merit Assessment Pathway, thermal caps, and documentation and compliance requirements before adoption.</i>

2. GREATER CERTAINTY

Aims to foster better design outcomes through qualitative performance and merit assessment over prescriptive outcomes, but the policy and supporting guidelines requires greater clarity around application, benchmarks and definitions to deliver certainty for Parramatta.

- 2.1. The flexible application of the DP SEPP needs to be clarified. The draft wording of Clauses 24 and 30 (3)(a) include the requirement that the whole ADG and UDG be applied “flexibly”. This provides no certainty in the assessment process. Whereas the intent of the ADG and UDG is that the flexibility is in the application of the design criteria by demonstrating alternative solutions permitted by (2)(B). This is consistent with the current policy.
- 2.2. Greater alignment between the DP SEPP principles and the objectives in the ADG / UDG are required to clearly establish the hierarchy and alignment between DP SEPP principles and considerations and ADG / UDG objectives, criteria and guidelines. The DP SEPP and the UDG uses terms like ‘consider’ or ‘to the extent possible’ repeatedly, but also states that the consent authority must be satisfied. Greater clarity is required explaining where satisfaction is required (ie. the achievement of the objectives) versus where discretion is possible to enable alternative merit-based solutions.
- 2.3. Key terms are not defined in the suite of documents, the EP&A or LEP Standard Instrument. Key definitions should be included in the DP SEPP to provide consistency across the whole policy and supporting documents. For example site, precinct, place strategy and master plan.
- 2.4. The shift in the ADG from measurable criteria to qualitative assessment objectives aims to support design solutions that can respond to the characteristics of a local context and site. This approach has been replicated in the UDG. The use of objectives supported by criteria describing acceptable solutions and guidelines to enable alternative solutions is a common performance-based approach (analogous to the BCA). For the DP SEPP guidelines to be successful, where criteria are used they should represent acceptable benchmarks. The application of objectives and guidelines should satisfy the equivalent benchmark or perform better. If the criteria is not a benchmark, then it risks undermining the intent of the SEPP by enabling a tick a box approach to a lesser quality design outcome. For example, a range from 160m to 230m for block size will mean that a tick can be achieved for the 230m length, which is a poor street pattern and connectivity outcome. When a range is used, the lowest common denominator will prevail where the overall goal is financial return and yield.
- 2.5. Recognising that by 2036, 70% of all residents in the City of Parramatta will be living in apartments, we need to ensure that apartment design is of the highest quality, amenity, and environmental performance, determined by minimum benchmarks.

Recommendations:

- a) *Revise the DP SEPP to clarify intent with a clear line of sight between SEPP principles and guideline objectives underpinned by key definitions across the suite of documents.*
- b) *Provide worked examples demonstrating how to apply and evaluate design outcomes from the SEPP to the ADG and UDG.*

3. DESIGN EXPERTISE

Increases the role of qualified designers and expertise to facilitate good design outcomes and to support the planning and assessment process but is unclear in requirements for qualification and when and how design advice is sought.

- 3.1. Greater use of DRP to introduce more peer review earlier into the planning and development assessment process is welcome.
- 3.2. The Design Verification Report is required to address how the design review panel comments have informed the DA. This implies a Pre-DA DRP meeting. Council are supportive of Pre-DA DRP reviews. The DPSEPP should explicitly say a Pre-DA DRP is required.
- 3.3. The DP SEPP relies on independent design experts on the DRP to provide design support to Councils. It does not recognise that Parramatta has an established and well-resourced urban design team that can contribute to the delivery of the DP SEPP. Council's team provides vital design advice and negotiations with proponents at the strategic scale; early in the development process before DA; and within the DA process. The DP SEPP should include a pathway that maintains the role of Council's internal designers. The DRP as proposed could provide a vital peer review role for the internal team and assist in fostering good design outcomes.
- 3.4. Definition of urban designers does not recognise professional qualification, core competencies and experience of practicing urban designers, which are fundamental to the design verification and design review process. Urban designers are a necessary resource for the successful implementation of the DP SEPP. The definition of urban designer is inaccurate and does not reflect the reality of education and professional expertise of urban design professionals. Council is concerned with how urban design qualifications will be certified and how certainty within the assessment process will be achieved. It is understood that the policy is a lever and that an accreditation process is the remit of a professional body, but DPE should help to facilitate the establishment of accreditation process to ensure the success of the policy.
- 3.5. Accreditation of urban designers is critical to validate the design verification statement and the design review process. A new professional entity needs to be established to register urban designers evaluated against:
 - a) disciplinary background and educational qualifications
 - b) length and description of experience
 - c) independent peer review of competency and experience by this new entity

Recommendations:

- c) *Clarify the timing of DRP meetings in relation to development proposal processes.*
- d) *Acknowledge role of City of Parramatta's established design team and design review panel processes to ensure these are aligned.*
- e) *Amend definition of urban designer to certify DP SEPP is underpinned by the intended expertise and core professional competencies confirmed through peer recognition. Suggested definition as follows:*

Urban designer means a person with:

 1. *university qualifications in the built environment; and*

2. *at least 10 years experience in design roles in precinct design and master planning, and*
3. *accreditation of core competencies in urban design by a professional organisation through independent peer review.*

4. ALIGNMENT WITH PLANNING

Champions a design process but lacks demonstrated alignment with the planning process.

- 4.1. The Ministerial direction establishes an objective for “good design processes in planning and development” and aims to ensure design principles and considerations are considered early in the planning process but the UDG, which includes a “good urban design process” (p88-89 UDG), does not address this nexus.
- 4.2. The policy misses the potential for urban design to inform strategic policy including LEP and DCPs, and to provide greatly certainty earlier in the planning process. Urban design early in the plan making stages is necessary to achieve place-based outcomes to create a good city in addition to realising site-based development or bespoke building outcomes.
- 4.3. A master plan should be required before planning provisions and development controls are locked into policy. LEP and DCP controls need to be underpinned by a master plan to determine appropriate and coordinated place-specific urban form outcomes. DCPs should be an outcome of a master plan process not the driver.
- 4.4. The UDG says that the guideline will directly influence precinct planning but only inform place strategies (UDG pg.7). It is not clear why the two are treated differently and how each is to be addressed. Both Precinct planning and Place-strategies (ie: Westmead, Camellia) establish the desired future character, urban structure and future land use for a large urban area and often lock in planning provisions and establishing landowner expectations through either an LEP or Ministerial Direction.
- 4.5. The policy is not clear on how and at what stages of the process planning proposals are addressed. Alignment of the new design review requirement for Planning Proposal process, including the proposed rezoning process reform should be aligned with the DP SEPP. The DP SEPP and DRP requirements may increase assessment timeframes and result in Council forfeiting application fees.

Recommendations:

- f) *Define how design process interfaces early in the planning process to influence strategic design and planning as well as later stages of development assessment.*
- g) *Clarify how the DP SEPP aligns with the current NSW Planning Proposal reforms and how the design review process supports, and is not counterintuitive to, the government’s ambition to improve this process.*

5. URBAN DESIGN GUIDE

UDG is a welcome opportunity to deliver guidance across a range of contexts and development types within NSW, but in its current form is not effective at guiding good place-specific outcomes in Parramatta.

- 5.1. The UDG suggests a universal application, but the content is largely focused on residential precincts outside established urban areas. The proposed objectives, criteria and guidelines do not address the urban context and development types common to Parramatta. This means that there is a significant risk that a development proposal within Parramatta could easily comply with the general objectives and the largely residential/green field criteria of the UDG, but could result in a poor design outcome for Parramatta. Compliance with the UDG, a State level guideline, may then limit Council's capacity to negotiate better outcomes with proponents. UDG would be more successful as a specific guideline for residential /green field master planning.
- 5.2. The guidelines are not effectively representing the process of design or making a commitment to facilitate a place-specific, good urban outcome appropriate to the Parramatta context. Council reviewed the UDG against two sites greater than 1 hectare within the Parramatta LGA (refer below to Section 7). Findings of the test were that:
 - a) It is easy to meet the objectives and criteria for both good and less good design outcomes and to claim compliance with the objectives in a Design Verification Statement. Therefore, the guide does not facilitate good design certainty.
 - b) The guidelines work best as a design tool in the hands of a designer and lacks sufficient guidance for use as an assessment tool.
 - c) It would be valuable to give hierarchy to the objectives contained within the guide, so that the fundamental, structural, and enduring elements (ie. streets and open spaces) of the city are given greater emphasis in both design and assessment.
 - d) A consolidation of the UDG to only important issues that set clear benchmarks would assist in giving priority to all the design suggestions captured in the document.
 - e) The UDG should provide a stronger focus on how to create good spatial outcomes, and allow information such as materiality, detailing and furniture design to recede.
 - f) The UDG could be well placed to recommend and/or specify essential urban design drawing requirements (at different scales) to assist with consistency, transparency, and efficient assessment.
 - g) The guidelines should provide a distinction between the needs of different development densities, even if that is to simply recognise the design process that is required at different scales and context types.
 - h) More emphasis is required on how to establish priorities for a whole of place. The UDG requires design to bring all the elements together and create a good city. Trade-offs are often needed, for example to balance diversity with ADG requirements for solar access, separation and depth. This is where the assessment process is challenged

and there will be significant reliance on design review panels and Council's internal design experts.

- i) The guide is cumbersome and time consuming to apply and could be simplified to address the fundamentals of a good city as the policy is supported by qualified design experts and review processes.
- 5.3. The UDG should explicitly describe up front how it is applied as a design tool distinct from its application as an assessment tool. The DVS is an assessment tool for confirming and evaluating compliance. A requirement for master plan drawings and design report should also be explicit and formalise what already occurs in better practice. This is similar to current practice under the ADG where architects often pair architectural drawings with an explanatory design report explaining the site response, design concept and key outcomes.
- 5.4. The design process should be at the forefront of the UDG with Section 3.3 moved to the front of the document. The process should establish the stages of design and the expected master plan outcomes keyed to documentation requirements and a drawing list for different project types and scales. The design process should also be keyed to specific planning processes, including the identification of milestones for stakeholder engagement and design review.
- 5.5. The draft DP SEPP applies when a planning authority prepares a planning proposal that will affect land greater than 1 hectare in area and within: (a) an existing or proposed residential, commercial, mixed use or industrial zone, or (b) any other zone in which residential development is permitted or proposed to be permitted. This largely constitutes a universal application of the DP SEPP on all planning proposals on land greater than 1 hectare, with the exception of some special uses and rural activities. Notwithstanding the broad application of the draft DP SEPP, the UDG is primarily focused on residential precincts outside of established urban areas.
- 5.6. For the City of Parramatta, it is not clear how sites less than 1 hectare undergo design review, with the exception of those sites required to undertake a Design Competitions, which is not necessarily a safeguard for broader urban design considerations. While Clause 6(1)(c) of the draft DP SEPP appears to cover such instances by requiring a DCP or master plan, in the case of Parramatta's LEP, these provisions do not apply. As noted in paragraph 14 above, design review is critical in the early stages of strategic planning and the development of LEPs and DCPs. Therefore, Council seeks further clarity and definition on how sites less than 1 hectare are considered.

Recommendations:

- h) *Refine the UDG in consultation with industry and government practitioners to and re-exhibit the UDG before DP SEPP is operational (early 2023). It should address:*
- *The applications of the guide through a master plan process and documentation requirements.*
 - *The alignment of criteria and guidance to specific context types and density.*
 - *The simplification of the UDG objectives and guidelines to focus on the fundamental, structural, and enduring elements of the city supported by a rigorous design process.*
 - *The refinement of built form guidance to address building envelopes design with a clear nexus to ADG.*
 - *The application for sites under 1 hectare within urban contexts.*

6. BASIX AND NET ZERO

BASIX consultation documents lack detail

- 6.1. The alignment with net-zero is strongly supported, though there are concerns that the net-zero statement (57D) requirement is unlikely to deliver net-zero outcomes. Specifically, the requirement for infrastructure to facilitate net-zero from 2035 should be more explicit, with all-electric ready buildings shown to be the easiest way to achieve this.
- 6.2. While the supporting BASIX document proposes higher targets to strive to meet the emissions and Net Zero targets, the exhibited documents for consultation lack sufficient detail to make a definitive comment on the proposal.
- 6.3. The introduction of an alternative compliance pathway (Merit Assessment Process or MAP) will likely require additional resources to assess for DA compliance.
- 6.4. Under the current BASIX, councils are to check that the BASIX certificate, stamped plans and assessor certificate are provided with the DA for assessment and determination. Council staff often rely on these documents to be correct without much further checking.
- 6.5. For significant DAs Council engages a consultant to provide advice on BASIX assessments, costing approximately \$150,000/pa. Council has introduced an ESD fee which covers some of Council's costs in using the services of the consultant, but this is not full cost recovery. Through the work of the consultant and the additional focus on significant multi-residential development, we have identified material problems with the assessments completed/documents submitted under the current BASIX, which will lead to the building of apartments not suited to climate, that are less comfortable for residents to live in and more costly to operate.
- 6.6. A priority for Council is using the multi-dwelling sandbox tool to test and recalibrate the draft Parramatta CBD LEP High Performing Buildings clause, which includes a Floor Space Bonus for residential development that meets specified higher BASIX targets. Preliminary advice from our ESD consultant advises that this clause is not likely to be technically or commercially feasible if the D&P SEPP higher targets are adopted as there will be inconsistency in targets. Further work by the consultant using the multi-dwelling sandbox tool will identify the targets to be included in the CBD LEP. It is disappointing that the full suite of BASIX sandbox tools have not been released as a part of the consultation.
- 6.7. All-electric buildings should be required by the SEPP. The net-zero statement should require applicants to demonstrate that the building will be all electric ready from occupation so that they can be net zero in operation by 2035. Guidance on net-zero compliance should be provided.

Recommendations:

- i) *Exhibit for industry and government review the complete BASIX changes, including the Merit Assessment Pathway and thermal caps, and documentation and compliance requirements before adoption.*

7. SUPPLEMENTARY INFORMATION

7.1 Detail Guidance Table

Appendix 1 includes a table summary of detail guidance sourced from Council's city design, land use planning, development assessment, city assets-open space, and city strategy groups. Council believe that the detail recommendations are of value to DPE in refining DP SEPP and the suite of supporting documents.

7.2 Design and Place SEPP: Urban Design Guide Testing

City of Parramatta undertook testing of the Urban Design Guide against two active projects in City of Parramatta LGA of a similar scale and demographic composition:

- Project 1 is an active Planning Proposal under consideration by City of Parramatta. The proposal is in the early stages of assessment and is thought by Council to be an underdeveloped design strategy.
- Project 2 is a formalised Planning Proposal with an exhibited DCP that was developed in close consultation with Council. The project is considered to be a successful outcome, noting that it has been largely guided by preconceived density expectations from the proponent.

Both projects were assessed against the Design Verification Statement (DVS) template to determine the effectiveness of the Urban Design Guide (UDG) for conducting a design-based assessment. A traffic light system was used to demonstrate high, moderate and low response to the UDG objectives with additional reasoning provided to support the grading.

The report has directly informed our submission, particularly the discussion in Section 5 Urban Design Guide. The testing process provided useful insight into the application of the UDG and raised questions about how to effectively assess against the objectives and resolve what an acceptable good outcome is. For example, do all objectives need to achieve a green light? And how should trade-offs between different objectives be evaluated – a common occurrence through a design process.

The findings also demonstrated the challenges of applying general guidance and criteria largely defined for a suburban residential precinct to higher density urban context. Both projects achieved compliance with the objectives and the criteria. It was only at the detail guidance level that some differences became evident.

APPENDIX A

City of Parramatta - Design and Place Sepp Submission - Detail Guidance Table

Appendix A: City of Parramatta - Design and Place Sepp Submission - Detail Guidance Table

25-Mar-22

	Exhibition Document	Key Issue	Discussion	Recommendation
1	Draft Design & Place SEPP (DP SEPP) DP SEPP	Generally - Safety as a key design consideration / inclusion in design principles	Safety should be included as a design consideration or principle, particularly at night. Often precincts and places are designed for the day time and can result in uninviting and unsafe places at night.	Night-time design, such as lighting and noise attenuation measures, should be identified as part of successful design criteria/ design assessment and evaluation.
2		Generally - Projects under the ISEPP	Whilst there is no specific reference to projects undertaken under the ISEPP, it is assumed that projects on RE1 land will need to take into consideration the relevant design principles and considerations within the proposed SEPP. However, most of our projects are 'permitted without consent' under the Infrastructure SEPP (ISEPP) and are only subject to an environmental assessment under Part 5 of the EP&A Act, which must consider the provisions of relevant SEPPs.	It would be of benefit that the proposed DPSEPP provides better clarity for public domain projects undertaken by Council under the ISEPP.
3	DP SEPP	Generally - Definitions	A number of terms appear in the UDG glossary which are also used in the SEPP (eg "amenity", "walking distance"). Will the same definitions apply?	Suggest terms are defined in the SEPP so they apply consistently to all the documents.
4	DP SEPP	Generally - Consent authority to be 'satisfied' rather than 'take into consideration' - more rigid test for assessment	The SEPP, ADG and UDG include provisions to encourage the flexible application of design criteria and design guidance. Requiring the consent authority to be 'satisfied' that the objectives of the ADG/UDG negates this flexibility, as it is a more rigid test than 'take into consideration'. If the intention is for alternative solutions to be encouraged, the pre-requisite for granting development consent should allow the consent authority flexibility. The requirement 'to be satisfied' may result in less predictable and more subjective outcomes - requiring enhanced levels of documentation and evidence.	Consider whether the intention is to create a rigid legislative framework that does not allow the consent authority as much flexibility. For critical objectives, include non-discretionary development standards in the SEPP as well as the ADG/UDG
5	DP SEPP	Statutory framework requires consideration of 40 principles and objectives - test of 'must be satisfied' rather than 'take into consideration' is more onerous	The statutory test of 'must be satisfied' means that the DP SEPP principles, objectives and criteria must individually be satisfied, rather than the current framework of 'take into consideration'. Overall, this has the potential to extend assessment timeframes (through detailed assessment or requests for additional information to be satisfied) and reduce flexibility for the consent authority in making merit-based decisions. It will also result in longer assessment reports to ensure that all statutory requirements are adequately addressed	The DP SEPP incorporates several provisions about allowing for flexibility, supported by the alternative design solution advice in the ADG. However, the wording of the SEPP requiring a consent authority 'to be satisfied' that principles and objectives are met reduces flexibility and discretion. It is questioned whether this is the intent of the SEPP.
6	DP SEPP	Generally - broad, principles-based approach	The draft SEPP seeks to absorb the matters for consideration currently provided in SEPP 65, with more of a focus on what constitutes "place" and good design. I appreciate where they are coming from, however I fear that these new provisions may make the Council Planner's job even more difficult given their broader, more principal based approach.	Sharpen the SEPP controls and objectives, otherwise it will be very easy for the applicant to argue and justify their perspective.
7	DP SEPP	5 (1) (a) (iii)	"Conversion" of an existing building is an ambiguous term	Should be "change of use" to tie in with land use planning terminology.
8	DP SEPP	6. UDG required to be considered for 'urban design development'	The current definition under cl. 6 requires 'or' between a), b), and c) to distinguish between the three types of development. Additionally, 6(c) as currently drafted would apply to any development in the Telopea precinct. It is considered this is not the intention of the SEPP - as this would see the UDG applying to development of smaller lots. If a DCP has already been made for the land, does the UDG need to be applied?	Consider revising cl. 6(c) to ensure the UDG applies to place or precinct scale development
9	DP SEPP	12(2) Principle 1. Deliver beauty and amenity	Ensuring health and amenity also entails ensuring a safe built environment at all times of the day.	Principle 1 should include consideration of the experience of places, day and night, in design.
10	DP SEPP	14(a)	Need to define "desired character" where it is not done so by the local Council.	Suggest that if desired character is not defined by the Local Council, the proponent should define it as part of the DVS.
11	DP SEPP	14 (b)	Need to be more specific about 'the layout and connections of the development respond appropriately to the surrounding area'	Suggest adding that layout and connections should facilitate easy movement to key destinations within the development and surrounding areas and provide a street address to the development
12	DP SEPP	15(a)	Need to be more specific about 'layout and design of the development maximises passive heating and cooling and minimises adverse impacts on residents and public amenity'	Suggest tying this design consideration into amenity principles in the ADG - overshadowing, privacy etc.
13	DP SEPP	15. Design Consideration - comfortable, inclusive, and healthy places	Open space is regularly observed in Development Applications and upon delivery to be under embellished, with limited functionality and usability. With recent climate and pandemic impacts, access to usable, diverse, and high-quality open space is of increasing importance for psychological, physical and mental wellbeing and social sustainability.	Clause 15(c) should include embellished to reduce dead and unusable open space, often occurring around medium to high density residential developments. It should also require an assessment of amenities offered at proximate open spaces to improve the diversity, and reduce duplication, of amenities.

Appendix A: City of Parramatta - Design and Place Sepp Submission - Detail Guidance Table

25-Mar-22

	Exhibition Document	Key Issue	Discussion	Recommendation
14	DP SEPP	15(a)	Appears to contain two parameters as part of the same objective: passive heating and cooling, and adverse impacts on residents / public amenity.	The latter is a particularly important objective and should be an objective in its own right.
15	DP SEPP	15c	Relates to open space. Unclear if this is public or private open space noting clause 17 that refers to public space.	Clarify if open space is public or private
16	DP SEPP	15c	Requires open space to enable pedestrian circulation. Open space will inadvertently enable pedestrian circulation	The objective should be more focused, for example: open space shall encourage pedestrian connectivity through the space and to adjoining uses. The provisions at clause 17 are more specific in this regard.
17	DP SEPP	15c	Need to be more specific about 'the open space is accessible, comfortable and enables pedestrian circulation'	Suggest defining "comfortable" - safe, well lit, sunlight access, shade, seating?
18	DP SEPP	17. Design Consideration - public spaces and public life	Safety is a key concern for many members of the population including women, people from a culturally and linguistically diverse background, people with a disability and people that identify as LGBTQIA.	Clause 17 should include a mandate regarding safety, both perceived and actual.
19	DP SEPP	17(d)	Need to expand the definition of connectivity.	Suggest adding built fabric destinations such as public transport, retail areas and schools to the list of connections in 17(d).
20	DP SEPP	Clause 18. Design Consideration - vibrant and affordable neighbourhoods	Current population and housing needs can vary substantially from forecast population and housing needs. Using information available such as Census data, planned precincts, strategies, demographic forecasting tools can assist in planning for the future population a development will support.	Clause 18(b) should include forecast population and housing trends as a consideration for whether the development contributes to the housing needs of the local population.
21	DP SEPP	18(a)	Need to define walkability. Is this proximity to key neighbourhood destinations and public transport, or simply footpaths within the road reserve?	Suggest a comprehensive definition.
22	DP SEPP	18(a)	refers to telecommunications infrastructure	It should also refer to EV charging infrastructure.
23	DP SEPP	18(d)	refers to visibility, surveillance, and activation of the neighbourhood in the one objective	This should be separated into at least two objectives to avoid erosion of intent.
24	DP SEPP	21. Design Consideration - resource efficiency and emissions reduction	Part (a) is commented, but the scope if limited to urban design development involving subdivision. Considering that the SEPP intends to align NSW development with net zero target, we would argue that part (a) should be applied to all development.	Remove the "subdivision" specification from clause 21 (a).
25	DP SEPP	pg 10, 21c	Need to be more specific about passive design	Suggest listing a range of passive design initiatives - natural ventilation, sunlight access, thermal mass, external shading etc - tie into ADG.
26	DP SEPP	21c		Should also list embodied energy in construction materials as a matter for consideration.
27	DP SEPP	22. Design Consideration - resilience and adapting to change	Durability of materials can vary greatly and should be thoughtfully considered to reduce the likelihood of avoidable financial strata costs and associated psychological distress of ongoing construction works.	Clause 22(b) should include materials to siting and design as impact mitigation of expected natural hazards.
28	DP SEPP	23. Design Consideration - optimal and diverse land uses	There are concerns that this clause allows proposed amenities as servicing residential needs. Proposed is ambiguous and does not assure that the amenities will be delivered.	The use of "proposed" in Clause 23(c) should be amended to include a more certain term for instance incoming or planned and funded.
29	DP SEPP	23. Design Consideration - optimal and diverse land uses	This clause currently lists schools, open space, shops and services but should also include community infrastructure (encapsulating libraries, subsidised space, play spaces, community and aquatic facilities)	Clause 23(c) should include community infrastructure as an amenity.
30	DP SEPP	24(2)(a)	The "assessment guidance" is not mentioned in the SEPP, despite more than half of the objectives only having assessment guidance and not design criteria. In order for design guidance to have legislative weight, assessment guidance should be included in this clause.	Suggest "Development may meet the objectives of the Urban Design Guide by: meeting the applicable design criteria, to the extent possible, and the assessment guidance set out in the Urban Design Guide ".
31	DP SEPP	24(3)(a)	In order for design guidance to have legislative weight, assessment guidance should be included in this clause.	Suggest "In determining whether development meets the objectives of the Urban Design Guide, the consent authority must: apply the design criteria and the assessment guidance set out in the Urban Design Guide flexibly and consider alternative solutions".
32	DP SEPP	25(1)	Clarity required: development control plans generally apply to all land within an LGA unless otherwise stated. Is the intent of this clause to mandate a site/precinct specific DCP? If so, this mandate is not clear at all.	Clarify language according to clause intent.

Appendix A: City of Parramatta - Design and Place Sepp Submission - Detail Guidance Table

25-Mar-22

	Exhibition Document	Key Issue	Discussion	Recommendation
33	DP SEPP	25(2)	Refers to S4.23 of the Act in relation to provision of a concept plan in lieu of a DCP.	It should be a requirement that this SEPP is taken into consideration in the preparation of any concept plan.
34	DP SEPP	30. Objectives of Apartment Design Guide	To ensure consistency with the aim of the Draft Design and Place SEPP, there should be a reference to the overall social, environmental and health impact of a development on its future occupants. This check will ensure that the occupants and the environment are considered equally to economic and financial benefits.	Clause 30 should include a reference that the proposed development should not result in a negative environmental, social or health impact for its occupants.
35	DP SEPP	31 Development controls plans cannot be inconsistent with Apartment Design Guide	This section has been carried over from SEPP65. The subsections in the Draft ADG are different from this list. For example visual privacy in Clause 31 and Visual Amenity in subsection 2.9 of ADG. It is important to clarify how the SEPP criteria are then considered in relation to local DCPs. Council Draft City Centre DCP varies some aspects of the ADG to respond to higher density context and place-specific attributes (ie. lot pattern, topography). Greater clarity in the relationship between the SEPP and Council's DCPs is required.	Amend list to match subsections and clarify how local DCP can vary criteria to respond to specific context.
36	DP SEPP	34	Requires a design review panel to review an application subject to a certain value of works.	As with SEPP 65, the design review panel comments should be required for all types of development subject to the SEPP to help re-enforce the matters for consideration.
37	DP SEPP	34	Emphasis on Pre-DA consultation - The DP SEPP simply requires that a DA is reviewed by a design review panel and the consent authority takes this into consideration before development consent is granted. However, the Manual indicates that the design review process should take place at the pre-lodgement stage, with the potential for multiple re-referrals to the Panel. The advantage of this is that design issues are identified early, however from an applicant's point of view they have no appeal rights until the application is lodged.	Clarify the requirement for Pre-DA DRP review in the SEPP. To be effective, this would have to be a mandatory part of the process to get developer engagement at pre-lodge stage – i.e legislated requirement
38	DP SEPP	34. Design Panel Review based on Capital Investment Value	It includes a design review panel requirement for development with a capital investment value of between \$5 million and \$30 million if the development will be carried out by a council or the Crown development with a site area of at least 1 hectare where the consent authority is satisfied that the development will not have a significant impact on the public domain. This would potentially apply to large park upgrades or significant recreational infrastructure.	Design review panel 'no significant impact on the public domain' clause should also apply to the area trigger (1d) to exclude large scale public land management projects without significant design outcomes e.g. earthworks, contamination. "Public domain" should be defined, and specific benchmarks or parameters provided for 'significant impact on the public domain' to assist assessment.
39	DP SEPP	35(2)	A design competition does not necessarily mean that the design outcome is in accordance with best design principles given the driver of the competition is sometimes to secure the project from a commercial perspective.	Should not preclude design review comments for applications that were subject to a design competition.
40	EPA 2021 changes	Electric vehicle charging ready condition of consent	Clause 99 requires EV ready infrastructure as a condition of development consent for certain types of development - however these prescriptive regulations are not replicated in the ADG	Ensure requirements are consistently reflected in EPA Reg + ADG
41	EPA	Green travel plan required to be reviewed every 2 years - requirement for development	Who is responsible for reviewing the GTP? This must specify whether it is the strata corp/council/land owner etc. It is uncommon that Council receives reviewed/updated GTPs, even though this is currently required.	Amend to clarify who is responsible for reviewing the GTP
42		Definition of 'urban designer' does not include someone who has completed an urban design degree and has suitable experience		Amend definition to include 'qualified urban designer' with suitable experience into definition
43		Documents required for development applications	The design verification statement is required to be submitted with a DA and must include a response to the design review panel's advice (clause 57A(1)), or must be accompanied by a design review report (clause 57B). In effect, this means that consultation with the design review panel must be undertaken at the pre-lodgement phase for the DA to be lodged. This is not prescribed anywhere else in the proposed SEPP or Reg amendments. In practice, it will mean that applicants will be required to undertake pre-lodgement design panel review meetings or the DA will not be accepted.	Consider whether the requirement to meet with a design review panel at the pre-lodgement phase is prescribed by the SEPP or Regulations. Alternatively, note that Councils will require the Design Review Report at lodgement and that this requirement should be a prerequisite for lodgement through the Planning Portal.

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44	EPA	Design verification statement to accompany modification applications		Consider revising this - clarify that design verification statement is required only where there are physical modifications to the development/modifications that impact on compliance with the ADG/UDG. The current drafting may result in the perverse outcome of requiring a design verification statement where no changes are proposed that relate to the Design & Place framework
45	CBA	Net Zero	Clause 99 requiring electric vehicle charging facilities is clear, appropriate, and commended.	
46	CBA	Net Zero	The alignment with net-zero is strongly supported, though there are concerns that the net-zero statement (57D) requirement is unlikely to deliver net-zero outcomes. Specifically, the requirement for infrastructure to facilitate net-zero from 2035 should be more explicit, with all-electric ready buildings shown to the easiest way to achieve this.	All-electric buildings should be required by the SEPP. The net-zero statement should require applicants to demonstrate that the building will be all electric ready from occupation so that they can be net zero in operation by 2035. Guidance on net-zero compliance should be provided.
47	Ministerial Direction	Placing greater weight on the design guidance in the Urban Design Guide	It is important to place greater assessment weight on the design guidance as they enable a more measurable assessment. On the other hand, the design principles and considerations in the SEPP and the objectives in the Apartment Design Guideline can be quite problematic in the sense that they are open to interpretation and hard to assess/measure.	For the second part of the above requirements, it is recommended to amend the wording to ensure the planning proposal gives effect to any relevant design guidance in the Urban Design Guide, that goes beyond residential density, connectivity and open space to include broader guidance around urban structure, movement and connection, natural system, public space and built form.
48	MD	Scope of the Ministerial Direction	The scope of the ministerial direction to planning proposals affecting more than 1 hectare in area requires greater justification. In highly urban areas, there are planning proposals that affect less than 1 hectare of land but still have major implications on public life/domain. A number of case studies within the Design Review Panel highlighted instances where this is the case (i.e., proposals affected less than 1 hectare of land but required design review).	It is recommended to re-review the scope of the Ministerial Direction in relation to Planning Proposals.
49	MD	Scope of the Ministerial Direction (should design review extend to proposals outside the planning proposal process)	Council has a well-resourced and skilled internal design team that can inform the planning proposal process and provide early design advice.	At this stage, DPIE should consider and clarify if the suite of design documentation should apply to precinct planning outside the planning proposal process (e.g., state-led precinct work) and provide justification otherwise.
50	MD	Enabling Councils to determine which planning proposals require design review panel advice	In establishing Design Review Panels, DPIE should consider that Council has internal design expertise that should be recognised and utilised as part of the process.	It may be more efficient and effective to provide discretion to Councils to undertake a merit-based assessment and determine which planning proposals require design review panel advice (e.g. in cases where Council's Urban Design team determine there are major and outstanding design issues yet to be resolved)
51	MD	Consistency under Ministerial Direction	The Ministerial Direction specifies that a planning proposal may be inconsistent with the terms of the direction if it is justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction.	Under the existing process, all studies required to support a planning proposal are funded by the Proponent. This should remain the case.
52	MD	Consistency under Ministerial Direction	The Ministerial Direction specifies that a planning proposal may be inconsistent with the terms of the direction if the inconsistent provisions are of minor significance.	Provide clarification on the parameters of what would be considered 'of minor significance'.
53	MD	Consistency under Ministerial Direction	It may be the case where the subject site is not zoned as open space.	Amend (7)(e) to read 'contrary to the terms of any reservation, covenant or restriction applying to the relevant open space land'
54	Apartment Design Guideline (ADG)	General	The draft DP SEPP alludes that some controls in the ADG will be mandatory.	It is recommended that mandatory controls be placed in the SEPP.
55	ADG	General - Sloping Sites	Sloping Sites – Developers often seek to employ large retaining walls to create a flat site which impacts on the ability to retain trees, the natural landscape, and around water.	It is recommended that guidance on how to step development on sloping sites be included
56	ADG	1.2 Built Form and Siting	Building separation does not respond to high density context where the ideal dimensions are not achievable. 24m between towers in the Parramatta City Centre is not possible with the landownership patterns in many cases. Council's Draft City Centre DCP includes a variation for 18m separation. Figure 1.2.1 is not a good precedent for achieving higher density development.	Include guidance for high density contexts. Remove Figure 1.2.1.
57	ADG	1.3 Site access and address: Through-site links	The draft ADG states" Where a site is sufficiently sized to support the inclusion of through-site links, and for all sites with internal pathways, consider the design and location of links."	Section 1.3 should clarify what is considered a "sufficiently sized" site, using triggers/parameters.
58	ADG	1.5 Green Infrastructure	The inclusion of Minimum Tree Canopy Targets alongside the Deep Soil % Targets as part of the Design Criteria is a welcome addition.	

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59	ADG	1.6 Parking: Bicycle parking	Current rates of bicycle parking proposed are one space per dwelling. This rate is not supported as dwellings can range from one to 8 occupants (studio to four-bedroom).	Section 1.6 should revise the rate of bicycle parking per dwelling to per bedroom, with additional parking rates for family-friendly units to allow for children's bicycles.
60	ADG	Part Two Building design	With increasing rates of pet ownership in medium and high density residential, the recent lifting of the blanket ban on animals by the NSW Court of Appeal in 2020, and the psychological and social benefits pets bring, proper consideration and incorporation of pet ownerships should be given to the DPSEPP.	In Part Two, greater consideration should be given to increasing rates of pet ownership in medium and high density residential and the recent lifting of the blanket ban on animals by the NSW Court of Appeal. These considerations should be made into communal open space, floor finishes, waste disposal, extra storage in apartments and basements, apartment design, circulation areas, pathways, and public domain.
61	ADG	2.1 Common circulation: Equitable access	The draft ADG states "Consider the thoughtful integration of universal access to all common areas and apartments early in the design process."	Additional detail on design and measures could be referenced in Section 2.1, such as self-opening mechanised doors in circulation areas and entering facilities like waste rooms, to ensure that all residents can live with dignity and independence.
62	ADG	2.2 Communal spaces: Internal communal space	Removal of EIE proposed requirement for internal communal space	The removal of the EIE proposed requirement for internal communal space in section 2.2 is considered a negative outcome. The mandate to provide internal communal space should be reintroduced and, like outdoor communal space, a benchmark of squared metres per bedroom should be used.
63	ADG	2.2 Communal spaces: outdoor communal space	As the occupancy number can vary greatly when comparing one- and three-bedroom unit dominated development, use of bedroom number, or ideally occupancy (using an occupancy rate calculation), would give a greater indication of overall occupancy than unit numbers, and therefore more accurate assessment of outdoor communal space need.	In section 2.2, a per dwelling rate is not supported, and should utilise a rate based on bedroom numbers, or overall expected occupancy of the development is used.
64	ADG	2.3 Apartment mix & diversity: Flexibility	Dual key apartments as a new housing form have already created issues with misuse of their purpose in the market.	Controls in Section 2.3 should be introduced to prevent dual key apartments being subleased or strata subdivided.
65	ADG	2.3 Apartment mix & diversity: Family-friendly apartments	Section 2.3 states "Provide 20 per cent of 2-, 3- and 4-bedroom apartments as family-friendly apartments to accommodate the needs of families with children"	In section 2.3 provide a range rather than a minimum for example 20-50%.
66	ADG	2.5 Private open space and balconies	Air conditioner units in private balconies have negative noise and accessibility impacts and more creative design solutions have been made possible and should be used.	Section 2.5 should ensure air conditioner units are not located in private open space, rather fully integrated within the building volume.
67	ADG	2.9 Sunlight, daylight, shade and thermal comfort	Achieving solar access in a high density context such as the Parramatta CBD is not possible, particularly for east west aligned towers on the south side of the street.	Include additional high density centres in the list of situations where achieving solar access may not be possible and provide density threshold guidance.
68	ADG	2.7 Natural ventilation	The improved clarity in the objectives and definitions are commended and are important to ensure amenity and resilience outcomes are delivered consistently. The ADG requirements for natural ventilation are particularly important given the NCCs failure to set adequate Deemed To Satisfy requirements to ensure minimum amenity. The draft ADG has not delivered the changes to apply natural cross ventilation to all storeys as anticipated within the EIE.	Natural cross ventilation should be applied to apartments at 10 storeys or greater without deeming. the improved amenity from natural cross ventilation remains important to all storeys.
69	ADG	2.7 Natural ventilation and Acoustics	The ADG focuses on acoustic treatments for apartments against road and rail noise intrusion, but fails to consider noise from aircraft, industry and entertainment. They recommend that further evaluation is needed for the proposed design objectives and design guidance for natural ventilation for noise affected sites. The SEPP has potential implications on the protection and development of vibrant night-time economy areas, and also relevant to Special Entertainment Precincts which DPIE are currently developing guidance for. Addressing this land use interface issue is included in the draft Urban Design Guide (UDG) but needs further attention in the ADG. Council engaged acoustic consultants to prepare the noise controls for our DCP.	Undertake further evaluation of the proposed design objectives and design guidance for natural ventilation for noise affected sites. In particular, guidance is required for how residential buildings could mitigate external noise in entertainment areas and facilitate residential development where appropriate in these area. Council would be happy to share the consultant advice which informed our Night Time Economy DCP.
70	ADG	2.10 Storage	The draft ADG states "Provide one storage space with the following minimum dimensions (Table 2.10.2)." This appears to be storage for tall items.	In section 2.10 should clearly state that this storage area must be accessible from either circulation or living areas and must not include areas required for appliances such as washing machines.
71	ADG	2.11 Building Articulation	The objective does not make sense. Adaptive re-use does not belong in this subsection - the text addresses more than building articulation.	Amend objective to address whole of building façade and roof design.
72	ADG	3.1 Energy Efficiency	The design guidance for rooftop solar and electric vehicles is commended.	The all-electric building design guidance should be established as criteria given the health benefits associated with avoiding the combustion of gas in habitable spaces and the importance of this strategy to further net-zero ambitions.

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73	ADG	Numeric controls as design guidance	Design guidance is essentially 'optional' and local controls will likely take precedence, where relevant - or will not be enforceable	Consider adding more design guidance as design criteria or non-discretionary controls. For example, the EV ready provisions are required as a condition of development consent by the modified EP&A Reg regardless so should be non-discretionary
74	ADG	3.1 - Electric vehicle charging	Previous feedback from developers has been that even a percentage of EV ready requirement is seen to be onerous and costly - requiring 100% likely to be challenged	Consider making this a non-discretionary development standard - especially if required as a condition of consent
75	ADG	2.3 - Study rooms	The encouragement to include study rooms for work from home arrangements is supported, however measures should be in place to ensure the amenity of these spaces + prevent conversion to additional bedrooms	Consider requiring built in cabinetry/windows/design that does not facilitate a door being added or closed off OR increasing the minimum size of apartments that propose a study to ensure a suitable level of amenity
76	ADG	2.4 - Ceiling heights - 2.4m for kitchens	A reduced ceiling height of 2.4m is proposed for kitchens to respond to the practice of bulkheads being placed in kitchens and reducing the ceiling height currently. The design guidance then specifies avoid bulkheads compromising ceiling heights and suggests stacking them above kitchens. The reduced 2.4m ceiling height should only be permitted where there is a bulkhead above. This would prevent the unnecessary lowering of ceiling heights in kitchens where bulkheads may be located elsewhere (e.g. non-habitable rooms)	Amend kitchen ceiling height to specify 2.4m is only permitted where the bulkhead is located above
77	ADG	Urban Design & Site Planning - Separation	While minimum separation between buildings is considered to be a positive, 30m is very high and may not be achievable in some areas. Practically it has been difficult to achieve 24m in some centres such as Parramatta and Epping. Greater separation may however be more achievable given floorplate maximum proposed and could encourage more optimal site amalgamation.	
78	ADG	Urban Design & Site Planning - Floorplates	A floorplate maximum is considered to be appropriate. However, it is considered that a control based on GBA (Gross Building Area) or 'external footprint' may be more appropriate than GFA to encourage optimisation of tower floorplates. A 700sqm GFA floorplate can still have a 1000+sqm external footprint if significant plant, balcony and vertical circulation areas are included. It becomes more problematic given the uncertainty regarding inclusion of wintergardens as GFA. Wintergardens increase the bulk of buildings and as such some clarification would be welcome. A building with an inefficient internal core, and all wintergardens, could still be very bulky.	Consider basing control on GBA (Gross Building Area) or external footprint
79	ADG	Urban Design & Site Planning - Parking	Confusion regarding the parking non-discretionary development standard in the SEPP has led to significant legal challenges and delays.	Clarification that local maximum parking rates supersede SEPP minimums would be welcomed.
80	ADG	Urban Design & Site Planning - Parking	The current SEPP Seniors parking control, for example, is worded slightly different to SEPP 65 leading to different outcomes.	It is recommended that the parking standards have uniformity across this SEPP and the Housing Diversity SEPP.
81	ADG	Urban Design & Site Planning - Parking	A GIS program creates maps which outline how accessible an area is based on walking distance to trains, buses, taking account frequency of service, etc. See the following site for more details: https://data.london.gov.uk/dataset/public-transport-accessibility-levels .	It is recommended that consideration be given to a London UK style 'Public Transport Accessibility Levels (PTAL)' in which maximum parking rates are dictated by the public transport accessibility of a site.
82	ADG	Urban Design & Site Planning - Parking	Cycle parking	May consider an option to reduce on-site parking requirements subject to implementation of an electric share bike scheme maintained by body corporates. Cycle parking should not be limited to cages in basements, but integrated and well designed on every floor.
83	ADG	Urban Design & Site Planning - Parking	Car stacker systems - Council are receiving increased applications which include car stackers.	It is recommended that controls be included to dictate the quality of car stacker systems. For example, minimum number of lifts for redundancy, car charging capabilities.
84	ADG	Residential Amenity - Solar Access	Subject Site	Increasing timeframe in which units are considered to benefit from solar access is supported.

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85	ADG	Residential Amenity - Solar Access	Current ADG rule states that new development should not reduce solar access to adjoining property by more than 20% if it does not currently receive the required level. A potential inference is that a neighbouring property should not lose any solar access if it currently received the minimum.	It is recommended that this inconsistency be clarified.
86	ADG	Residential Amenity - Private Open Space	Wintergardens have become increasingly popular, not just along noisy roads, but as a means for developers to offer a more useful extension of living space. There is currently uncertainty regarding whether wintergardens should count as GFA, or what level of openness is required to be excluded from GFA (i.e. louvers to X% of elevation).	Clarification as to the ideal design of wintergardens to ensure they can provide a sufficiently outdoor experience is recommended.
87	ADG	Residential Amenity - Adaptable	Dual key units – Council has seen an increase in applications including dual-key units. Some developers are seeking to provide at least one part which does not meet the minimum ADG size requirements. This raises concerns with amenity if the two units are rented to separate family units.	If the intention is to allow the second part of dual key units to be smaller, it is recommended that a restriction on title be required restricting subdivision/separate rental.
88	ADG	Residential Amenity - Adaptable	Dwelling mix	It is recommended that the ADG defer to local Council controls regarding the appropriate unit mix. When, Council doesn't have control, a minimum number of 3-bedroom units (i.e. 10+%).
89	ADG	Residential Amenity - Communal Open Space	Wind conditions are often poor around tall buildings.	It is recommended that wind tunnel testing achieving minimum standards of wind comfort be required for tall buildings.
90	ADG	Residential Amenity - Built to Rent	The draft ADG changes are at odds with the recent changes to the Affordable Rental Housing SEPP regarding Build to Rent (BTR) housing. The new BTR controls encourage 'more' flexibility with the ADG in terms of amenity, whereas the new controls seek to make the amenity controls more strict.	It is recommended that the updated ADG provide guidance on exactly where flexibility should be provided for BTR (i.e. trading off personal amenity for better communal amenity).
91	ADG	Common Space and Vertical Circulation - Lift	It is considered appropriate to refine the current lift standard. In the absence of criteria, Council have received lift reports which seek to justify a low level of lift service (i.e. long wait times), even in 'design excellent' development.	It is recommended that the lift report be required to demonstrate meeting a minimum standard to avoid ambiguity.
92	ADG	Environmental Performance - ESD	Increasing the requirement for cross ventilation is welcomed. However, most development struggles to achieve existing requirements.	Alternative strategies for cross ventilation will be required.
94	ADG	Environmental Performance - ESD	External solar shading is the most passive way to increase thermal comfort, minimise glare and reduce the urban heat island effect.	Consider mandating external solar shading
96	ADG	B.3 Sustainability and ambition/ B.4 Quality and amenity	The ambition to sustainability is commended and the role of the ADG in ensuring an appropriate balance between energy efficiency imperatives and the quality and healthiness of housing stock is critical.	It is necessary for the ADG to provide appropriate standards for ventilation and solar to ensure health and wellbeing is not compromised in future housing stock.
97	Urban Design Guide (UDG)	General	The document is aspirational and we fully support the effort to encourage improved outcomes in urban design. The objectives generally reflect laudable directions and benchmarks championed by specialists in the design industry. However, at times the dive into design criteria and assessment and design guides seeks to apply metrics in a generic way which leads to a naivety that may be counterproductive in the broader development industry and which may jeopardise broader industry support of the document.	Clarity about how to apply the criteria and guides, which of them are mandatory (if any) and how they interface with other local planning documents, is required. The criteria and guides both provide quantitative benchmarks and advice which do not always align with the benchmarks that I/we typically use, and which don't allow for site specific responses that may result in the best urban design outcomes for some sites and contexts.

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98	UDG	General	The UDG does not acknowledge the importance of a master planning process to properly and holistically coordinate development activity where this is appropriate. This means that opportunities to provide holistic site wide strategies like water management, water quality control, dual reticulation, meaningful cultural overlays, realisation of natural environmental opportunities (other than those protected by specific SEPPs), open space provision, meaningful green links and other infrastructure are very difficult to achieve – to the detriment of great urban design and high quality lived experience in the future. The document (the suite of documents) prioritises the preparation of place strategies to inform LEP's, DCP's and guidelines/studies, missing the fundamental step of holistic master planning	We suggest that the key step of holistic master planning (design) for major urban development areas be reprioritised for developers, State government and councils.
99	UDG	General		Clarity about the design review and assessment process (ie who does what) is required.
100	UDG	General - resilience	The D&P SEPP includes design consideration 22 – resilience and adapting to change, and includes adaption and mitigation to climate change risks. The ADG includes natural ventilation, energy efficiency, shading and glazing treatments, canopy and deep soil elements which enhance resilience at the building level. The UDG presents an opportunity to embed a resilience framework for the design of large sites (>1ha), however at present the UDG mentions resilience in a fragmented, general and un-clear way.	Include resilience as one of the elements that surrounds the whole structure in UGD Figure 4 components of successful places. The UDG includes resilience in the 'urban structure' element, but it should equally apply to the built form, natural systems, and movement and connection elements. Redraft Objective 4 as it currently includes ecological and community resilience and lacks a clear set of principles.
101	UDG	Language/enforceability	Objectives, guidance and criteria need to be described precisely and measurable. Terms should be defined and vague language minimised	Revise document to remove unclear phrases and ensure all objectives/criteria/guidance are measurable. 'Stretch' goals should not be included - cannot be enforced, open to interpretation, unpredictable results
102	UDG	pg.10	Definition of 'Place'? Not defined in general terms and can be easily misunderstood in a broader context.	Further definition of 'place' required
103	UDG	Objective 1	Elaborate on Place Analysis	Under Objective 1, the Guide should specify what is expected of a 'Place Analysis' and the list of documentation/type of analysis required.
104	UDG	Movement Networks		Should add under design guidance 'to avoid development/densification in locations with limited connectivity leading to perceptions of creating gated communities'
105	UDG	Objective 1, pg.18	The reference given explains the Strahler hierarchy, but not how to approach urban development for each stream type.	under 1.2 -last point reference should be the Land Management (Native Vegetation_ Code 2018 (NSW Local Land Services
106	UDG	Objective 1, pg.18	1.4-1.7	Add in a recommendation to provide a public street edge to all public spaces.
107	UDG	Objective 3, pg.26	Are these neighbourhood densities OK? Can all sites meet this target. Do we want them to? Are there other documents that should be addressing this and how do they interface?	Neighbourhood densities require further testing
108	UDG	Objective 5, DC, pg.34	15 to 20 minutes (defined as 1,200 to 1,600m) walk to these amenities seems excessive and may not be considered walkable.	Possibly reduce to 10 to 15 minutes.
109	UDG	Objective 5, pg.34	The creation of regional open space, and the impact of new development on existing open space, need to be addressed and is not included here. These considerations are a function of broader master planning which is lost in the process framed by this (D+P SEPP) suite of documents which provides for development of a place strategy to inform site by site based urban design. This also applies to other community infrastructure such as schools.	
110	UDG	Objective 6, pg.36	Block lengths are too long for high density residential + mixed use development. The do not promote fine grain urban development and are in this respect contrary to objective (page 36) and Design guide 6.2..	Add additional criteria: streets that don't terminate on built form; streets must be publicly owned; avoid private development fronting public open space

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111	UDG	Objective 7, DC, pg.40	Best practice design for mid-block connections and through site links should be elaborated on in the design guidance.	Include best practice design guidance - present as public rather than private, be safe (well lit, have direct sightlines), be completely open to the sky, be well signposted, shared lanes should have pedestrian priority and be flush, accessible to those who are mobility impaired, prams, bicycles etc.
112	UDG	Objective 7, 7.1 2nd point	Mid-block connections	Confirm that these are public. Suggest at high density, and with these block dimensions, these need to be public streets. Cars and peds.
113	UDG	Objective 7, 7.2/7.3	There is a lot of focus on limiting access for cars in neighbourhoods. It is very good to create a better balance, however, this approach is often used by developers as grounds for narrower streets to increase development area. We need to change the balance without reducing the metrics of the fundamental infrastructure which services so much more than just cars. Further on this point, cars need to be adequately provided for. Not everyone can ride a bike or walk. Topography and weather are also limiting factors. We need champion equity and amenity for everyone, everywhere. This includes reasonable and convenient car access to all building and in and around all neighbourhoods. Limiting car movements just redistributes traffic congestion.	Support lower speed limits as the best way to create comfortable safe streets for all modes.
114	UDG	Objective 8	Unbundled parking	Under Objective 8, should add under design guidance 'consider opportunities for the provision of unbundled parking whereby tenants and owners can flexibly purchase parking spaces as they need rather than being automatically included as part of the housing package'.
115	UDG	Objective 8, 8.1/8.2	Parking provision is based on local/SEPP requirements. It cannot be mixed with on-street car parking. On street car parking cannot compensate for off street parking provision. Further, the importance of convenient on-street parking for apartment living cannot be overestimated. It needs to be possible to drop in quickly, meet people in the street, run inside if you forgot something or left the iron on, wait for someone, etc.	Consider rewording this (point 1). Consider deleting some of these points which are contrary to requirements?
116	UDG	Objective 8, 8.1/8.2	Point 2, – does this contradict the provision in ADG at 26/148? Here, above ground car parking sleeved with active uses is encouraged and may also be appropriate for other uses.	
117	UDG	Objective 8, 8.1/8.2		Specify EV charging in private development.
118	UDG	Objective 8, 8.3, point 2	The guidance to "investigate alternative ways to accommodate on-street and off-street parking to limit driveway crossovers" is ambiguous.	Recommend rewording.
119	UDG	Objective 8, 8.3		Suggest adding a point about limiting the width of driveway crossovers to avoid major 'loading dock' scale facilities except where they are unavoidable.
120	UDG	Objective 8, 8.5	Adaptability of car park structures	This needs testing to ensure it is realistically achievable and align with amenity requirements of different uses. The diagram shows a potential void of limited size (a light well) which would not be of great amenity.
121	UDG	Objective 9	CI9.1 – ensure that trees and landscaping recommendation applies to private land as well as public land. The huge benefit of trees as opposed to other greenery options should be acknowledged here. In support of stated objectives suggest design guidance to manage the use/percentage of solid side and rear boundary fences which interfere with natural air movement at ground level and transfer of critters. Encourage boundary planting as an alternative way of achieving visual privacy. CI9.2 – need to acknowledge that greenery does not contribute to noise mitigation other than as a visual distraction. Water features in plaza's can provide alternative appealing noise, but they do not 'soften' other noises.	Refine advice to prioritised tree planting over secondary solutions for greening.

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	Exhibition Document	Key Issue	Discussion	Recommendation
122	UDG	Objective 10, DG10.1, pg.52	"Prioritise" is not strong enough. Retaining existing trees should be demonstrated to be unfeasible before replacing.	Reword: "It must be demonstrated that the retention and protection of existing tree canopy cannot be achieved prior to removal and replacement of trees to achieve canopy cover"
123	UDG	Objective 10, pg.50	Street tree canopy targets. Support the aspiration here, but a number of these targets appear to be unrealistic. This is easy to see looking at any Google Maps aerial images of typical streets in Sydney metropolitan area. The rates do not acknowledge the constraints to street tree planting (carriageway, services, driveway crossings, sightlines, views). Large trees are unlikely in streets because of setbacks from services – small to medium only will not deliver canopy densities at this level. Canopy densities for streets at this level are extremely rare. There are inconsistencies in the rates between industrial and residential land uses. Has this been tested? Getting this wrong (getting any of the metrics wrong) will undermine the efficacy of the document.	Further testing of metrics required
124	UDG	Objective 10, pg.54	Street widths shown here may conflict with other local DCP instructions. This is confusing, especially as the relationship between DCP's and this guideline is not clear.	If the detailed sections are needed, carriageway and reservations widths should be presented as ranges or approximations, not absolutes, to avoid confusion based on definitions.
125	UDG	Objective 10 - Tree Canopy		The design guidance should clarify how the canopy cover rates are to be calculated in cases where the proposals involve mixed use developments. This has not been addressed.
126	UDG	Objective 10 - Tree Canopy	In highly urban areas, there is constant and incremental degradation of existing canopy cover.	Recommend to add under design guidance that 'proposals for urban renewal should demonstrate how post-development canopy cover would be greater than the pre-development canopy cover on the site'.
127	UDG	Objective 10 - Tree Canopy	A more nuanced approach to canopy coverage for open spaces is required. Open space type should align with community land categorisation as per the Local Government Act.	Work has been undertaken by City of Sydney to determine relevant canopy coverage for a variety of open spaces. This should form the basis of the canopy targets for open space in Objective 10.
128	UDG	Objective 10, pg.50	Land use category targets – these are too high except maybe for low density residential in some locations (not including last 20 years new subdivision patterns) and industrial.	Test and refine land use category targets
129	UDG	Objective 10, pg.50	Industrial land - soil area and tree canopy targets appear not to correlate.	Review and correct targets
130	UDG	Objective 10, pg.50	Low density residential – Large sites are not addressed.	Suggest that blocks at 1500 sqm or more, with one house on them, can easily offer 50% or more deep soil area. 30% is not enough.
131	UDG	Objective 10, pg.50	Very good to see tree planting rates included.	
132	UDG	Objective 10, pg.52	Fig 33 – the plan doesn't observe sightline requirements at intersection	Drawing requires refinement to address sight line requirements at corners
133	UDG	Objective 10, pg.52	Fig 34 – trees are shown planted too close the building. The minimum recommended setback for trees to buildings is 5-6m.	Drawing requires refinement to include workable setback to building
134	UDG	Objective 10, pg.52	The efficacy of these diagrams Fig 34/35/36/37 is questioned. The diagrams are not helpful and do not represent realistic conditions/requirements. The diagram shows atypical street and do not represent the reality of Council's high density context.	Revise diagrams to include realistic common scenario.

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	Exhibition Document	Key Issue	Discussion	Recommendation
135	UDG	Objective 11	<p>Support the objectives and ideas in the section, and note that significant improvements are achievable in the public domain. However, this section would benefit from more critical look at impact in the private domain. This section looks at benefits for buildings using WSUD – it is not entirely clear if this section relates to public land only? Hence the comments below.</p> <ul style="list-style-type: none"> - Absolutely support the holistic consideration of water management at a site master planning level. This should be a requirements, not just a guideline. The impacts of this on land-take should be interrogated. Acknowledge to opportunities offered by multiple use of OS but this approach must not jeopardise open space outcomes or overly burden local councils (management/maintenance). Acknowledgement that more intensive reliance on these systems involves additional land take that may impact yield is required. - Need to acknowledge the challenges of any mixing of water quality responsibility and benefit between private and public lands. This is extremely limited. - Non-potable water reticulation for large urban development areas is a key objective in this space (not mentioned in this section). This would require state Government commitment, support and encouragement. - The limitations of using 'naturalised creeks' and the like instead of space saving engineering alternatives in the real context of denser and denser urban development on private land is not acknowledged. These elements (planting beds, swales, permeable paving) can be used on a small scale, but generally they are not achievable on a large scale as they take up valuable space. Good benefits can be realised within some developments under community title or similar communal ownership/responsibility framework, or on dedication to local council if this can be agreed. For single development sites, water quality outcomes mandated by BASIX or other DCP requirements are usually achieved via non-natural filtration cartridges (which are most efficient method space wise). However the efficacy of these systems is extremely questionable because they rely on mandatory enforcement via the approvals process and on an on-going (in perpetuity) basis to ensure maintenance activity is regularly undertaken. Recent survey in Parramatta has revealed that compliance rates based on a combination of initial installation and maintenance 	Address distinction between what can be achieved on private land verses public land. Provide guidance on spatial requirements for water management to achieve meaningful WSUD outcomes. If the space is not available and it impact on yield the stated aims will not be achievable. Align guidance with realistic potential for Council's to ensure delivery.
136	UDG	Objective 12, pg 60	15% open space for site larger than 5ha is low. The rule of thumb in practice is 20%.	Include sliding scale for % of open space to site size. Provision of open space should consider existing OS deficits and seek to address these where reasonably possible. Where possible all frontages to open spaces to be public.
137	UDG	Objective 12, pg 63	Alternative design solutions – this clause allows developers to rely on OS located outside the development site to contribute to OS percentages. This should clearly exclude any areas where an overall deficit of OS is identified. ie this cannot be based solely on proximity to a site if the existing OS in question is already overused by residents because of an overall surrounding deficit.	
138	UDG	Objective 12, pg. 60	While the proposed public open space metrics are commended, particularly relating to solar access and dual-use, the guide specifies a minimum open space requirement of 15% of net developable land (NDL) versus the CIS 20%. The intent of NDL is to exclude constrained land i.e. drainage infrastructure, which is typically of lower amenity. However, this appears to be based upon land zoning, which is problematic as large development sites typically have existing blanket zoning e.g. industrial or mixed-use, that does not adequately capture detailed site constraints e.g. high voltage powerlines. This potentially further erodes the quantum of high amenity land dedicated for public open space.	Net developable land to be based upon criteria to ensure allocation of high quality public open space
139	UDG	Objective 12 DG12.4, pg. 62	sport and recreation facilities need to be 'multi-use' to facilitate shared use and maximise overall capacity	add clarification to use facilities effectively through multi-use
140	UDG	Objective 12, DG12.6, pg.63	needs to address potential privatisation	require clear delineation between public and private domains to ensure that they retain a 'public' feel

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	Exhibition Document	Key Issue	Discussion	Recommendation
141	UDG	Objective 13, pg. 65	31.2 last point first column – careful that the wording does not imply a narrowing of street reservation. This reduces flexibility, amenity and functionality on numerous fronts: street scale (relationship with built form especially in dense urban environment), sun penetration, servicing, WSUD, performance of trees and landscape, safety, amenity for pedestrians. Agree to narrow carriageway – just needs care that this is not an invitation to narrow the street reservation. 13.3 – There is some naivety in these sections about WSUD and water re-use in the public street. The objectives are good but the detail needs refinement. 'Run-off' not understood. 13.4 – 4th point – delete 'level pavements'. Need to add – no obstructions in the pedestrian clear path of travel.	Clarify wording and refine graphics.
142	UDG	Objective 15, DG15.2, pg.73	Support mixed use - This section could have a significant impact on developments, but needs to be further defined to give it weight.	Request definitions for "various uses, types and settings", what are "large-format uses" and "larger lots" etc.
143	UDG	Objective 17, DG17.7, pg.79	The urban heat island effect can also be reduced with an urban structure that captures (rather than blocks) cool summer breezes.	Add a reference to capture of cool summer breezes in this section.
144	UDG	Part 3	3.2 – There is no mention of master planning in this process. It should be a fundamental part of the process. 3.3 – Needs to be much simpler. No mention of physical site analysis and site design/ built form testing and envelopes. Too many meaningless buzz words and soft skill tasks 3.4 – Support master plan preparation. Needs to include major PP's. Also needed - public domain plans, holistic site wide strategies eg for water management, earthworks & staging on site wide basis. Contamination/remediation, cultural overlays, public art etc. Table 3.1 under DCP – implies that the UDG informs the DCP but the DCP is the controlling document. Clarify.	Clarify design process in relation to the planning process. Master planning is critical to testing streets, open space and building form holistically and should underpin development controls recommended in Planning Proposals and in DCPS.
145	BASIX	General	The improvement in emissions stringency and necessary changes to carbon coefficient for electricity is BASIX is supported. However, the supporting documentation exhibited lacks the basic information necessary to understand the impacts of the changes. Fundamental information such as the relative improvements in energy efficiency and thermal performance is not provided. Nor is important aspects like the assessment under the proposed merit pathway published.	The BASIX changes, including the Merit Assessment Pathway and thermal caps, should be presented as a complete package like the ADG, that includes documentation and compliance requirements.
146	BASIX	General	There are known issues with the current implementation of NatHERS within BASIX that undermine the ability of the SEPP to deliver its intended outcomes. Nothing is provided to acknowledge these issues or confirm they will be addressed. There is a likelihood that creating closer alignment to the NCC through NatHERS will simply compound issues. NatHERS is designed to support the NCC but NSW implements the tool within the planning scheme. It is therefore important to ensure that NatHERS is fit for purpose in use within a planning scheme. This includes but is not limited to the reliability of accredited assessors and reducing the significant number of non-compliant certifications to reduce the burden on assessment officers.	The proposed changes to BASIX must include improvement to the accredited assessor scheme.

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	Exhibition Document	Key Issue	Discussion	Recommendation
147	BASIX	Changes to heating and cooling caps	The council receives a significant number of non-compliant NatHERS certificates and carries significant costs in ensuring thermal performance certification reasonably reflects the proposed development. The proposed 30% reduction in thermal caps in Parramatta is expected to increase non-compliance and result in assessments cost. Further, it is not shown that tangible environmental benefits will be delivered.	Proposed changes to thermal caps should not be implemented without improvement to the operation of the accredited assessor scheme.
148	BASIX	Merit Assessment Pathway	The exhibited documents lack the necessary information to provide any confidence that the MAP will be assessable or that intended environmental outcomes will be delivered. A reliance on assurance statements is clearly problematic given the experience in NSW with accredited assessors.	Proposed changes to assessment pathways should not be implemented without further work and re-exhibition.
149	BASIX	Merit Assessment Pathway	A significant strength of BASIX is data capture through the BASIX portal and the resulting insight this brings to help inform future policy. It is not clear how the MAP proposal can be implemented without fundamentally undermining the value of this data.	The proposed protocol for MAP assessment needs to be properly tested and the results demonstrated to be similar to NatHERS to ensure the use of particular tools does not result in uniformly less efficient buildings.
150	BASIX	Only the single dwelling sandbox tool has been released. The multi-dwelling tool will be released after the consultation closes.	It is the multi-dwelling sandbox tool that Council needs to trial as much of our LGA's growth is in high density, multi-residential developments. Council's draft Parramatta City Centre LEP, adopted by Council and with Palimentary Counsel for finalisation, includes a High Performing Building clause that provides a floor space bonus for residential development that achieves higher BASIX targets. A priority for Council is using the multi-dwelling sandbox tool to test and recalibrate the draft Parramatta City Centre LEP High Performing Buildings clauses.	Release the BASIX multi-dwelling sandbox tool to be a part of the consultation documentation.
151	<i>Cost Benefit Analysis (CBA)</i>	1.3 Economic Evaluation	The results presented in this report are underpinned by stakeholder consultation and preliminary feasibilities for five case study locations in Greater Sydney. The Design and Place SEPP applies to all of NSW.	A regional location should have been included in this part of the study in section 1.3.
152	CBA	2.2.1 Role of DP SEPP enhancing productivity in NSW	Developers can offer alternative design responses to design criteria and guidance within the Urban Design Guide and Apartment Design Guide through the application of the flexibility provision on the proposed policy initiatives. The integration of a flexible approach to responding to design criteria is welcome. Creativity and innovation in the built environment should be encouraged.	Regarding Section 2.2.1, assessment of additional design options will require more time and resources from consent authorities, like Councils.
153	BASIX CBA	The 'Proposed Requirements for BASIX in 2022 Cost Benefit Analysis' models 2 household options through to 2061. This is inconsistent with the D&P SEPP Net Zero alignment.	The two options considered by BASIX CBA both utilise gas. The CBA, therefore, fails to consider the societal cost-benefit from all-electric apartments where heat benefits can be demonstrated from the association of asthma with gas combustion and residents will benefit from the removal of the standing charge for a gas supply, which will need to become redundant in the near future. Residents will also avoid the significant removal cost for a gas meter currently charged by some network provider in NSW that is necessary to avoid recurrent standing charges. Given the CBA considers costs through to 2061, this cost associated with replacing a gas service should have been considered in the gas options.	The BASIX CBA should be expanded to consider the societal cost benefits of moving immediately to all-electric houses and apartments.
154	DRPM	Procedures on the day		Further clarity is required on the role of the Panel Manager and how best to finalise post-meeting advice

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	Exhibition Document	Key Issue	Discussion	Recommendation
155	DRPM	Template agenda for a local DRP session – Appendix B	The Manual suggests Panel briefings by staff are carried out immediately before each meeting with a proposed breakdown for an individual days session found in Appendix B. While a majority of the proposed guidelines are supported, we suggest flexibility is needed on how Council's organise internal staff and briefings. Our current method of conducting the pre-meeting briefings is in a single session (approximately 20 minutes each, over an hour as an average) prior to a break before the DRP sessions with the applicants commence. We have found this method to allow more robust briefings and discussions to occur between the Panel and Council staff without the time pressure of an impending meeting cutting any critical discussions short.	We suggest Council's should have the flexibility to adjust the daily agenda (Appendix B of the DRPM) as needed, including the number and complexity of schemes put to the Panel in a single session.
156	DRPM	Design Advice Letter	The increased time for each deliberation with an extra 20 minutes closed-session at the end of a meeting to finalise points of advice is also supported. We suggest this is the ideal time for the DRP Manager to prepare the draft notes and key headings to be incorporated into the Draft Advice Letter in conjunction with the Panel's input. Further clarity is needed however at this point regarding the role of the DRP Manager. As per Figure 4, the Manual currently reads that the Panel Manager is responsible for preparing the draft advice to be co-ordinated with the Panel members and final approved by the Chair. We feel this approach may not fully utilise the experience and calibre of Panel members on hand as a key element of the process. The quality and depth of advice may also vary depending on the strength of the first draft, subject to the background and experience the DRP manager brings to the role.	Therefore, we suggest flexibility is needed to allow the Panel to prepare all draft prose and final forms of the written advice based on the Design Advice Letter templates incorporating the key headings and meeting notes circulated as the first draft post session.
157	DRPM	When Design Review Panel occurs within the planning proposal process	The design review panel manual broadly identifies 'the advice of the panel is of the greatest value while a proposal is in the early concept and schematic design stages' and 'most projects will require 2 or 3 design review panel sessions'.	This does not provide sufficient detailed guidance on where the design review panel fits within the planning proposal process (e.g., pre-lodgement, pre-Gateway or post-Gateway, etc.)
158	DRPM	Fee charges and cost implications to Council	The Design Review Panel Manual specifies the fees the consent authority will charge the proponent for review by a design review panel are set by the EP&A Regulation.	Please clarify which section of the EPA Regulations this refers to or if it is included as part of the proposed amendments to the EPA Regulations.
159	DRPM	Fee charges and cost implications to Council	Given the new proposed requirements and cost implications to Council, DPIE should provide resources to support Council's implementation of these processes. Council should not be left under-resourced to implement the suite of changes.	Contrary to the Design Review Panel Manual, it should be DPIE not Council to be responsible for the 'preparation of information sheets, templates, checklists and forms to help participants understand the design review panel process and what is expected. Otherwise, it is important that DPIE supports Council with additional resources to implement the panel.
160	DRPM	Implications on assessment timeframes	DPIE should recognise that with the implementation of Design Review Panels and additional assessment requires, this will likely mean longer assessment timeframes.	Council should not be penalised for longer assessment timeframes (i.e. risk of forfeiting developer fees). This takes into account the iterative design process and the additional time required for the proponent to amend their design and Council and the Panel to consider whether they are satisfactory.
161	DRPM	Clarity around documentation required for Design Review Panel evaluation	It would be counterproductive to evaluate a proposal where there is not information provided by the Proponent.	The Manual should provide guidance on the minimum level of documentation required to assess the design components of the masterplan.

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	Exhibition Document	Key Issue	Discussion	Recommendation
162		Additional Documentation Requirements	<p>Requirement for new technical reports:</p> <ul style="list-style-type: none"> •Response to Country •Expanded Site and Context Analysis Checklist •Design Verification Statement •Design Review Report •BASIX Materials Index •Net zero statement (does not apply to BASIX development) •Green Travel Plan •BASIX Merit Assessment Pathway •Vertical Transport Report •Natural Ventilation Report •Landscape Maintenance Report 	<p>Response to Country – Strategic planners and DTSU will be responsible for ensuring the information provided in accordance with the ADG Checklist is correct and adequate. Currently, Aboriginal heritage consultation is only required where land is identified as being of Aboriginal archaeological significance. The new requirement expands this to apply to all residential apartment and urban design development, with the key question of "how will you acknowledge the past and living cultural heritage of the place?" requiring a coordinated and accepted position from Council/DPIE on what is acceptable. Criteria should be set for what constitutes a larger development e.g master-planned sites. Concern that reference to Country is vague for council, community and developers and likely not a meaningful consideration for the majority of residential developments. Difficult to decide what is meaningful – subjective and challengeable – will lead to delays and frustration.</p> <p>Design Verification Statement/Design Review Report –Currently, these documents are reviewed by DTSU staff and summarily reviewed by DEAP. The more rigorous requirements (and formal requirement for response to design review panel advice) will extend assessment timeframes and may require re-referral to DEAP</p> <p>BASIX Materials Index, net zero statement, BASIX Merit Assessment</p> <p>Green Travel Plan – A Green Travel Plan is now required for residential apartment development on certain land where less than the minimum required number of car parking spaces is provided. The GTP must be submitted with the DA and reviewed every 2 years. This may result in proponent's choosing to rely on a GTP rather than comply with car parking numbers, and accordingly may result in increased GTPs being submitted for review. Council will need to determine who is responsible for assessing and reviewing GTPs - DTSU traffic/strategy transport/sustainability? Does council have to review these every 2 years – this is an administration and logistical nightmare - impractical.</p> <p>Vertical Transport Report – Vertical transport reports rely on a 'suitably qualified person' to make an assessment in accordance with ISO standards. Currently, planners do not have the expertise to verify these calculations but are capable of checking to confirm the ISO standard is met. Further information is needed to assess who is a 'suitably qualified person' and whether planners are capable of verifying the reports, or expertise is needed.</p>
163				<p>Natural ventilation report – Natural ventilation verification already requires technical calculations, which are sometimes done by Flux consultants. The Natural Ventilation Report required for developments seeking an alternative design response to accepted natural ventilation methods is highly technical and will require additional expertise to assess.</p> <p>Landscape Maintenance Report – It is not clear what development applications will trigger a landscape maintenance report, however one interpretation could be that it is necessary for all applications to satisfy the ADG criteria. Internal landscape officers will need to include reviewing the landscape maintenance scheme in their referral to ensure it is appropriate. Clarify if a follow up review of installed landscape post construction is required. This will also require additional resources.</p>

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Friday, 25 February 2022 3:19 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: city-of-sydney-submission---exhibited-draft-design-and-place-sepp.pdf

Submitted on Fri, 25/02/2022 - 15:10

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Graham

Last name

Jahn

I would like my submission to remain confidential

No

Info

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Suburb/Town & Postcode

Sydney

Please provide your view on the project

I support it

Submission file

[city-of-sydney-submission---exhibited-draft-design-and-place-sepp.pdf](#)

Submission

please see attached City of Sydney submission

I agree to the above statement

Yes

Support for the Design and Place SEPP



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Executive summary

The City of Sydney Council (the City) strongly supports the Design and Place State Environmental Planning Policy (SEPP) and the integration of SEPP 65 and SEPP BASIX, with a number of specific exceptions set out in this submission.

The SEPP will be a key mechanism for transforming NSW urban areas to make them not just resilient to global heating but also regenerative. Independently, the proposed functioning of the SEPP can create integrated economic, social and environmental benefits to NSW by minimising risk and maximising the benefits realised through our substantial capital investment in development.

The City strongly supports many aspects of the proposed SEPP and associated documents.

In particular the City would like to note its strong support for:

- The aims of the SEPP including recognition of Country and Aboriginal culture
- Requirement for competent design skills – i.e. involvement of skilled designers including architects, landscape architects and urban designers
- Recognition of the importance of good design review and provision of guidance
- Integration of the planning pathway to net zero emissions, electrification and embodied carbon
- Improved tree canopy, deep soil and green infrastructure
- Maintaining most of the amenity standards in the Apartment Design Guide (ADG)
- The proposal to create an Urban Design Guide (UDG)

The SEPP works well with proposed changes to the Housing SEPP and BASIX that are the subject of separate submissions.

To ensure the SEPP drives the change in the performance of our urban places to address increasing resilience, improving energy, water and waste efficiency and creating regenerative places, some aspects of the SEPP should be further improved and amended.

The City's key recommendations are below with additional detailed recommendations at **Attachments 1 to 4**:

1. Refine the wording and structure of the SEPP Principles.
2. Simplify and clarify the structure of the SEPP by:
 - (a) changing the “design considerations” terms and link the considerations within clauses 14 to 23 directly to the principles
 - (b) re-calibrate the considerations to more logically connect to the relevant principles
 - (c) add specific terms to the considerations to strengthen the connection to the ADG and UDG objectives
3. Refine the wording of SEPP Clauses 24 and 30 and to ensure flexibility is properly applied.
4. Incorporate the City's net zero energy buildings standards to demonstrate the achievement of energy performance compliance in the SEPP and offsite renewable energy procurement standards in the Regulations. This will reduce complexity and improve efficiency during planning assessment and achieve net zero energy development.

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5. Undertake further consultation and potentially re-draft the UDG.
6. Align ADG objectives with terms used in the SEPP and ensure appropriate design guidance is provided to inform 'alternative solutions'
7. Confirm that existing Design Review processes can continue, and if not, an alternative by agreement between Council and the Government Architect NSW that meet the intent of robust design review.
8. Develop additional design guides to support the design considerations and give them status in the SEPP.

In 2019, the City declared climate change a national emergency. The City believes that good design of our urban places is critical to responding to this unfolding emergency. This policy work contributes to that aim.

The City has made a separate submission relating to BASIX.

The SEPP is expansive in its scope, so the City has provided detailed recommendations and comments in a tabular format at Attachments 1 to 4 with direct reference to the exhibited draft text.

This document and Attachments 1 to 4 must be read together.

Key recommendations

Recommendation 1

Refine the wording and structure of the SEPP Principles

Each of the draft SEPP principles have a two-part structure. The first part defines the subject of concern (e.g. beauty, amenity, sustainable etc), the second part provides a reason, how that will benefit people and community.

In the current drafting, the second part of each principle modifies, limits and in some cases contradicts or potentially confuses the first part.

The City suggests the intent can be achieved with a clearer structure. Each principle is simply stated without modification. The second part becomes common to every principle, as the meanings of places for people. This can be defined to capture all of the features which create places for people. For example:

12 Design principles and design considerations

(1) The principle for design in New South Wales is as follows:

- (a) to deliver **beautiful, healthy** and **high amenity** places for people,
- (b) to deliver **inclusive** and **inviting** places for people,
- (c) to deliver **productive** and **connected** places for people,
- (d) to deliver **sustainable** and **greener** places for people,
- (e) to deliver **resilient, diverse and enduring** places for people.

(2) In this clause *places for people* means places that:

- (a) create a sense of belonging for people,
- (b) create public spaces,
- (c) enhance **culture and** public life,
- (d) create engaged communities,
- (e) enable communities to thrive,
- (f) ensure the wellbeing of people,
- (g) create **sustainable** communities and **environments**,
- (h) **respond to and support Country and Aboriginal cultural knowledge**,
- (i) **are climate responsive and comfortable**.

This structure ensures that the active parts of the principles have the widest and clearest outcomes.

The principles would be further improved by:

- elevating the word healthy from design consideration clause 14 to principle (a) in recognition of the fundamental importance of health to the community.
- strengthening the term amenity by including high amenity

- elevating the word inclusive from design consideration clause 15 to principle (b) to expand the meaning of inviting.
- moving enduring to the first part of principle (e) and replacing enduring with sustainable in the definition of places for people gives a more defined and wider meaning to all the principles.
- replacing the word promote with the word deliver, which is more measurable and active.

Recommendation 2

Simplify and clarify the structure of the SEPP by:

- (a) changing the “design considerations” terms and link the considerations within clauses 14 to 23 directly to the principles***
- (b) re-calibrate the considerations to more logically connect to the relevant principles***
- (c) add specific terms to the considerations to strengthen the connection to the ADG and UDG objectives***

The draft SEPP is made less clear in this instance by the inclusion of “Design Considerations” as drafted. These terms have poor association with both the Principles that they link to in clause 12(2) and to the actual considerations in clauses 14 to 23.

To clarify the process for both applicants and consent authorities and demonstrating consistency with the principles, the “Design considerations” should be removed and the actual considerations linked directly to the Principles. This will make similar to the way the design quality principles in SEPP 65 work.

For example, to achieve this:

- delete clause 12(2)
- modify clause 13(2) to read:
~~In determining whether Development is consistent with the design principles, if the consent authority must take into account~~ **is satisfied that the design considerations for each design principle have been achieved.**
- modify clause 13(3) to read:
~~Sections 14–23~~ **Clauses 14–23** set out the requirements ~~design considerations for a consent authority in relation to each design consideration~~ **design principle.**
- modify clauses 14 to 23 to follow the form below, this will result in a reduction to 5 clauses each matching a Principle:
14 Design considerations to deliver beautiful, healthy and high amenity places for people
(1) The consent authority must consider whether—
 - (a) *design consideration 1*
 - (b) *design consideration 2*
 - (c) *etc*

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Following from the above, reorder the actual considerations to have the following relationships to the Principles:

Principle	Design Considerations (key words for brevity, not proposed drafting)
beautiful, healthy and high amenity	Scale, siting, massing 14(a) Desired character 14(a) Detailing scale 14(c) Articulation proportion 14(e) Passive heating and cooling 15(a) Minimise adverse impact on residents and public amenity 15(a) Public space is comfortable 15(c) Detracts from desired character 16(a) No reduction or adverse impact on public space 17(c) Minimise impact of parking 19(b)
inclusive and inviting	Appropriate inclusive design 15(b) Open space is accessible 15(c) Public space has equitable access, suitable land, design by Landscape Architect 17(a) Public space facilitates social interaction 17(b) Crime Prevention Through Environmental Design 18(d) Day and night activation 18(d) Respond to heritage 16(b)(i) Respond to aboriginal cultural significance 16(b)(ii) SSD - respond to Country 16(c)
productive and connected	Effective and economical use of space 14(d) Layout connections 14(b) Open space enables pedestrian circulation 17(d) Contribute to walking and cycling connections 19(c) Subdivision supports walking and smart cities 18(a) Residential serves local housing needs 18(b) Centre development provides diverse uses 18(c) Walking and cycling connections 19(c)

Principle	Design Considerations (key words for brevity, not proposed drafting)
sustainable and greener	<p>Minimise car trips and private parking & support PT 19(a)</p> <p>Bike parking 19(d)</p> <p>Electric vehicle infrastructure 19(e)</p> <p>Retain green and regenerate natural systems 20(a)</p> <p>Maximise tree canopy and deep soil 20(b)</p> <p>Maintain green infrastructure 20(c)</p> <p>Exclude gas infrastructure 21(a)</p> <p>Minimise waste 21(b)</p> <p>Minimise emissions, passive design, energy efficiency, use renewables 21(c)</p> <p>Water Sensitive Urban Design 21(d)</p> <p>Maximise water re-use 21(d)</p> <p>New design consideration relating to promoting a circular economy</p>
resilient, enduring and diverse	<p>Avoid or reduce exposure to natural hazards 22(a)(i)</p> <p>Mitigate and adapt to natural hazards incl climate change 22(a)(ii)</p> <p>Siting and design to mitigate natural hazards 22(b)</p> <p>Mix of compatible uses 23(a)</p> <p>Residential subdivision - diverse lot types 23(b)</p> <p>Urban design development - appropriate density near services and infrastructure 23(c)</p>

Add a new consideration that includes the key specific terms used in SEPP 65 Principles that create the direct link to the ADG objectives and will make a similar link for the UDG.

Terms that are needed to define high amenity in dwellings to create a link to the ADG are set out in the example below. Similar but different provisions apply to urban amenity to link to the UDG. All these terms should be linked to the first Principle.

For example:

14 Design considerations to deliver beautiful, healthy and high amenity places for people

(1) The consent authority must be satisfied that—

- (a) for residential apartment development—the development provides high levels of residential amenity in relation to sunlight, daylight, shade, natural ventilation, natural cross ventilation, visual privacy, outlook, acoustic privacy, protection from noise, air quality, usable and furnishable room dimensions and shapes, storage, accessibility, private open space, communal open space, safety, legible entries and diversity of dwelling types and sizes.
- (b) for urban design development—the development provides high levels of urban amenity in relation to protection of Aboriginal and environmental heritage values,

sunlight, provision of accessible and high quality public open space, legible and permeable street layout, access to reliable and regular public transport, provision for public and community facilities, walking access for daily needs, tree canopy cover and greening, water conservation, protection from noise and air pollution, pedestrian wind environment and safety for people walking and cycling.

Recommendation 3

Refine the wording of SEPP Clauses 24 and 30 and to ensure flexibility is properly applied.

The draft wording of Clauses 24 and 30 (3)(a) include the requirement that the whole ADG and UDG be applied “flexibly”. This means that every part of the guides can be flexed, or bent, without limit. The effect of this drafting is that no part of the ADG or UDG can be applied with certainty.

Variation to design criteria is currently permitted in SEPP 65 and the ADG by following relevant design guidance:

If it is not possible to satisfy the design criteria, applications must demonstrate what other design responses are used to achieve the objective and the design guidance can be used to assist in this. ADG p11

Clause (3)(a) should be modified so that the word “flexibly” relates to the application of the design criteria by giving consideration to the design guidance to guide alternative solutions permitted by (2)(b) which is consistent with the current policy.

Clause (2) should be modified so that it is clear that the design criteria and design guidance referred to in (2)(b) are only those that are relevant to the specific objective. This is consistent with the intent described in the ADG where the term objective is used in the singular:

*Where an alternative is proposed, the development application ... must demonstrate how this delivers a neutral or beneficial planning outcome when assessed against the **objective**.
Draft ADG p8*

Clause (2)(a) includes the phrase “to the extent possible”. What constitutes “possible” will be subject to dispute and create uncertainty. Because (2)(b) allows for alternative solutions the modifier to (2)(a) is not required.

The following is an example of how the minor changes could be drafted:

30 Objectives of Apartment Design Guide

- (1) Development consent must not be granted for residential apartment development unless the consent authority is satisfied that the development meets the objectives of the Apartment Design Guide.
- (2) Development may meet the objectives of the Apartment Design Guide by—
 - (a) meeting the applicable design criteria, ~~to the extent possible~~, and the design guidance set out in the Apartment Design Guide, or
 - (b) an alternative solution that the consent authority considers achieves a neutral or more beneficial outcome than meeting the **applicable** design criteria and design guidance set out in the Apartment Design Guide.
- (3) In determining whether development meets the objectives of the Apartment Design Guide, the consent authority must—
 - (a) apply the design criteria **flexibly by considering the** ~~and~~ design guidance set out in the Apartment Design Guide ~~flexibly~~ and consider alternative solutions, and

- (b) consider the objectives of the Apartment Design Guide ~~only~~ in relation to the particular **subject** development application **only**.

Recommendation 4

Incorporate the City's net zero energy buildings standards to demonstrate the achievement of energy performance compliance in the SEPP and offsite renewable energy procurement standards in the Regulations. This will reduce complexity and improve efficiency during planning assessment and achieve net zero energy development

The City recommends that the SEPP aligns with the City's recent planning proposal for pathways to net zero energy buildings and provide options to demonstrate compliance with an energy performance requirement for office, hotel and retail (shopping centres) through the use of:

- NABERS Energy rating with a Commitment Agreement
- maximum energy intensity (kWh/yr/m²) with third party verification by the NABERS Independent Design Review panel
- Green Star Buildings rating meeting Credit 22: Energy Use requirements
- or equivalent

Compliance pathways

The inclusion of a National Construction Code (NCC) compliance requirement, being JP1 Energy Use of Section J Energy Efficiency, as a standard in the SEPP to demonstrate the achievement of energy performance, increases the complexity and decreases efficiency of the assessment process. Development Assessment planners are typically unfamiliar with how JP1 Energy Use operates and how to assess it, increasing the complexity of the assessment process, and will impact on the efficiency and effectiveness of the process. Development assessment planners don't assess NCC requirements, as it sits with certifiers, as part of the NCC certification process.

The City recommends using a maximum energy intensity standard kilowatt hours per year per square metre (kWh/yr/m²) verified by the NABERS Independent Design Review panel instead of NCC JP1 Energy Use as the standard. That standard is widely used by industry internationally and is less complex.

The City supports the use of the other options such as NABERS Energy Commitment Agreements and Green Star Buildings to demonstrate the achievement of energy performance, as they are highly regarded industry recognised tools with robust third-party verification to ensure the design meets the intent. These standards align with the City's planning proposal for net zero energy buildings – see table below.

Size thresholds

The City recommends size thresholds for developments that need to meet the energy performance standards are provided and advise whether the SEPP applies to additions and refurbishments as specified in the table below.

Net zero statement

The City does support, as part of the net zero statement in the Regulations, the disclosure of estimated energy consumption through e-planning. This will be available from the energy modelling completed by the ESD consultant for the development. The same information is part of the documentation supplied to demonstrate the energy performance standards are being achieved, so it is also duplicative.

The City also supports the requirement to mark up on plans submitted at DA stage where additional space is needed for energy systems to transition to net zero emissions by 2035.

The City does not support the components in the net zero statement that do not improve the development outcomes or reduce emissions. For example, asking proponents to estimate direct and indirect emissions will not reduce emissions. For most development it isn't reasonable to ask proponents information regarding indirect emissions (i.e. scope 3) as estimating or finding accurate data on indirect emissions is challenging. This requirement should be limited to particular types of development if at all. The responsibility for how emissions will be recorded and reported annually also sits with the asset owner or their representative, not the proponent of the development.

The City recommends that the net zero statement aligns with the City's planning proposal for net zero energy and renewable energy procurement as specified in the table below to achieve net zero energy emissions. The clause requiring the "surrender of renewable energy certificates equivalent to 1 megawatt hour of renewable energy generation over 5 years" needs to be reworded for clarification and ensure proponents understand that required developments need to achieve net zero energy emissions by agreed target dates.

Summary net zero energy performance standards and development thresholds

Proposed use	Development size trigger for performance standards	Performance standards	
		Step one Applications submitted between 1 January 2023 – 31 December 2025	Step two Applications submitted from 1 January 2026 onwards
Office (Base building)	A new office building containing a net lettable area (NLA) of 1,000m ² or more	<ul style="list-style-type: none"> - maximum 45.0 kWh/yr/m² of Gross Floor Area (GFA), or - 5.5 Star NABERS Energy Commitment Agreement (CA) + 25%, or - certified Green Star Buildings rating with a "credit achievement" in Credit 22: Energy Use, or equivalent 	<ul style="list-style-type: none"> - maximum 45.0 kWh/yr/m² of GFA, or - 5.5 Star NABERS Energy CA + 25%, or - certified Green Star Buildings rating with a "credit achievement" in Credit 22: Energy Use, or equivalent
	A refurbishment to an existing office building that contains a NLA of 1,000m ² or more		
	An addition of 1,000m ² or more of NLA that results in 50% or more additional NLA to the existing office building		
Retail (applies to Shopping Centre base building only)	A new shopping centre containing a gross lettable area – retail (GLAR) of 5,000m ² or more	<ul style="list-style-type: none"> - maximum 55.0 kWh/yr/m² of GFA, or - 4 star NABERS Energy CA, or - certified Green Star Buildings rating achieving the "minimum expectation" in Credit 22: Energy Use, or equivalent 	<ul style="list-style-type: none"> - maximum 45.0 kWh/yr/m² of GFA, or - 5 star NABERS Energy CA, or - certified Green Star Buildings rating with "exceptional performance" in Credit 22: Energy Use, or equivalent
	An addition of 5,000m ² or more of GLAR that results in 50% or more additional GLAR to the existing shopping centre		

Support for the Design and Place SEPP

Hotel (whole of building)	A new hotel of 100 rooms or more	<ul style="list-style-type: none"> - maximum 245.0 kWh/yr/m² of GFA, or - 4 star NABERS Energy Commitment Agreement (CA), or - certified Green Star Buildings rating achieving the “minimum expectation” in Credit 22: Energy Use, or - equivalent 	<ul style="list-style-type: none"> - maximum 240.0 kWh/yr/m² of GFA, or - 4 star NABERS Energy CA + 10%, or - certified Green Star Buildings rating with a “credit achievement” in Credit 22: Energy Use, or - equivalent <p>AND</p> <ul style="list-style-type: none"> - renewable energy procurement equivalent to “net zero energy” or a maximum of 240.0 kWh/yr/m² of GFA
	A refurbishment to an existing hotel that contains 100 rooms or more		
	An addition of 100 or more hotel rooms that results in 50% or more additional hotel rooms to the existing hotel		
Multi-unit residential (whole of building)	6-10 storeys	- BASIX Energy 40	- BASIX Energy 45
			AND
			- renewable energy procurement equivalent to “net zero energy” or a maximum of 85.0 kWh/yr/m ² of GFA
	11-20 storeys	- BASIX Energy 35	- BASIX Energy 40
			AND
			- renewable energy procurement equivalent to “net zero energy” or a maximum of 90.0 kWh/yr/m ² of GFA
	21-30 storeys (may include 30+)	- BASIX Energy 30	- BASIX Energy 35
			AND
			- renewable energy procurement equivalent to “net zero energy” or a maximum of 95.0 kWh/yr/m ² of GFA
Mixed use	where one or more of the above thresholds for each proposed use apply	- the above performance standards apply for each proposed use	- the above performance standards apply for each proposed use

Refurbishment means carrying out of works to an existing building where the resultant change is to at least half the total volume of the building measured over its roof and walls. In calculating the extent of the change to the total volume of the building, the proposed works and all other building work completed or authorised within the previous three years is to be included.

Recommendation 5

Undertake further consultation and re-draft the Urban Design Guide (UDG).

The structure of the UDG should reflect the way urban design is used The structure of the UDG must align with how urban development is designed and managed through the development of master plans and DCPs. Additionally, it should be explicit about the interdisciplinary collaboration required for successful urban design. The current draft does not achieve either of these things. It suffers from category errors and too much jargon and should be re-structured in consultation with experts from the field.

Guidance and criteria should be specific to different urban contexts

Urban Design operates in very different contexts. This document is most clearly applicable for peripheral expansion of existing major cities. If intended to cover other circumstances, context specific guidance for infill, brownfield, regional expansion and industrial development and development of and in centres needs to be added. This can be done either by clarifying the scope of this document is for greenfield development; and potentially later adding new urban design guides for other contexts or adding appendices that describe how the criteria specific for other contexts. The various density, walking distances and other quantified guidance does not suit high density developments, these must be supplemented with additional measures for this type of development. The limits and special requirements of high density development are not described or discussed. This is a serious omission and the Guide must not be published without suitable guidelines for this type of development.

Objectively measurable criteria are critical for assessment, there should be more of them and they should reflect good practice

Learning from the implementation of the ADG, the greatest improvement to performance have aligned with the aspects of design that have clear and objectively measurable design criteria. The UDG criteria are often ambiguous and/or reflect poor outcomes. A simple example is the maximum 250m block length. Good practice would be to set the criteria at somewhere between 100-120m with a maximum average block size of one hectare and provide design guidance for circumstances where an 'alternative solution' would be appropriate, for example subdivision for a shopping centre. Walkability and connectivity by managing block size is fundamental to good neighbourhoods.

Each part of the UDG should mirror the structure of the ADG

All the parts that follow each objective require significant improvement:

- The 'Why is this important' lists are also objectives and should be noted as such.
- The UDG requires more measurable design criteria and clearer design guidance where criteria are not met.
- The assessment guidance must relate directly to the objective and/or design criteria. There are many instances where they do not align.
- The draft design guidance overuses words like 'identify' and 'consider' which relate to process but do not describe outcomes. Where they relate to outcomes, they should be replaced with words that describe an outcome like 'ensure' or 'deliver' or be ineffective.

Criteria should be established for minimum provision of public space

The City strongly supports the criteria for a bare minimum of 15% public open space. To be complete the UDG must include a criteria that 45-55% of urban land should be for public space including streets and land for community and public facilities but excluding regional open space, environmental land and infrastructure with supporting design guidance for how this should be measured (from the centre line of streets surrounding the subject land) and circumstances where alternative solutions may be considered.

The UDG criteria for walkability needs resetting to be good practice

The UDG must ensure walkable neighbourhoods that support improved physical activity and health outcomes for the community. Comfortable walking environments for people requires well designed street and public open space layouts but also a land use pattern and services that support daily life like small parks, schools, supermarkets, green grocers and bus stops are within easy walking distance. For most people, and in most other urban design guidelines a 10-minute walk (a 20 minute round trip) is the accepted measure. Only infrequently used facilities may be within a 20 minute walk. The design criteria must distinguish between daily needs (up to a 10 minute walk)

from other needs (up to 20 minutes). It also requires that walking is safer and easier for local trips than driving, which requires local area traffic management (including speed and pedestrian priority management). Maximum block dimensions affect walkability. The maximum dimension design criteria should be for a maximum average block area of 1ha and 130m, the proposed dimension of 250m is too high. An atlas that shows existing areas that are walkable would be useful and the City will share information that may assist in this regard.

Urban Heat guidance should be fully incorporated

The guide should directly address urban heat and adopt the urban heat planning toolkit developed by the Western Sydney Regional Organisation of Councils (WSROC). The City supports WSROC's feedback in relation to urban heat and resilience.

Definition of urban designer

The definition of an urban designer needs to be rethought. If there is to be a definition it must capture significant design skill in urban design projects. Registration with tangentially related advocacy and industry bodies and unspecified involvement in certain project types are poor proxies for this.

Multi-disciplinary verification

The UDG and associated verification statement must ensure that multi-disciplinary collaboration and alignment have occurred. This means that all other specialist reports must verify that their documentation is consistent with the urban design verification report. The logical place for this to occur is within the urban design verification statement since the SEPP and Regulations will not reference other documentation.

Recommendation 6

Align ADG objectives with terms used in the SEPP and ensure appropriate design guidance is provided to inform 'alternative solutions'

For the ADG to have clear meaning and strength, a clear line must be able to be drawn from a principle straight through to an objective and its related design criteria and design guidance. This will ensure that the meaning, verification and assessment of objectives is clear and not overly onerous.

The City supports a framework that allows reasonable 'alternative solutions' (noting that the wording in the SEPP needs to be adjusted as noted above). The ADG must provide design guidance that reasonably and comprehensively outlines how alternative solutions should be considered in relation to each design criteria separately.

Improve the new appendices for ventilation and shading to increase clarity and simplify design and assessment

The City strongly supports the proposed appendices for natural ventilation, natural cross ventilation and shading. All three need some clarification for consistent reporting and shading in particular needs simplified design and verification pathways which could include an online calculator and/or CAD plugin.

Reinstate proposed improvements to amenity standards in the ADG

The City strongly supports the enhancements to amenity standards proposed in the Explanation of Intended Effect (EIE) that improve passive sustainable design of dwellings including:

- Maintaining natural ventilation and daylight related standards including ceiling height, room depth, window opening size etc for health and amenity all year round
- Increasing the natural cross ventilation standard to promote comfort in summer
- Introducing maximum window to wall ratio and minimum external sun shading standards to promote comfort in summer
- Introduction of a requirement for ceiling fans
- Introduction of a maximum tower size (floor area) and separations
- Increased deep soil percentages
- Increased proportion of accessible apartments
- Introduction of minimum bicycle parking rates

Some of these improvements are not reflected in the draft SEPP and subsidiary documents and should be reinstated.

Definition of architect

The proposed definition of an architect will exclude a significant number of skilled practitioners. The current definition should be retained.

Recommendation 7

Confirm that existing Design Review processes can continue, and if not, an alternative by agreement between Council and the Government Architect NSW that meet the intent of robust design review.

Many Councils, including the City of Sydney, already operate successful design review processes with the use of existing expert design panels and in-house design expertise. The SEPP, Regulation and Manual should clarify the implied intent that these existing processes which meet the objectives of the manual are able to continue.

The City of Sydney currently runs two Design Panels, the Design Advisory Panel and the Design Advisory Panel Residential Subcommittee.

The Design Advisory Panel was established in 2007. The Panel provides the City with high level independent expert advice and expertise on urban design, architecture, landscape architecture, art and sustainability. The Panel has met regularly (generally monthly for four-hour meetings) since its establishment. The work of the Panel underscores the City's ongoing commitment to excellence in urban design and planning. In addition to reviewing Development Applications, the Panel has provided input on the implementation of Sustainable Sydney 2030, Green Square Urban Renewal Area, City Centre transformation projects, City projects as well as advising on State Significant Development.

The existing panel consists of 8 current members, with a minimum of three panelists required per meeting. Most generally attend. Members of the Panel are appointed for a two year term. The current members of the Panel are Professor Ken Maher (Chairperson), Peter Mould (Deputy Chairperson), Kerry Clare, Abbie Galvin (NSW Government Architect), Professor Richard Johnson, Rachel Neeson, Ché Wall and emeritus Professor James Weirick.

The Design Advisory Panel Residential Subcommittee was established in 2017 due to the volume of residential apartment applications requiring design review under SEPP65. The Subcommittee consists of 4 panelists, drawn from a pool of seven who are appointed for a three-year term. A panel member is nominated by the City to chair each meeting. The panel meets monthly for a full day.

Panel advice

City of Sydney staff manage the administration for both panels, including drafting minutes and advice sheets. These are signed off by the panel prior to issue. The panel's advice is detailed and transparent – advice is provided within 7 days to Council's assessment planners as well as proponents and designers. The role of the panels is advisory only.

Design excellence outcomes

The City's existing design panels are well regarded in the development and design community. They have consistently contributed to achieving a very high level of design quality in the Local Government Area – for both private and City projects.

Each year the Australian Institute of Architects and the Australian Institute of Landscape Architects awards go to multiple projects in the LGA, having been through the City's planning assessment and Design Advisory Panel process. City projects, guided by the Design Advisory Panel, have won more than 200 national and international design awards since the Panel's inception in 2007.

Recent major award-winning projects that have been subject to DAP review and advice include:

- Gunyama Park Aquatic and Recreation Centre, Zetland
NSW Architecture Awards - Public Architecture Award and Lord Mayor's Prize 2021
- Dyuralya Square, Waterloo
AILA NSW - NSW Landscape Architecture Award 2021
- Sydney Park Bike Track, Alexandria
AILA NSW - NSW Landscape Architecture Award 2020
- Green Square Library Plaza
Australian Urban Design Awards - Built projects - local & Neighbourhood scale 2019
NSW Architecture Awards 2019 - Public Architecture Award
2019 NSW Premier's Prize - NSW Premier: Gladys Berejiklian
John Verge Award for Interior Architecture;
Urban Design Award and the Public Architecture Award
AILA Awards - Civic Landscape
International Library of the Year Award 2019 (International Federation of Library Associations and Institutions)
Australian Projects in 2019 World Architecture Festival (Culture)
- Harold Park
NSW Architecture Awards - 2019 City of Sydney Lord Mayor's Prize
- Green Square Creative Centre
Australian Institute of Architects National Awards 2018 - "Lachlan Macquarie Award" for Heritage Architecture
Public Architecture Award
NSW Architecture Medallion
"Greenway Award" for Heritage Architecture
Sustainability Award
- Matron Ruby Grant Park, Zetland
Australian Institute of Landscape Architects NSW 2018 Civic Landscape Award

- Juanita Nielsen Centre, Woolloomooloo
Australian Institute of Architects National Awards 2017 – Public Architecture Award; Heritage Award
"Greenway Award" for Heritage Architecture
"John Verge Award" for Interior Architecture

Private development has also been recognized by major industry awards.

Alignment with the Design & Place SEPP

The City's existing design excellence provisions, and the operations of the Design Advisory Panels, are consistent with the intent of the proposed protocols for good design review and the aims and principles of the D&P SEPP. A provision should be included to provide some further flexibility – where the NSW Government Architect can alternatively agree to an alternative robust design review protocol that meets the intent of the SEPP.

Recommendation 8

Develop additional design guides to support the design considerations and give them status in the SEPP.

The SEPP design considerations include matters that are reasonably complex, and many consent authorities will need guidance as to how these can be manifested in their development applications. Targeted assistance could be developed by GANSW.

The clearest examples include how to consider resilience, health and Country for different types of development.

Concise interim guidance for assessment of different development types including objective measures should be provided while full guides are developed. These documents should be given status either in the SEPP or Regulations.

A significant number of documents have recently been published relating to resilience. These must be consolidated, and the Resilience Template exhibited for consultation.

The City's detailed recommendations are at Attachments 1 to 4.

Attachments

Attachment 1 – SEPP and Regulation Detailed Recommendations

Exhibited text	Recommendation/Comment
SEPP DESIGN AND PLACE	
General comments	
	<p>It would be beneficial to explicitly require that meeting the design criteria and design guidance of the ADG, and therefore the ADG objectives, is deemed as having met the relevant SEPP design principles and considerations. Only aspects which do not meet the ADG objectives through the design criteria and design guidance should be required to show they are consistent with the SEPP design principles and design considerations.</p>
	<p>The SEPP should contain a clause to review the policy after a period of time similar to SEPP 65 Clause 33. There should also be a formally recognised ‘mechanism’ of updating the policy before review. For instance, it would be beneficial to explicitly describe the role of Planning Circulars/Technical Notes as documents that amends/explains/updates the ADG (for example ‘Solar access requirements in SEPP 65’ Technical Note)</p>
Part 1 Preliminary	
3(1)(a) to provide a consistent set of principles and considerations to guide the design of the built environment,	Consistency is desirable, however principles in the SEPP Part 2 have become too general in their expression and do not relate specifically to residential apartment development compared to the SEPP 65 Schedule 1 design quality principles. Overall, the nexus between ADG criteria and SEPP level principles has been weakened (see SEPP D&P 13(1) below). See main submission in relation to this.
3(1)(d) to integrate good design processes into planning and development,	Supported. Good phrasing which supports provision of good documentation for development application e.g., site analysis, diagrams and proof of testing.
3(1) new (j)	Add a new aim consistent with the Minister’s Planning Principles: To reduce risk and increase resilience to natural and urban hazards
3(2) This Policy also aims to give effect to the objects of the Act, section 1.3(b) and (e)–(g).	Supported. EP&A Act 1.3(b) to facilitate ecologically sustainable development.../EP&A Act 1.3(e) to protect the environment.../ EP&A Act 1.3(f) to promote the sustainable management of heritage.../EP&A Act 1.3(g) to promote good design and amenity of the built environment.
5(1)	‘mixed use with a residential accommodation component’ is too broad in land use terms. The term ‘residential

Exhibited text	Recommendation/Comment
<p>In this Policy, residential apartment development means development for the purposes of residential flat buildings, shop top housing or mixed-use development with a residential accommodation component if—</p>	<p>accommodation’ under SILEP (as per SEPP D&P 4(2)) includes 15 types. Whilst Class 1(a) and Class 1(b) types are excluded by SEPP D&P 5(3), types like boarding houses, co-living and seniors housing when incorporated within a mixed-use development appear to be captured. SEPP Housing provides provisions specific to these land use types so they should be excluded from the SEPP as the application of multiple SEPPs is cumbersome and can create duplication and/or be conflicting.</p> <p>It is common for seniors developments to be the erection of a new building, with at least 3 storeys and contain at least 4 dwellings (as per SEPP D&P 5(1)(a) to (c)). This qualifies them as ‘residential apartment development’. They can also be said to meet the SILEP definition of residential flat building ‘a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.’ SEPP Housing provides provisions specific to seniors housing so it should be excluded from SEPP as the application of multiple SEPPs is cumbersome and can be duplicative and/or conflicting.</p> <p>It is noted that an equivalent of SEPP 65 4(4) excluding that policy from applying to boarding houses and serviced apartments has not been retained in SEPP D&P. This clause should be reinstated, and co-living housing and seniors housing added.</p> <p>Staged development applications that include residential apartment development should also be captured by this clause. For example, a large site could be staged for ten residential flat buildings and documented as building envelopes. The ADG is relevant to assess key aspects such as building separation and solar access. EP&A REGS 70A and 70B are relevant.</p>
<p>5(1)(a) the development consists of one or more of the following— the erection of a new building, the substantial redevelopment or refurbishment of an existing building, the conversion of an existing building, and</p>	<p>A definition of ‘substantial’ should be provided so that application of the policy is clear.</p> <p>This clause should include modification applications to make a non-residential apartment development into a residential apartment development.</p>
<p>5(1)(b) the building is at least 3 storeys, not including storeys that provide for car parking that are— below ground level (existing), or less than 1.2 metres above ground level (existing), and</p>	<p>Note 1.2m does not align with the 1m in the SILEP definition of basement ‘the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).’ The terms should align.</p>
<p>5(1)(c) the building contains at least 4 dwellings.</p>	<p>This is the clause that opens the door to the capture of boarding houses. Biscoe J in <i>The Hills Shire Council v Sales Search</i> [2013] NSWLEC 103.</p>

Exhibited text	Recommendation/Comment
	It would be preferable to clearly exclude boarding houses from the SEPP.
<p>6(1)(c) development in relation to which an environmental planning instrument requires a development control plan or master plan to be prepared for the land before development consent may be granted for the development.</p>	<p>For clarity, it is assumed that this captures Stage 1 Development Applications under SLEP2012 7.20 How does EP&A Act 4.23 relate?</p>
<p>8(3) Part 3, Division 3 applies to development specified in subsection (2)(a), (c)(i), (e) and (g) if the development is BASIX affected development.</p>	<p>It is unclear what subsection the clause is referring to. The clause references in (3) appear to be incorrect as they do not match the clause structure in (2). Please review and correct.</p>
<p>Part 2 Design principles and design considerations</p>	
<p>13(1) Development consent must not be granted for development to which this Policy applies unless the consent authority is satisfied that the development is consistent with the design principles.</p>	<p>The expression of the design principles and their considerations (as per SEPP D&P 13 to 23) have become too general and do not relate specifically enough to residential apartment development compared to the SEPP 65 Schedule 1 design quality principles. Overall, the nexus between ADG criteria and SEPP level principles has been weakened. For example, previously under SEPP 65, if the 70% direct sunlight design criteria of ADG 4A-1 1 was not met, it also did not meet Principle 4: Sustainability and Principle 6: Amenity both of which specifically referred to 'sunlight'. The SEPP design considerations do not specifically refer to 'sunlight' and is therefore silent on whether sunlight needs to be achieved to meet the design principles. The key terms from SEPP 65 Schedule 1 design quality principles should be integrated in the SEPP's actual design considerations, particularly those in relation to residential amenity noted in the main submission.</p>
<p>13(2) In determining whether development is consistent with the design principles, the consent authority must take into account the design considerations for each design principle.</p>	<p>The design considerations appear to be the way the design principles are achieved. The design principles do not appear to stand alone. For example, SEPP D&P 12(1)(a) 'to deliver beauty and amenity...' is achieved if design considerations SEPP D&P 14 and 15 are achieved. 14 and 15 do not include references to key residential amenities such as sunlight, natural cross ventilation or visual and acoustic privacy (as the SEPP 65 Schedule 1 design quality principles did). The use of the word 'amenity' in the principle may not be adequate to form a nexus between the ADG criteria and the SEPP level principles. See recommendation above.</p>
<p>14 The consent authority must consider whether overall—</p>	<p>The term 'respond appropriately' should be clarified. For example, is a response 'appropriate' because an applicant says it is in the design verification statement? This type of consideration should be linked to local planning documents where relevant. For example SEPP D&P 14(a)</p>

Exhibited text	Recommendation/Comment
<p>(a) the scale, massing and siting of the building respond appropriately to the desired character of the surrounding area, and</p> <p>(b) the layout and connections of the development respond appropriately to the surrounding area, and</p> <p>(c) the detailing of the buildings and spaces respond to the appropriate visual distance at which the buildings and spaces are observed and experienced, and</p> <p>(d) the development represents an effective and economical use of space that responds to the constraints of the site, and</p> <p>(e) the articulation of the building is proportionate to the scale and massing of the building.</p>	<p>‘the scale, massing and siting of the building respond appropriately to the desired character of the surrounding area’ should be linked to the LEP Height of Buildings (HOB) and Floor Space Ratio (FSR) [scale], DCP setbacks [massing and siting], and any other relevant local character statements, heritage conservation descriptions etc.</p>
14 to 23	
<p>14(a) the scale, massing and siting of the building respond appropriately to the desired character of the surrounding area, and</p>	<p>Reference local planning controls to define ‘desired character’</p>
<p>15(a) the layout and design of the development maximises passive heating and cooling and minimises adverse impacts on residents and public amenity</p>	<p><i>the layout and design of the development is climate responsive, maximises passive heating, and cooling and natural daylighting, ventilation and cross ventilation, is comfortable, is healthy and minimises adverse impacts on residents and public amenity</i></p>
<p>15(c) for development that includes open space—the open space is accessible, comfortable and enables pedestrian circulation.</p>	<p><i>for development that includes open space—the open space is suitably sized, accessible, comfortable and enables pedestrian circulation.</i></p>
<p>16(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.</p>	<p><i>if the development is State significant development to which the Urban Design Guide applies or is subject to a local Connecting with Country policy—the development incorporates a response to Country and has been developed with local Aboriginal people through a co-design process and takes into account submissions made to the applicant by Aboriginal stakeholders.</i></p>
<p>New 16(d)</p>	<p>Insert new 16(d) the development demonstrates co-ordination of public art, Country, heritage with. public domain and landscaping.</p>
<p>17(a) for development involving new public space—the public space is—</p> <p>(i) located to maximise equitable access by the public, and</p> <p>(ii) located on land that is fit for purpose, and</p> <p>(iii) designed by a qualified landscape architect,</p>	<p><i>(iii) designed by a qualified landscape architect or urban designer</i></p> <p>Streets can be designed by urban designers as well as landscape architects</p> <p>Note comments in relation to definition of urban designer</p>

Exhibited text	Recommendation/Comment
	Should the regulations or guidance reference the “Great Public Spaces Evaluation Tool for Public Space and Public Life”
17(b) for development involving public space—the public space is designed to facilitate social interaction,	<i>for development involving public space—the public space is designed to facilitate social interaction including through art and culture,</i>
18(a) for urban design development involving subdivision—whether the subdivision supports	<i>for urban design development involving subdivision—whether the subdivision supports promotes</i> ‘promotes’ requires greater effort
18(b) for development for residential purposes—whether the development contributes to the housing needs of the local population,	Replace ‘local population’ with ‘growing demographics of the city or town’
18(c) for development that is within walking distance of a train station or in a town centre—whether the development contributes to a diverse mix of uses and active streets,	<i>for development that is within walking distance of a train station or in a town centre—whether the development contributes to a diverse mix of public and commercial uses and active streets,</i> Residential uses are diverse, the wording needs to be more specific
19 Design consideration – sustainable transport and walkability	Insert new sub-clause <i>(f) minimises the impact of waste storage and collection on public space</i> On-street waste presentation and collection can create hazards for active travel and pedestrians and detracts from walkability and amenity. This will support ADG objective 3.3.1, which is not currently addressed in the SEPP.
20 (b) whether the development maximises tree canopy cover and provides sufficient deep soil to support the tree canopy, (c) whether new and existing green infrastructure will be appropriately managed and maintained during at least the first 12 months.	Supported.
21(a) for urban design development involving subdivision—minimises, and excludes as far as practicable, the use of on-site gas for cooking, heating and hot water	Amend to include all development All fossil gas infrastructure built from the present is inconsistent with NSW Government decarbonization targets
21(b) is designed to minimise waste from associated demolition, construction and during the ongoing use	Clarify and expand wording in relation to embodied carbon and separate references to demolition and re-use, minimizing embodied carbon and ongoing waste and include a separate clause to address operational or ongoing waste.

Exhibited text	Recommendation/Comment
of the development, including by the choice and reuse of building materials, and	<p><i>is designed to minimise –</i> <i>(i) demolition and waste from associated demolition and construction and during the ongoing use of the development,</i> <i>(ii) embodied carbon including by the choice of materials, structural efficiency and reuse of building materials, and</i> <i>(iii) operational waste by maximising recovery from ongoing use of the development, [including by ensuring adequate space and access for the separation, storage and collection of waste streams]</i></p> <p>Clarifying operational requirements will also support objectives proposed in the ADG as no line of site between ADG and SEPP.</p>
21(d) uses water sensitive urban design and maximises water re-use.	<p>Include water use efficiency</p> <p><i>uses water sensitive urban design and maximises water re-use and potable water use efficiency.</i></p>
New 21(e)	<p>Add a new (e) (e) promotes a circular economy that is restorative and regenerative</p> <p>Infrastructure Australia defines the circular economy as: ‘Ensuring balanced extraction and use of natural resources, materials, waste and food, focusing on waste reduction, increased recovery, reuse and recycling.’</p>
<p>22</p> <p>The consent authority must be satisfied that the development is resilient to natural hazards by —</p> <p>(a) incorporating measures to—</p> <p>(i) avoid or reduce exposure to natural hazards, and</p> <p>(ii) mitigate and adapt to the risks of natural hazards, including risks of climate change and compounding risks, and</p> <p>(b) mitigating the impact of expected natural hazards through the siting and design of the development.</p>	<p>Incorporate urban hazards: poor air quality, noise and urban heat</p> <p>This consideration requires specific design criteria and submission guidance particularly for development that will not be subject to the UDG and the Resilience Template.</p> <p>Any criteria and guidance must be linked to other resilience planning documents.</p> <p>Modify wording to improve its effectiveness:</p> <p><i>The consent authority must be satisfied that the development is resilient to natural and urban hazards by —</i> <i>(a) incorporating measures to—</i> <i>(i)</i> (a) avoiding or and reducing exposure to natural and urban hazards, and <i>(ii)</i> (b) mitigating and adapting to the risks of natural and urban hazards, including risks of climate change and compounding risks, and <i>(b)</i> (c) mitigating the impact of expected natural and urban hazards through the siting and design of the development.</p>
23	<p>Add a new (d) for urban design development—avoids land use and transport relationships that promote car use</p>

Exhibited text	Recommendation/Comment
Part 3 Assessment of Development	
Division 1 Urban Design Development	
<p>24(2)(a) meeting the applicable design criteria set out in the Urban Design Guide, to the extent possible, or</p>	<p>'...to the extent possible,' should be removed as SEPP D&P 24(2)(b) provides the pathway for an alternative solution.</p>
<p>24(3)(a) apply the design criteria set out in the Urban Design Guide flexibly and consider alternative solutions, and</p>	<p>See main submission It is noted that this wording is similar to EP&A Act 4.15(3A) regarding evaluation under Development Control Plans. Generally, further guidance needs to be provided on 'flexibility' and 'alternative solutions' to allow applicants and assessors to understand what might be acceptable. Using the National Construction Code framework as a useful comparison, compliance with the design criteria should be considered 'deemed-to-satisfy', however non-compliance should require a comprehensive 'alternative solution' to be demonstrated. This 'alternative solution' pathway should be set out clearly so that both applicant and assessor understand what is required. Alternative solutions should not be unsubstantiated 'ambit claims' or technical proofs that do not have agreed base principles. The onus should be placed on the applicant to provide sufficient documentation to justify whether the relevant objective is still met. The UDG design guidance should be used to guide 'alternative solutions'. The guidance will need to be increased to do this.</p>
<p>24(3)(b) consider the objectives of the Urban Design Guide only in relation to the particular development application.</p>	<p>It is unclear what this clause does. It is understood that this clause has been included in an attempt to ensure that other development applications cannot be used as a precedent for non-compliance, however it does not appear to operate in this way. Review clause and provide clearer drafting. If it is about the use of precedents, then it should say this directly.</p>
<p>25(2) A development control plan is not required if the development involves alterations to existing buildings only.</p>	<p>The clause does not require a development control plan for alterations to existing building. Confirm that 25(2) does not apply to development for additions.</p>
<p>26 Development consent must not be granted to non-residential development unless the consent authority is satisfied the development—</p> <ol style="list-style-type: none"> 1. enables the following— <ol style="list-style-type: none"> 1. the reduction and shifting of peak demand for electricity, 2. storage of renewable energy, for example batteries, 	<p>Support 26 (1) in principle 1 and 2 but clarity is needed on how the proponent demonstrates to the planning and assessment teams at council that they have reduced and shifted peak demand and have storage of renewable energy. Reduction and shifting of peak demand is an operational issue. That is a level of complexity for planning and assessment teams to review. To ensure effective implementation, recommend requiring proponents to demonstrate on the plan the location of</p>

Exhibited text	Recommendation/Comment
3. metering and monitoring of energy consumption, and	<p>onsite renewable energy and / or storage in the building and estimate amount of energy to be stored or load shifting potential.</p> <p>Support 26 (2) in principle, although metering sits within the NCC already but it's worthwhile reinforcing. As monitoring sits outside the boundary of planning, as it is an operational issue recommend changing wording. Change to bold text: "Metering and monitoring for future monitoring of energy consumption..."</p>
Division 2 BASIX Standards for Residential Development	
29(2)(c) to improve the thermal performance of a building.	It is assumed that since the ADG relates to thermal comfort that there is no conflict.
Division 3 Residential Apartment Development	
30(1) Development consent must not be granted for residential apartment development unless the consent authority is satisfied that the development meets the objectives of the Apartment Design Guide.	Supported.
30(2) Development may meet the objectives of the Apartment Design Guide by— 30(2)(a) meeting the applicable design criteria, to the extent possible, and the design guidance set out in the Apartment Design Guide, or	'...to the extent possible,' should be removed as SEPP D&P 30(2)(b) provides the pathway for an alternative solution.
30(2)(b) an alternative solution that the consent authority considers achieves a neutral or more beneficial outcome than meeting the design criteria and design guidance set out in the Apartment Design Guide.	<p>It is important that this clause is not interpreted to permit/ encourage 'trade-offs', particularly between core residential amenities. For example, an applicant might argue that a project with 60% direct sunlight, but 80% natural cross ventilation might be a neutral or beneficial outcome. This clause could be improved by including 'relevant' before 'design criteria and design guidance' and removing the plural 'objectives' in 30(2).</p> <p>This clause allows alternative solutions to achieve all of the ADG objectives. If it is intended that alternative solutions can only be used in circumstances where the ADG indicates there is one available, that should be clarified in this clause otherwise additional design guidance is needed throughout the ADG.</p>
30(3) In determining whether development meets the objectives of the Apartment Design Guide, the consent authority must— 30(3)(a)	<p>See recommendation in main submission.</p> <p>Generally, further guidance needs to be provided on 'flexibility' and 'alternative solutions' to allow applicants and assessors to understand what might be acceptable. It is critical that any permitted "flexibility" have a safeguard similar</p>

Exhibited text	Recommendation/Comment
<p>apply the design criteria and design guidance set out in the Apartment Design Guide flexibly and consider alternative solutions, and</p>	<p>to that contained in s4.15(3A) of the Act which requires that an alternative solution meet the objectives of the relevant standard. Using the NCC framework as a useful comparison, compliance with the design criteria should be considered 'deemed-to-satisfy', however non- compliance should require a comprehensive 'alternative solution' to be demonstrated. This 'alternative solution' pathway should be set out clearly (a relevant example is the City of Sydney 'Draft alternative natural ventilation of apartments in noisy environments performance pathway guideline') so that both applicant and assessor understand what is acceptable. Alternative solutions should not be unsubstantiated 'ambit claims' or technical proofs that do not have agreed base principles (for example wind reports). The onus should be placed on the applicant to provide sufficient relevant documentation to justify whether the relevant objective is still met. It is noted that this 'flexibility' may induce significant additional documentation to satisfy the consent authority and may lead to protracted assessment times. It is also noted that this 'flexibility' may create a two-class system where smaller applications/applicants may not be able to afford/access the 'flexibility' provision requiring extra documentation and time.</p>
<p>30(3)(b) consider the objectives of the Apartment Design Guide only in relation to the particular development application.</p>	<p>It is unclear what this clause does. It is understood that this clause has been included to ensure that other development applications cannot be used as a precedent for non-compliance, however it does not appear to operate in this way. Review clause and provide clearer drafting. If it is about the use of precedents, then it should say this directly.</p>
<p>31(1) A provision of a development control plan that specifies a requirement, standard or control in relation to the following matters specified in the Apartment Design Guide has no effect—</p>	<p>The 'matters' listed in SEPP D&P 31(1)(a) through (h) are identical to those in SEPP 65 6A(1), however the section titles they almost exactly refer to in the current ADG (in order, sections 3F, 4A, 4F, 4D, 4C, 4E, 4B and 4G) have been renamed in the revised ADG. These 'matters' should be directly referenced to a specific section or clause of the revised ADG to ensure their effective operation.</p> <p>SEPP D&P 31(1)(e) relating to ceiling heights 'overwrites' the City's greater floor-to-ceiling heights at ground and first floors in mixed use areas. The ADG should clarify that DCP requirements for non-residential floors in mixed use development are not affected.</p> <p>The removal of 'deep soil' from this list of matters since the EIE is supported.</p> <p>It is noted that seniors developments (as discussed at SEPP D&P 5(1) above) have competing provisions in SEPP Housing which are not affected by this clause.</p>
<p>32(1)</p>	<p>Supported. Similar to SEPP 65 30(1).</p>

Exhibited text	Recommendation/Comment
<p>This section identifies development standards for particular matters relating to residential apartment development.</p>	
<p>32(2) If the standards are complied with, the consent authority cannot require more onerous standards for the matters.</p>	<p>Supported. Similar to SEPP 65 30(1).</p>
<p>32(3) The following are non-discretionary development standards— (a) the car parking for the building must be equal to, or greater than, the lesser of— the recommended minimum amount of car parking specified in the Apartment Design Guide, or the minimum amount of car parking required under an applicable environmental planning instrument or development control plan, the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in the Apartment Design Guide, the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in the Apartment Design Guide</p>	<p>Supported. Similar to SEPP 65 30(1).</p> <p>Please send correspondence to the City confirming the phrasing of SEPP D&P 32(3)(a) relating to car parking does not override the City’s minimum controls.</p> <p>The ADG does not specify a minimum amount of car parking except through the RTA Guide to Traffic Generating Developments (as referenced p34) which has poor definitions.</p> <p>SEPP D&P 32(3)(c) relating to ceiling heights prevents the application of the City’s greater floor-to-ceiling heights at ground and first floors in mixed use areas.</p>
<p>Part 4 Design Review</p>	
<p>34(1) This Part applies to the following development— State significant development to which this Policy applies, (a) development with a capital investment value of more than \$30 million, (b) development with a capital investment value of between \$5 million and \$30 million if the development will be carried out by a council or the Crown, (c) development with a site area of at least 1 hectare, (d) residential apartment development, (e) other development specified by another environmental planning instrument as being development to which this section applies.</p>	<p>Clarify that the clause also applies to modification applications. This was previously required by EP&A 115(3B) in some circumstances.</p> <p>Clarify the clause also applies to urban design development. The SEPP D&P introduces a category of development called ‘urban design development’ which, as set out in 6(1)(c) of the SEPP D&P, includes: <i>development in relation to which an environmental planning instrument requires a development control plan or master plan be prepared for the land before development consent may be granted for the development.</i></p> <p>Part 4 Design Review of the SEPP D&P does not apply, and Design Review Panel advice is not required for urban design development, unless it meets the other thresholds listed in Clause 34(1) of the SEPP D&P.</p> <p>Having regard to scale and scope of development that may fall under “urban design development” but not 34(1), the consent authority should not be limited to the types of development for which it may require Design Review Panel advice.</p> <p><i>This Part applies to the following development— State significant development to which this Policy applies,</i></p>

Exhibited text	Recommendation/Comment
	<p>(a) <i>development with a capital investment value of more than \$30 million,</i></p> <p>(b) <i>development with a capital investment value of between \$5 million and \$30 million if the development will be carried out by a council or the Crown,</i></p> <p>(c) <i>development with a site area of at least 1 hectare,</i></p> <p>(d) <i>residential apartment development,</i></p> <p>(x) urban design development,</p> <p>(e) <i>other development specified by another environmental planning instrument as being development to which this section applies.</i></p> <p>In the City of Sydney these categories equate to approximately 40 projects per year (based on past five-year average). In addition to this, the panel would continue to review and advise on strategy and policy for the City of Sydney, as well as projects which have a design impact but fall outside the SEPP mandate (e.g., boarding houses, student accommodation).</p> <p>The panel processes outlined in the DRP Manual are unworkable for this volume of items and should be changed.</p>
<p>35(1) Development consent must not be granted to development to which this Part applies unless—</p> <p>35(1)(a) a design review panel has reviewed the development, and</p>	<p>Supported. Similar to SEPP 65 28(2)(a).</p>
<p>35(1)(b) the consent authority has taken into account the design review panel's advice.</p>	<p>Supported. Similar to SEPP 65 28(2)(a).</p>
<p>35(2) Subsection (1) does not apply if an architectural design competition is conducted, as provided for in an environmental planning instrument, in accordance with— the Design Excellence Guidelines published by the Department in October 2010, or design competition guidelines adopted by the consent authority under the environmental planning instrument.</p>	<p>Similar to SEPP 65 28(5). Design review should apply to development subject to a design competition. The Design Excellence Guidelines 2010 and local Design Competition Guidelines do not specifically require review against the ADG. The purpose of an architectural competition is to choose the scheme most capable of achieving design excellence. Does this clause prevent a Design Review Panel reviewing the application after the design competition? If so, the consent authority will not have the benefit of being assisted by specific ADG design review in making its assessment. It is noted that the Draft Local Government Design Review Panel Manual (p4) states 'where a design competition is required, review by the relevant design review panel is only required where that panel is operating as a 'Design Integrity Panel' post competition'.</p>

Exhibited text	Recommendation/Comment
	<p>Clarify the consent authority may require Design Review Panel advice be sought at any stage of the planning process.</p> <p>Design review of concept development applications and planning proposals should be undertaken during the assessment process, i.e. before a competition. This provides timely design advice early in the planning process and ensures that key design considerations are identified and adjustments to envelopes are made before a competition is undertaken.</p> <p>Under Clause 35(2), Design Review Panel advice is not required if <i>“an architectural design competition is conducted”</i>. Page 4 of the Design Review Panel Manual similarly states: <i>“Where a design competition is required, review by the relevant design review panel is only required where that panel is operating as the ‘Design Integrity Panel’, post competition”</i>. Clarify that this only relates to State significant development.</p> <p>The importance of receiving design advice early in the planning process is reiterated throughout the exhibited documents, including objective 2(a) of the Minister’s Direction, to: <i>“ensure the design principles and design considerations set out in the State Environmental Planning Policy (Design and Place) [insert date] are considered early in the planning process”</i>. The ‘Timely’ protocol in the Design Review Panel Manual requires design review as <i>“early as possible”</i>.</p> <p>Amend Clause 35(2) to clarify, that except in the case of State significant development, Design Review Panel advice is required in association with a concept development application or site-specific development control plan where a competition will follow.</p>
<p>36</p> <p>Development consent must not be granted to development to which this Part applies unless the consent authority has considered a design verification statement or design review report that accompanied the development application under the Environmental Planning and Assessment Regulation 2000.</p>	<p>Modify so that it is clear that a verification statement must satisfy the consent authority that the relevant objectives have been met – i.e. that verification statements that simply assert they have been met will not be sufficient. The regulation is insufficient, since not having met its requirements does not mean that consent cannot be granted.</p> <p><i>Development consent must not be granted to development to which this Part applies unless the consent authority has considered a is satisfied that the design verification statement or design review report that accompanied the development application under the Environmental Planning and Assessment Regulation 2000 verifies that the development achieves the relevant objectives of the ADG and UDG.</i></p>
<p>Schedule 1 Energy and water use standards for non-residential development</p>	

Exhibited text	Recommendation/Comment
<p>1 Definitions</p> <p>JP1 energy use standard means Section JP1 in Volume 1 of the Building Code of Australia verified under Section JV3 in Volume 1 of the Building Code of Australia, as in force on the commencement of this Schedule, by a NABERS independent design review panel.</p> <p>Green Star Building rating</p>	<p>The SEPP D&P says JP1 and the SEPP D&P Overview says JV3. NCC JP1/JV3 is complicated and is a compliance requirement not a regulatory requirement.</p> <p>The inclusion of an NCC compliance requirement, JP1, as a standard to demonstrate the achievement of energy performance increases the complexity and efficiency of the assessment process. DA planners are typically unfamiliar with how JP1 operates and how to assess it, so that increases the complexity of the assessment process and will impact the efficiency and effectiveness of the process. Planners don't assess NCC requirements, as it sits with certifiers, as part of the NCC certification process.</p> <p>Green Star Design & As Built became Green Star Buildings. Add 's' to Buildings to definition and (1), (2), (3) and (4) below</p>
<p>2 Energy use</p> <p>(1) The standard for energy use for non-residential State significant development is a Green Star Building rating of credit achievement in energy use.</p> <p>(2) The standard for energy use for development for the purposes of the erection of prescribed office premises is—</p> <p>(a) the JP1 energy use standard, or</p> <p>(b) a Green Star Building rating of credit achievement in energy use, or</p> <p>(c) a 5.5 star NABERS energy commitment agreement.</p>	<p>Support. Green Star Design & As Built became Green Star Buildings. Add 's' to Buildings to reduce confusion with other Green Star tools.</p> <p>"...for non-residential State significant development is a Green Star Buildings rating of credit..."</p> <p>It doesn't specify the size threshold for new development. Recommend it applies to a new office building containing a net lettable area (NLA) of 1,000m² or more (base building).</p> <p>It doesn't specify if it applies to additions and refurbishments.</p> <p>Recommend it applies to:</p> <ul style="list-style-type: none"> • a refurbishment* to an existing office building that contains a NLA of 1,000m² or more • to an existing office building of 1,000m² NLA or more with an addition of 50% or more NLA <p>*Refurbishment means carrying out of works to an existing building where the works affect at least half the total volume of the building measured over its external roof and walls and where there is no increase in the gross floor area. In calculating the extent of the building's volume that is being changed, the proposed works and all other building work completed or authorised within the previous three years is to be included.</p> <p>Do not support (a) DA planners at Councils are typically unfamiliar with how JP1 operates and how to assess it. Some proponents complete a Section J report at this stage, but it does not lock a proponent into these design solutions. Using JP1 creates additional complexity with numerous exclusions and other criteria.</p>

Exhibited text	Recommendation/Comment
	<p>Recommend using instead a maximum energy intensity standard (kWh/yr/m²) verified by the NABERS Independent Design Review panel. That standard is widely used by industry and less complex.</p> <p>Support – (b) and (c) to demonstrate compliance with standard.</p>
<p>(3) The standard for energy use for development for the purposes of the erection of prescribed retail premises is—</p> <p>(a) the JP1 energy use standard, or</p> <p>(b) a Green Star Building rating of minimum expectation in energy use, or</p> <p>(c) a 4.5 star NABERS energy commitment agreement.</p>	<p>It doesn't specify the size threshold for new development.</p> <p>Recommend it applies to a new shopping centre containing a gross lettable area – retail (GLAR) of 5,000m² or more (base building).</p> <p>It doesn't specify if it applies to additions and refurbishments.</p> <p>Recommend it applies to:</p> <ul style="list-style-type: none"> an existing shopping centre of 5,000m² GLAR or more with an addition of 50% or more GLAR <p>Do not support (a) DA planners at Councils are typically unfamiliar with how JP1 operates and how to assess it. Some proponents complete a Section J report at this stage, but it does not lock a proponent into these design solutions. Using JP1 creates additional complexity with numerous exclusions and other criteria.</p> <p>Recommend using instead a maximum energy intensity standard (kWh/yr/m²) verified by the NABERS Independent Design Review panel. That standard is widely used by industry and less complex.</p> <p>Support – (b) and (c) to demonstrate compliance with standard.</p>
<p>(4) The standard for energy use for development for the purposes of the erection of prescribed hotel or motel accommodation is—</p> <p>(a) the JP1 energy use standard, or</p> <p>(b) a Green Star Building rating of minimum expectation in energy use, or</p> <p>(c) a 4 star NABERS energy commitment agreement.</p>	<p>It doesn't specify the size threshold for new development.</p> <p>Recommend it applies to a new hotel of 100 rooms or more to align with proposed Commercial Building Disclosure size for hotels.</p> <p>It doesn't specify if it applies to additions and refurbishments.</p> <p>Recommend it applies to:</p> <ul style="list-style-type: none"> a refurbishment* to an existing hotel that contains 100 rooms or more an existing hotel of 100 rooms or more with an addition of 50% or more hotel rooms <p>*Refurbishment means carrying out of works to an existing building where the works affect at least half the total volume of the building measured over its external roof and walls and where there is no increase in the gross floor area. In calculating the extent of the building's volume that is being changed, the proposed works and all other building work completed or authorised within the previous three years is to be included.</p>

Exhibited text	Recommendation/Comment
	<p>Do not support (a) DA planners at Councils are typically unfamiliar with how JP1 operates and how to assess it. Some proponents complete a Section J report at this stage, but it does not lock a proponent into these design solutions. Using JP1 creates additional complexity with numerous exclusions and other criteria.</p> <p>Recommend using instead a maximum energy intensity standard (kWh/yr/m²) verified by the NABERS Independent Design Review panel. That standard is widely used by industry and less complex.</p> <p>Support – (b) and (c) to demonstrate compliance with standard.</p>
<p>3 Water use</p>	<p>As per above, Green Star Design & As Built became Green Star Buildings.</p> <p>Add ‘s’ to Buildings in (1) and (2)</p>
<p>Schedule 1 EP&A REGULATIONS</p>	
<p>[1] Sch 1 Cl 3 architect means a design practitioner registered under the Design and Building Practitioners Act 2020 in the design practitioner—architectural class.</p>	<p>The existing EP&A REGS definition of qualified designer ‘a person registered as an architect in accordance with the Architects Act 2003’ appears to be retained. This proposed alternative definition will create a conflict.</p> <p>It is understood that the D&BP Act relates to the construction certificate stage and onwards. The existing definition of an architect under the Architects Act for the purposes of the designing and submitting a development application for a residential apartment development is considered to be sufficient and appropriate for SEPP D&P. This is relevant to both architects submitting development applications with accompanying design verification statements as well as membership to design review panels. The definition of ‘architect’ under the D&BP is overly onerous, unnecessary and potentially exclusionary of the majority of architects registered under the Architects Act. This definition should be removed.</p>
<p>[1] Sch 1 Cl 3 design review panel means— the design review panel constituted by the Minister under Part 16B for the local government area in which the development will be carried out, or if a design review panel has not been constituted for the local government area in which the development will be carried out— the State design review panel.</p>	<p>Not supported unless a new provision is inserted</p> <p><i>The design review panel endorsed by the Minister under part 16B for the local government area in which the development will be carried out.</i></p> <p>OR add a second clause suggested as follows: An alternative design review panel may be constituted by the consent authority if approved in writing by the Minister (or delegate NSW Government Architect). SEPP D&P 35(1)(a) now requires that a ‘design review panel’ has reviewed the development, otherwise development consent must not be granted. This definition means that all design review panels must now be constituted</p>

Exhibited text	Recommendation/Comment
	<p>by the Minister, therefore the existing City Design Advisory Panels will no longer be recognised.</p> <p>Local Government should be able to constitute their own design review panels which meet the intent of this provision with the written approval of the Minister (or delegate NSW Government Architect).</p> <p>See full comment below under 16B.</p>
<p>[1] Sch 1 Cl 3 urban designer means the following— a qualified town planner with at least 5 years' experience in precinct or master planning, a landscape architect with at least 5 years' experience in precinct or master planning, an architect with at least 5 years' experience in precinct or master planning.</p>	<p>Not supported as drafted</p> <p>Delete (a) Urban designers must have design training/qualification, as well as relevant experience.</p> <p>Revise (b) and (c) Experience in precinct or master planning e.g., on greenfield or brownfield sites is not necessarily relevant to urban design in an existing brownfield urban setting (the bulk of CoS development). It is also unclear here who determines whether the experience is adequate or relevant, and how are they qualified to do so. (it would appear to be the Minister).</p> <p>The original SEPP D&P 65 21(2) included 'environmental planning' as a discipline qualified for membership of a design review panel. SEPP 65 Amendment 3 21(2) purposefully removed this to leave only architecture, landscape architecture and urban design. This clause effectively reinstates town planning to membership of panels. Town planning is not a design profession and should not be represented on design review panels under the guise of 'urban designer' without training or registration in a design profession.</p> <p>Revise. The new definition of 'architect' under EP&A REGS Schedule 1 would effectively limit 'urban designer' to those architects registered under the D&BP Act. Registration with the D&BP Act does not have any relevance to the field of urban design.</p> <p>Many skilled urban designers are not eligible for registration as architects or landscape architects. Tertiary training in urban design is also not recognised here, and without a peak body providing accreditation to urban design qualifications this is likely beyond the scope of this SEPP to define. The definition should be amended to reflect the skills of practitioners in the field. This definition is highly problematic and has repercussions throughout the SEPP.</p>
<p>[3] 16(3) Insert after clause 16(2)— In preparing a development control plan, the council must consider—</p>	<p>Supported.</p>

Exhibited text	Recommendation/Comment
the design principles and design considerations specified in the State Environmental Planning Policy (Design and Place) 2021, and the Urban Design Guide.	
[8] 57(2) A design verification statement for development specified in subclause (1)(a) must— be prepared by an architect, and	Supported Subject to meaning of word ‘architect’ (see [1] above)
verify that the architect designed, or directed the design of, the development, and	Similar to EP&A REGS 50(1A) and 50(1AB). Key wording of ‘explain how’ has been retained.
explain, by reference to the Apartment Design Guide, how the development achieves the objectives of the Guide.	Consider including a note to point to SEPP D&P 30(2) about how objectives can be met.
[8] 57A If the development application relates to development that requires review by a design review panel under State Environmental Planning Policy (Design and Place) 2021, section 35, the design verification statement must also—	
(a) verify that the design of the development incorporates the design review panel’s advice,	Supported.
(b) explain how the development is consistent with the design review panel’s advice,	Supported. Desirably would be strengthened to ‘verify that the development ...’
(c) explain how the development otherwise satisfies the design principles and design considerations set out in the State Environmental Planning Policy (Design and Place) 2021 in relation to any part of the development that is not consistent with the design review panel’s advice.	In principle support for (c), however for residential apartment development, the design principles and design considerations are considered to be too general to serve this purpose well. Should developments that require review by a design review panel under SEPP D&P 35 should be a reference to SEPP D&P 34?
[8] 57A (2) If the development application is also required to be accompanied by a BASIX certificate for a building, the design verification statement does not need to address the design principles and design considerations to the extent to which they aim— (a) to reduce consumption of mains-supplied potable water, or reduce emissions of greenhouse gases, or (b) to improve the thermal performance of the building.	Supported. However, the design verification needs to confirm that the documentation relied on for BASIX compliance, including NatHERS etc has been coordinated with all other documentation
[8] 57B This clause applies to a development application for development that requires review by a design review	Should developments that require review by a design review panel under SEPP D&P 35 should be a reference to SEPP D&P 34?

Exhibited text	Recommendation/Comment
<p>panel under State Environmental Planning Policy (Design and Place) 2021, section 35.</p> <p>A development application must include a report that explains how the development—</p> <p>incorporates the advice from the design review panel, and</p> <p>is consistent with the design review panel's advice, and</p> <p>otherwise satisfies the design principles and design considerations set out in the State Environmental Planning Policy (Design and Place) 2021 in relation to any part of the development that is not consistent with the design review panel's advice.</p> <p>(3) This clause does not apply if the development application must be accompanied by a design verification statement under clause 57.</p>	<p>It is unclear in what situations a development application would not be accompanied by a design verification statement under EP&A REGS 57.</p>
<p>57C</p> <p>(1) A development application for development to which State Environmental Planning Policy (Design and Place) 2021 applies must— (a) disclose the amount of embodied emissions attributable to the development, using the calculator published on the NSW planning portal as in force from time to time, (b) describe the use of low-emission construction technologies in the development. (2) This clause does not apply to BASIX affected development. (3) In this clause— embodied emissions has the same meaning as in State Environmental Planning Policy (Design and Place) 2021, Schedule 2, section 5.</p>	<p>Do not support unless the data is specifically required to develop a future standard</p> <ul style="list-style-type: none"> • Requesting disclosure of embodied emissions through e-planning is unlikely to deliver a reduction in embodied emissions in the property industry. • Asking proponents to select and quantify materials at this early stage of the development will be challenging. Quantities would be approximate at best, and further design development may result in significant changes in construction systems – that result in assessment needing to be redone. <p>Recommend instead focusing on one material to start industry thinking and result in an actual reduction in embodied emissions.</p> <ul style="list-style-type: none"> • For example, recommend focusing on concrete, as alternatives have been developed and tested and there are metrics and tools available: <ul style="list-style-type: none"> - Reduction in embodied carbon of between x and x% kgCO2/tonne compared to concrete using standard ratios of Ordinary Portland Cement - use the Green Star Buildings Responsible Products Value <p>using requirements like these for concrete enables a planning assessment process and a condition on the development.</p>
<p>57D Net zero statement</p> <p>(1) A development application ... must include the following information (a net zero statement)—</p> <p>(a) the estimated annual energy consumption for the building in kilowatt hours per square metre of floor area,</p> <p>(b) the estimated amount of emissions from the building, including direct and indirect emissions,</p>	<p>Support:</p> <p>(a) disclosure of estimated energy consumption through e-planning. That will be available from the energy modelling completed by the consultant for the development. That information is part of the documentation supplied to demonstrate the energy performance standards are being achieved, so it is also duplicative.</p>

Exhibited text	Recommendation/Comment
<p>(c) evidence that the development incorporates the infrastructure and space that is necessary for the building to achieve net zero emissions by 1 January 2035,</p> <p>(d) details of how data about the emissions of the building will be able to be recorded and reported,</p> <p>(e) for prescribed non-residential development—evidence that the non-renewable energy used by the building will be offset by the surrender of renewable energy certificates equivalent to 1 megawatt hour of renewable energy generation over 5 years.</p> <p>(2) This clause does not apply to BASIX affected development.</p>	<p>Do not support:</p> <p>(b) asking proponents to estimate direct and indirect emissions does not improve the development outcome or reduce emissions. For most development it isn't reasonable to ask proponents information regarding indirect emissions (i.e. scope 3) as estimating or finding data on indirect emissions is challenging. This requirement should be limited to particular types of development.</p> <p>Support:</p> <p>(c) evidence that the development incorporates the infrastructure and space that is necessary for the building to achieve net zero emissions by 1 January 2035.</p> <ul style="list-style-type: none"> - Recommend making this requirement clearer to proponents ie mark up on plans allocation of space for energy systems to transition to net zero emissions eg electrification <p>Do not support:</p> <p>(d) The responsibility for how emissions will be recorded and reported annually sits with the asset owner, not the proponent of the development. It also does not improve the development outcome or reduce emissions asking for this information.</p> <p>(e) The City recommends that the 'net zero statement' aligns with the City's planning proposal for net zero energy buildings and renewable energy procurement specified in the table supplied to achieve net zero energy emissions. The current wording: "surrender of renewable energy certificates equivalent to 1 megawatt hour of renewable energy generation over 5 years" is ambiguous and implies an insufficient amount of certificates to achieve net zero emissions.</p> <p>Amend Clause 57D(e) to: for prescribed non-residential development - energy performance standards are met, renewable energy certificates (equivalent to 1 megawatt hour of renewable energy generation each) will be surrendered equal to the total amount of non-renewable electricity used by the building over 5 years so that the development is capable of achieving net zero energy emissions.</p>
<p>[9] 99 Condition relating to charging facilities for electric vehicles</p>	<p>This would be contained within EP&A REGS Division 8A Subdivision 2 relating to SEPP Housing. Should it be under Subdivision 1?</p>

Exhibited text	Recommendation/Comment
<p>[9] 99A Condition relating to green travel plan</p>	<p>This would be contained within EP&A REGS Division 8A Subdivision 2 relating to SEPP Housing. Should it be under Subdivision 1?</p>
<p>[12] 116(4) If the modification application relates to development that required review by a design review panel under State Environmental Planning Policy (Design and Place) 2021, section 35 in relation to the original development application, the design verification statement must also— verify that the design of the development incorporates the design review panel's advice, and explain how the development is consistent with the design review panel's advice, and explain how the development otherwise satisfies the design principles and design considerations set out in State Environmental Planning Policy (Design and Place) 2021 in relation to any part of the development that is not consistent with the design review panel's advice.</p>	<p>Similar to EP&A REGS 115 3, 3A, 3B. However, has removed requirement for modification to go back to a design review panel (EP&A REGS 115(3B))? Also, SEPP D&P 34(1) does not require modification applications to go to design review panels. Except for State significant designs (which have design integrity panels), modifications should be reviewed by design review panels to assist the consent authority in making its assessment. Clarify which design review panel comments are being taken on board. Has removed the EP&A REGS 115(3A)(c) 'verify that the modifications do not diminish or detract from the design quality, or compromise the design intent, of the development for which the development consent was granted.' This was an important safeguard to stop design quality being (incrementally) compromised and should be reinstated.</p>
<p>[13] 143A(2) A certifier must not issue a construction certificate for the development unless the certifier has received the design verification statement.</p>	<p>Only requires the certifier to receive the design verification statement. Does not say what they should do with it. Reinstate language from the previous EP&A REGS 143A(2) which required a different kind of statement verifying that the construction certificate plans 'achieve or improve the design quality of the development for which the development consent was granted'.</p>
<p>[14] 154A(2) A certifier must not issue an occupation certificate to authorise a person to commence occupation or use of a building unless the certifier has received the design verification statement.</p>	<p>Only requires the certifier to receive the design verification statement. Does not say what they should do with it. Reinstate language from the previous EP&A REGS 154A(2) which required a different kind of statement verifying that the development as built 'achieves the design quality of the development as shown the plans and specifications in respect of which the construction certificate was issued'.</p>
<p>[15] Clause 164A BASIX certificates Insert after clause 164A(2)— (2A) The Planning Secretary may approve other arrangements under which the sustainability of proposed development may be assessed. (2B) The arrangements may provide for— (a) a qualified person to issue an assessment of the sustainability of proposed development, and (b) the assessment to be treated as a BASIX certificate for the purposes of this Regulation.</p>	<p>Proponents using the proposed Merit Assessment should still have to use the BASIX tool to formally register a project and use the Completion Receipt mechanism as a way to confirm the development has been completed. If this is not required the NSW Government will lose the strategic value of BASIX as a 'capture' mechanism for all brand new residential development in NSW, and as a formal device for tracking in a very timely way, residential development completions (two day requirement for Completion Receipts to be issued after OC).</p>

Exhibited text	Recommendation/Comment
	<p>The Merit Assessment Pathway should not be fully separate from BASIX in terms of it not connecting to the electronic systems of BASIX</p>
<p>268 Constitution of design review panels (1) <i>The Minister may constitute a design review panel for (a) a local government area, or (b) 2 or more local government areas</i></p>	<p>268 B Constitution of design review panels <i>The Minister may constitute or endorse a design review panel for (a) a local government area, or (b) 2 or more local government areas.</i> OR add a second clause suggested as follows: The Minister may endorse a design review panel constituted by the consent authority.</p> <p>There needs to be flexibility to allow for alternate modes of establishing panels where panels already exist and operate in line with the principles of the SEPP, and there is significant design expertise within Council staff, there should be provision for the minister to endorse the existing panel OR include a provision for the panel to be constituted by Council with the approval of the Minister (or delegate NSW Government Architect). Additionally, the proposed regulation wording (see comment below Page 16 Schedule 7 (3)) does not recognize City of Sydney existing DAP as an 'existing panel' – this should be amended.</p> <p>Recommend including detail to substantiate in the submission.</p>
<p>[22] 268B(2) Before constituting a design review panel for a local government area, the Minister must consult with the council for the local government area, including in relation to the members of the panel.</p>	<p>Does this mean that Councils get a say as to who is on their design review panel? It is noted that the Draft Local Government Design Review Panel Manual (p21) states 'Panel members (are) design professionals engaged by the local council'.</p> <p>The language must be revised to say that Council may consult the Minister or that the panel must be appointed by Council and the Minister.</p>
<p>268 B Constitution of design review panels (3) The Minister may abolish a design review panel at any time and for any reason.</p>	<p>Not supported.</p> <p>Recommend deleting this clause – lack of accountability/transparency</p> <p>(3) The Minister may abolish a design review panel at any time and for any reason.</p>
<p>[22] 268C(1) A design review panel must consist of 3 or more persons appointed by the Minister.</p>	<p>Does this mean that Councils will not get a say as to who is on their design review panel? It is noted that the Draft Local Government Design Review Panel Manual (p22) states 'Panel members are appointed through an open expression interest process or similar'. This should be flexibly applied.</p> <p>The language must be revised to say as an alternate, Council may appoint members in accordance with the Manual and with the approval of Minister (or delegate the NSW Government Architect).</p>

Exhibited text	Recommendation/Comment
<p>[22] 268D A design review panel must give independent advice about the design quality of proposed development that requires review by a design review panel under the State Environmental Planning Policy (Design and Place) 2021, section 35 including— whether the development is consistent with the design principles and design considerations, and if part of the development is not consistent, whether the inconsistency is justified on the grounds of the design of the development.</p>	<p>Retain wording 'independent advice' – it is important</p> <p>Should developments that require review by a design review panel under SEPP D&P 35 be a reference to SEPP D&P 34?</p> <p>Design review panels should review against the specific ADG objectives, design criteria and design guidance rather than the general SEPP design principles and considerations. Meeting the design criteria and design guidance of the ADG, and therefore the ADG objectives, should be deemed as having met the SEPP design principles and considerations. This link should be made explicit. Only aspects which do not meet the ADG objectives through the design criteria and design guidance should be required to show that they are consistent with the SEPP design principles and considerations (however see comments at SEPP D&P 13 above).</p> <p>Does not include modification applications (see EP&A REGS [12] above). Also does not include Pre-DA applications as per SEPP 65 27(1)(b). Pre-DA consultation is valuable and should be retained/ expanded as a design review panel function. It is noted that the Draft Local Government Design Review Panel Manual (p6) states 'The advice of a panel is of the greatest value while the proposal is in the early concept and schematic design stages, as this is when positive change is most easily implemented' and Figure 3 (p10) indicates design review panel involvement at concept design stage.</p>
<p>268 D Functions of design review panels</p> <p>(3) A design review panel must provide advice under subclause (1) within 14 days of a request from a person seeking to make a development application or a consent authority.</p>	<p><i>(3) A design review panel must provide advice under subclause (1) within 14 days of the design review session.</i></p> <p>This timeframe is not achievable with current resourcing.</p>
<p>[22] 268D(4) A design review panel may also review and provide independent advice to a council about the provisions that relate to design quality of development contained in— a draft local environmental plan or development control plan, or a draft master plan or other planning policy document, or a local environmental plan or development control plan in force.</p>	<p>This may be a valuable function of a design review panel but should be at the election of council (potentially a significant workload and require structured facilitation and significant additional cost).</p>
<p>[22] 268D(5) A design review panel may advise a council whether it endorses provisions reviewed under subclause (4)(c).</p>	<p>This may be a valuable function of a design review panel but should be at the election of council (potentially a significant workload and require structured facilitation and significant additional cost).</p>

Exhibited text	Recommendation/Comment
<p>[22] 268D(6) A design review panel also has the following functions— to give independent advice to councils on mechanisms and initiatives to improve the implementation of the design principles and design considerations, to contribute to the co-ordination of design quality across boundaries of local government areas.</p>	<p>This may be a valuable function of a design review panel, however it is unclear when this would occur - through the review process commenting on specific applications? or as a separate commissioned exercise?</p>
<p>[22] 268D(7) A design review panel may make public its advice under subclause (1) or (4) for the purposes of improving— the understanding of design quality, and the implementation of the design principles and design considerations,</p>	<p>Supported. This is at the election of the design review panel.</p>
<p>[23] (b) design drawings, (b1) a site analysis,</p>	<p>Supported. Previously 'a sketch of the development'. An important update.</p> <p>Noting the location of this amendment affects all development applications, not just those identified by SEPP D&P</p>
<p>[24] for staged development—a staging plan</p>	<p>Supported. An important update.</p> <p>Noting the location of this amendment affects all development applications, not just those identified by SEPP D&P 34.</p>
<p>[26] (f) drawings of the proposed landscape area, including species and materials to be used, in the context of the proposed building or buildings and the surrounding development and its context, (f1) compliance with development standards, including by annotations of plans, elevations and sections, such as building height and setbacks, (f2) existing adjacent buildings to show the context of the proposed development,</p>	<p>Supported. An important update.</p> <p>Noting the location of this amendment affects all development applications, not just those identified by SEPP D&P 34.</p>
<p>[28] (3A) The site analysis referred to in subclause (1)(b1) must include the following — drawings of the site context and wider context, constraints and opportunities, including the identified risks and hazards affecting the site, drawings of the streetscape and adjacent public areas, an analysis of different siting options, if relevant, if the development is in an area in which the built form is changing—a description of the existing and likely future context.</p>	<p>Supported. An important update.</p> <p>A definition of 'wider context', 'streetscape' and 'adjacent public areas' should be provided so that drawings are sufficient for their purpose.</p> <p>'if relevant' should be clarified to understand when it is relevant.</p> <p>the location of this amendment affects all development applications, not just those identified by SEPP D&P 34.</p>

Exhibited text	Recommendation/Comment
<p>[29] Omit “residential apartment development to which State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development applies”. Insert instead “development to which State Environmental Planning Policy (Design and Place) 2021 applies”.</p>	<p>Not supported</p> <p>This clause retains the requirement for a Statement of Environmental Effects to include an explanation of how the design quality principles are addressed in the development and in terms of the ADG, how the objectives of that guide have been achieved. This duplicates the role of the design verification statement prepared by the architect and should be removed.</p> <p>This clause retains requirements which are similar to new general requirements (see [26] and [28] above). These requirements should be consolidated without losing any of the purpose contained in them.</p> <p>This clause retains the requirement for a ‘sample board’. This implies a physical board with physical attached samples. This should be clarified to understand whether a drawing with images is acceptable as well.</p> <p>This clause retains the requirement for ‘detailed sections of proposed facades.’ This should be clarified for what scale ‘detailed’ is considered to be (1:20?) and that the majority of facade conditions should be described through separate sections.</p> <p>This clause retains the requirement for ‘if appropriate, a model that includes the context.’ This should be clarified to understand when it is appropriate. This should also be clarified to understand whether a physical model is required (and if so, what scale and extent it should be) or if a digital model is acceptable (and if so, what format).</p>
<p>Page 16 Schedule 7 (3) In this clause— existing design review panel means a design review panel constituted under State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development that existed immediately before the commencement of this Schedule.</p>	<p><i>In this clause— existing design review panel means a design review panel constituted under State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development that existed immediately before the commencement of this Schedule.</i></p> <p>This clause should be amended to unambiguously recognise the City’s Design Advisory Panels as existing panels. As drafted the future status of these existing panels is not clear.</p>
<p>[31] Sch 7 6(3) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.</p>	<p>Clarify what they would be voting on</p>

ENDS

Attachment 2 – Design Review Manual Detailed Recommendations

Exhibited text	Recommendation/Comment
Page 4	
<p>This manual provides advice on how to establish, manage and participate in a design review panel convened by a local council.</p>	<p>The requirements of the manual that are mandatory should be clearly stated. If the requirement to be in accordance with the manual stem from the SEPP D&P that should also be stated.</p> <p>Note that currently the draft SEPP D&P requires panels to be convened by the Minister (unless there is an instrument of delegation).</p> <p>Clarify if the manual is mandatory and in accordance with SEPP D&P requirements.</p>
	<p>Suggest adding a paragraph on this page stating “Where a design review panel has been convened by the consent authority and endorsed by the Minister, the terms of reference of the panel are an alternate to the recommendations of this manual”.</p> <p>Note that the headline recommendation here is for the Design Review Panel Manual not to apply where existing panels operate successfully in line with the aims of the SEPP D&P (e.g., City of Sydney Design Advisory Panel and subcommittees).</p> <p>If this interpretation was not agreed, and the manual did apply, the following areas of the manual would require significant review to provide a useable guide in terms of the number and scale of applications assessed by the City of Sydney that require review:</p> <ul style="list-style-type: none">- The number and timing of design review panel sessions required through the life of a project- The length of meetings and time for each item (as proposed 4 items per day long meeting is not feasible and would result in weekly or twice weekly meetings at the City)- Guidelines for appointing panel members – need to be re-framed to allow for the continuation of existing panel members- Design advice and relationship of advice to existing planning controls: This need to be clarified to ensure that panels give advice that is approvable and consistent with the objective of the planning controls. Consideration should be given to the implications of panel advice for the appeals process.
<p>Who is this manual for? The manual is for: — councils establishing a new local</p>	<p>The DRP Manual and SEPP must be made clearer that they maintain councils that have an established</p>

Exhibited text	Recommendation/Comment
<p>government design review panel, or reviewing their existing design review panel against the requirements of the SEPP D&P</p>	<p>and proven design review panel process and that councils can appoint the members of the panel.</p> <p>Add: This manual does not apply where a council has an established design review panel process.</p>
<p>Which projects go to a design review panel? The SEPP D&P mandates design review by a panel for the following projects:</p> <ul style="list-style-type: none"> a. State significant development to which the DP SEPP applies b. development with a capital investment value of more than \$30 million c. development with a capital investment value of between \$5 million and \$30 million if the development will be carried out by a council or the Crown d. development with a site area of at least 1 ha e. residential apartment development f. other development specified by another environmental planning instrument as being development to which this clause applies. 	<p>At the City of Sydney this equates to approximately 40 projects per year (based on past 5-year average). In addition to this, the panel would continue to review and advise on strategy and policy for the city, as well as projects which have a design impact but fall outside the SEPP mandate (e.g., boarding houses, student accommodation).</p> <p>The design review panel process outlined in this manual need review for this number of applications, requiring full day meetings weekly. This time demand would challenge the City's capacity to procure suitable panel expertise and is unnecessary in the context of the City's existing well-functioning design panels.</p> <p>The resourcing implications to proponents and Council could also be significant.</p>
<p>Where a design competition is required, review by the relevant design review panel is only required where that panel is operating as the 'Design Integrity Panel', post competition. For further information on design competitions, refer to the relevant local environmental plan or NSW Government guidelines for design excellence competitions.</p>	<p>Design review should apply to development subject to a competition. The Design Excellence Guidelines 2010 and local Design Competition Guidelines do not specifically require review against the ADG. The purpose of an architectural competition is to choose the scheme most capable of achieving design excellence. Does this clause prevent a Design Review Panel reviewing the application after the design competition? If so, the consent authority will not have the benefit of being assisted by specific ADG design review in making its assessment.</p> <p>Clarify that the consent authority, except in the case of State significant development with a Design Integrity Panel, may require Design Review Panel advice be sought at any stage of the planning process. Design review of concept development applications and planning proposals should be undertaken during the assessment process, i.e. before a competition. This provides valuable design advice early in the planning process and ensures that key design considerations are identified and adjustments to envelopes are made before a competition is undertaken.</p> <p>The importance of receiving design advice early in the planning process is reiterated throughout the exhibited documents, including objective 2(a) of the Minister's</p>

Exhibited text	Recommendation/Comment
<p>Where a design competition is required, review by the relevant design review panel is only required where that panel is operating as the 'Design Integrity Panel', post competition. For further information on design competitions, refer to the relevant local environmental plan or NSW Government guidelines for design excellence competitions.</p>	<p>Direction, to: <i>"ensure the design principles and design considerations set out in the State Environmental Planning Policy (Design and Place) [insert date] are considered early in the planning process"</i>. The 'Timely' protocol in the Design Review Panel Manual requires design review as <i>"early as possible"</i>.</p> <p>This is unclear and should only apply to State significant development. If not, does 'Design Integrity Panel' mean that required by the Draft GANSW Design Excellence Competition Guidelines, 2018? If so where a council has its own design excellence competition policy and design integrity process the manual should not override that policy nor design integrity processes.</p> <p>Clarify where a council has its own design excellence competition policy with design integrity process or assessment, the manual shall not override the council's policy and design integrity processes.</p>
<p>Page 6</p> <p>1.2 Design review requires collaboration Assessment planners must be present at design review panel sessions to ensure advice is balanced with planning considerations, and that advice from the panel which might support non-compliance with planning controls is properly understood. Where possible, relevant technical and strategic staff should be kept informed of the work of the design review panel and attend design review panel sessions from time to time.</p>	<p><i>Assessment planners must be present at design review panel sessions to ensure advice is balanced with planning considerations, and that advice from the panel which might support non-compliance with planning controls is properly understood. Where possible, relevant technical and strategic staff should be kept informed of the work of the design review panel and attend design review panel sessions from time to time.</i></p> <p>Consider deleting or amending this part. If the planning controls are generating truly problematic design outcomes, resources should be dedicated to revise and improve the controls rather than an external panel of experts to advise against them.</p> <p>Panel advice supporting non-conforming proposals should be the exception not the norm, and in all cases panel advice should be consistent with the objectives and intent of the planning controls. Encouraging panels to advise against compliance raises significant concerns for the approval and appeal process, as well as potentially establishing undesirable precedents.</p>
<p>Page 8</p> <p>This advice may also be useful for councils with an existing design review panel, to help determine whether changes may be necessary to meet the requirements of the DP SEPP</p>	<p>Clarify the manual does not override a council's existing design review panel. See comment page 4. <i>Who is this Manual for?</i></p>

Exhibited text	Recommendation/Comment
<p>2.3 Costs</p> <p>The costs borne by the consent authority include:</p> <ul style="list-style-type: none"> — payments to panel members — council staff resources — provision of the venue and any catering. 	<p>Applying the SEPP and Design Review Panel Manual as drafted may result in the need for additional resourcing.</p>
<p>2.4 Appointing panel members</p> <p>To convene a panel which must consist of 3 or more members, you will need to appoint a group of between 7 and 10 people to a panel pool.</p> <p>A typical panel pool would be made up of:</p> <ul style="list-style-type: none"> 3 or 4 core panelists, including the chair, who have expertise in architecture, landscape architecture or urban design 2 or 3 additional panel members with specialist design expertise in areas such as heritage, environmental sustainability or Aboriginal culture and heritage 2 or 3 ‘alternates’ may also be appointed. These are people who can stand in should a core panel member be unavailable. <p>This approach ensures consistency of panel members across projects while also allowing for specialist advice and accommodating some limited flexibility.</p>	<p>Should be expanded to include:</p> <p>“Where there is an existing established design review panel, the council should ensure that the number and expertise of panel members is consistent with these guidelines.”</p>
<p>Part 3 Design review panel operations page 10</p> <p>3.3 What happens on the day</p> <p>A typical design review panel session requires approximately <i>2 hours</i> including presentation, discussion and feedback. Larger and more complex projects such as planning proposals or developments on large sites may need extra time.</p> <p><i>Extra time may be required for site visits in the morning before the session.</i> The organisation of a typical day is set out in Appendix B: Template agenda for a local design review panel session.</p> <p>Plus p11 “Panel members should allow 2-4 hours to review the briefing pack for each project and prepare for the session” (the SEPP Regulation also requires panel members to be paid for preparation time)</p> <p>Plus p6 “Most projects will require 2 or 3 design review panel sessions”.</p>	<p>For the number of applications requiring design review at the City this process may result in weekly or possibly twice weekly panel meetings – see full discussion above. There may be insufficient expertise for the task load.</p>
<p>P13 Figure 5: Example of a design responding to advice over multiple design review panel sessions</p> <p>1. Design Review Panel 01</p> <p>A DCP compliant proposal was presented. The panel recommended testing ideas that brought the tower to the ground on the two street fronts. They agreed that a DCP</p>	<p>In this case study, the panels comments undermine the planning controls. The notion of ‘the best outcome for this particular site’ needs to be framed in terms of the objectives of the planning controls as well of the SEPP – rather than purely the design ideas of the panel. The panels comments in this example generate major changes to the form of the building and its relationship to the setting. The impact on FSR and any maximum</p>

Exhibited text	Recommendation/Comment
<p>compliant design would not achieve the best outcome for this particular site.</p> <p>2. Design review panel 02 Testing of the suggestions of the panel showed a much better response to the urban form and context but had negative impacts to the neighbouring tower and the podium-top open space.</p> <p>3. Design review panel 02 The design team took the recommendations of the panel and developed the design further to allow a set back to the neighbouring tower, providing better solar access, views and general amenity for both buildings. The panel supported the alternative proposal and suggested further refinements.</p> <p>4. Design review panel 03 The proposal was developed in response to panel comments. The main tower volume was articulated to better mark the main entry and reduce overshadowing.</p>	<p>podium height controls is not explained – these kinds of changes may result in an un-approvable application, and a poor use of the proponents and councils’ resources. If it is approved, it establishes a precedent for surrounding development. If the alternate form is not supported or approved by consent authority, what are the implications of this type of advice for the appeals process?</p> <p>If the planning controls are generating truly problematic design outcomes, resources should be dedicated to revise and improve the controls rather than funding an external panel of experts to advise against them.</p>

Page 14

<p>4.5 Advice does not indicate compliance with planning controls.</p> <p>The advice of the design review panel should be informed by a thorough understanding of the relevant legislation. The design review panel may occasionally make recommendations that will result in non-compliance with a planning control. Where this is the case, the design review panel must clearly identify the potential non-compliance and explain how it would achieve a better design outcome and meet the objectives of the planning legislation.</p>	As above
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ENDS

Attachment 3 – Apartment Design Guide (ADG) Detailed Recommendations

Exhibited text	Recommendation/Comment
General	The introductory section of the ADG should explain the content of each section of the ADG. For example each part a typical section should be named so it can be referred to (for example title, introductory text, objectives, design criteria, design guidance, sub-titles, alternative design responses, tables, figures, images) and its role and weight should be described (for example, does the introductory text have any work to do (it often contains key concepts)? Do figures take precedence over text or vice-versa? Do images have any purpose/weight?). If parts of sections are not given a purpose (e.g., introductory text) they will be ignored.
General	All parts must be clearly numbered to enable referencing. This must be rectified for basic usability. The current ADG is to a degree lacking in this regard, however the convention has been to continue the design criteria numbering to the design guidance (this would be harder to do here). Images also require reference numbers. Each page spread should identify the relevant section (e.g., p46-47 should have '2.2 communal spaces' in the footer)
General	SEPP D&P 30(1) requires that the consent authority is satisfied that the development meets the objectives of the ADG. Each ADG objective must be well-crafted to fully capture the purpose of the relevant design criteria and design guidance. This is particularly important as objectives covering largely the same scope have been condensed from 80 to 36. Many objectives have combined too many concepts and have become less clear.
General	Generally, the language, grammar and formatting is less precise/ instructive than the current ADG which leads to less clarity about what is intended/required. If meaning is imprecise or lost, guidance will not be able to be upheld. Many clauses/sentences combine multiple concepts which can make them ambiguous, or sometimes qualified, in meaning. Quantitative terms like 'adequate' (referring to a design criteria numerical) are preferred to terms like 'maximise', 'minimise', 'optimise', 'protect' and 'avoid' which are more open to interpretation (some examples highlighted within comments below). It is suggested that the document be redrafted with conciseness, accuracy and consistency with town planning/legal expertise (some examples of imprecise language within comments below).
General	Several of the main design criteria are supported by detailed appendices. While these are strongly supported in principle, they all require improvement for clarity and

Exhibited text	Recommendation/Comment
	consistency of application. The City proposes strong collaboration with GANSW to finalise them.
General	<p>Constructions such as ‘cannot be met’, ‘can’t be avoided’, ‘where it is not possible’ and ‘when a development is unable to achieve’ do not have an adequate test associated with them to determine if this is actually the case and should be re-drafted.</p> <p>These are very often ‘design issues’ and not actually the ‘fault’ of the development or the circumstances of the site (i.e., they can be met/avoided with a design solution). They should be properly phrased with the emphasis on the design (e.g., ‘where the design does not meet’). In these instances, design justification should be provided through the design verification statement and the design review panel should provide specific comment on the acceptability of the related design outcomes.</p>
General	Generally, the quality of images selected is superior to those used in the ADG.
Page 7	
<p><i>Who is this Apartment Design Guide for? The guide is for:</i></p> <ul style="list-style-type: none"> —design teams and their clients preparing planning applications for developments with residential apartments —members of design review panels considering the design quality of development proposals —design and planning professionals in local and state government assessing development proposals —members of the community participating in the planning process by viewing and submitting comments on development proposals. 	<p>Modify for consistency</p> <p>This implies that design review panels should review against the ADG directly and not just the SEPP Design Principles (see EP&A REGS [22]).</p>
<p><i>Aims of the Apartment Design Guide The guide aims to:</i></p> <ul style="list-style-type: none"> —deliver buildings that respond appropriately to the character of their neighbourhood, landscape setting and surrounding built form —improve the liveability of apartments through greater amenity; improved layout, apartment depth and ceiling heights; and provisions for solar access, natural light and ventilation, and visual privacy —improve environmental sustainability by supporting walking and cycling, providing greater building adaptability and robustness, improving energy efficiency, and applying water-sensitive urban design —improve the relationship between apartments and public space including streets, lanes and open space —promote the provision of a more diverse mix and choice of housing to suit different- sized households and people of all ages. 	<p>These aims are similar to a summary of the current SEPP 65 design quality principles. Words similar to these should be incorporated directly into the SEPP D&P design principles to strengthen the nexus between the ADG and SEPP D&P (see SEPP D&P 13(1)).</p>

Exhibited text	Recommendation/Comment
<i>The SEPP D&P sets a consistent statewide policy framework for the design quality of the built environment, including residential apartment development. It establishes 5 design principles, 10 considerations and a range of key outcomes. Residential apartment development in NSW must be consistent with the DP SEPP principles and considerations.</i>	Beyond the 5 design principles and 10 design considerations, it is unclear what are the 'range of key outcomes' in SEPP D&P?
<i>The Apartment Design Guide objectives are derived from the SEPP D&P principles and considerations and provide further detailed guidance applicable to the design and assessment of residential apartment development.</i>	The ADG objectives do not have a strong link with the SEPP D&P Design Principles and design considerations and it is unclear how they are 'derived' from them. This link should be strengthened (see SEPP D&P 13(1)).
Page 8	
<i>How to use this guide It is acknowledged that projects will have different responses depending on the site, scale, brief and typology.</i>	Delete the word ' brief '.
<i>In addition, the specific matters relating to siting, design and amenity of residential apartment development that are referred to in clause 23 of the SEPP D&P prevail over any inconsistent DCP controls.</i>	Should 'SEPP D&P 23' be a reference to SEPP D&P 31?
<i>Development application requirements for residential apartment development are set out in the Environmental Planning and Assessment Regulation 2000 (the EP&A Regulation). Residential apartment proposals also need to meet the development application requirements set out in the SEPP D&P.</i>	Are the development application requirements set out in the SEPP different to the development application submission requirements under the EP&A REGS? These should be the same thing.
<i>A list of the documents and evidence required to support an application for apartment development can be found on the NSW Planning Portal.</i>	It is unclear what 'development application requirements' are required by SEPP.
<i>This guide includes objectives, design criteria and design guidance. The objectives are considered as universal requirements for achieving good urban outcomes in keeping with the 5 principles of the SEPP D&P. These are outcomes that will ultimately benefit the health, wellbeing and prosperity of our homes, places and planet.</i>	This appears to be attempting to link the ADG objectives with the SEPP Principles. This relationship should be very clearly stated, for example 'meeting the ADG objective is considered to meet the SEPP D&P design principle' (see SEPP General Comments)
<i>The objectives are not prescriptive controls, and the guide provides criteria and detailed guidance that describe how they can be met. The design criteria are quantitative benchmarks that if met, will achieve the objective. For some objectives only design guidance applies. The design guidance offers qualitative advice for how objectives can be achieved through appropriate design responses.</i>	Supported. States that meeting the quantitative design criteria meets the objective. Supported. States that meeting the qualitative design guidance meets the objective. Ideally all quantitative controls should be called design criteria , for example ADG design guidance 4D-1 4 'A window should be visible from any point in a habitable room' should actually be design criteria as it

Exhibited text	Recommendation/Comment
<p><i>This guide also includes a framework for developing 'alternative design solutions' that allow designers find the best solution for their site. Where an alternative is proposed, the development application (and specifically the design verification statement) must demonstrate how this delivers a neutral or beneficial planning outcome when assessed against the objective.</i></p>	<p>requires every room (100%) to have a window that is visible.</p> <p>Supported. Appears to indicate that alternative design solutions are only available where there is a framework for them to occur. This is important to give both designers and assessors a reference point.</p> <p>Demonstration of a 'neutral or beneficial planning outcome' appears to be a reasonable test, but it will depend on how well the objective is worded.</p> <p>'when assessed against the objective' should be qualified by 'relevant' or 'applicable' objective to stop 'trade offs' occurring between different objectives (for example less solar access but more cross ventilation)(see SEPP D&P 30(2)(b)). The core residential amenities are all independently important to achieve and should not be traded.</p>
<p><i>Documentation of the design process, including technical submissions or other evidence to support alternative design responses, particularly options that have been considered, is critical to demonstrate the best planning outcome for the site is achieved.</i></p>	<p>Technical submissions (for example wind reports) can be problematic if the consent authority is unable to independently understand, verify and assess them. All submission requirements should be standardised formats with clear assessment pathways that can be followed.</p> <p>The use of 'options that have been considered' is not always useful to show and can be time consuming to document. Showing options has value in some circumstances (particularly at Pre-DA stage), but not in all circumstances. The supporting design guidance should indicate situations where options will be required. Should be qualified by 'where of assistance'.</p>
<p><i>The EP&A Regulation requires a qualified designer to prepare a design verification statement which should demonstrate how the proposal provides the best possible design response for the site, and how it meets each of the ADG objectives.</i></p>	<p>'Qualified designer' has not been removed as an EP&A REGS definition, however EP&A REGS 57(2) refers to design verification statements being prepared by an 'architect' which is defined as 'a design practitioner registered under the Design and Building Practitioners Act 2020 in the design practitioner—architectural class' (see EP&A REGS [8]).</p> <p>A design verification statement does not show that 'the best possible design response for the site' has been achieved. The role of a design verification statement is to show that (or how) the objectives have been met.</p>
<p><i>The statement should direct the consent authority to where they can find evidence supporting the design response. (This could be a reference to a drawing, a table or another report, or the evidence can be provided in the design verification statement.)</i></p>	<p>Supported. This supports SEPP D&P 57(2)(c) 'explain, by reference to the Apartment Design Guide, how the development achieves the objectives of the guide'.</p>

Exhibited text	Recommendation/Comment
Page 9	
<i>Design review provides independent expert design advice on development proposals. It can help to improve the design quality of developments and is a requirement for all apartment development proposals in areas where there is a design review panel.</i>	All areas are now required to have a design review panel as all applications must be reviewed by a design review panel under SEPP D&P 35(1)(a) or development consent cannot be granted?
<i>Figure 1: Line of sight from the SEPP D&P to the Apartment Design Guide</i>	
Page 11	
OBJECTIVES <i>1.1 Base design decisions on comprehensive site analysis, strategic planning priorities and <u>the site's contextual opportunities and constraints</u>.</i>	Replace <i>the site's contextual opportunities and constraints</i> with <i>the opportunities and constraints of the site and surrounding conditions</i> Use of plain English without a change in meaning.
Page 12	
<i>Undertake a comprehensive site and context analysis. Capture this analysis in the design verification statement, explaining how it has informed design decisions. Typically, this involves 3 steps:</i>	Supported. However, should be design criteria (similar to ADG 3A-1 1).
<i>Consider the site and context at 3 scales: Catchment: an area defined by the walkable distance that encompasses key community amenity, including for example public transport, public open space, a town centre (zoned for commercial uses) or a school.</i> <i>Neighbourhood: an area which includes adjacent blocks and a minimum of 2 intersections and may be defined by its shared building forms and detail (e.g. in a statement prepared by the local council). Site: adjoining properties, and properties on the other side of the street</i>	Generally, more specific requirements should be provided to direct the scope of context and scales of drawings required. A 'walkable' catchment area could be different to an area encompassing key community amenity. Could be defined by a distance, say 400m. A neighbourhood could be more clearly defined. Are 'blocks' street blocks? If so, if two intersections are included (one at each end of the subject block), then the neighbouring blocks are not included? The number of adjoining properties and properties opposite should be defined somehow, say within 100m. This could be the same as the notification requirement so that interested parties can see the relationship to their property?
<i>Technical consultants (e.g. surveyors, landscape architects, contamination specialists, geotechnical engineers and arborists) can contribute greatly to a thorough understanding of the site and the preparation of a detailed site analysis.</i>	Should be rephrased so that technical consultants should contribute.
<i>See Appendix 2.1 and 2.2 of this guide for a more detailed explanation of site analysis, a checklist, and how the process should be recorded in the design verification</i>	Should be a part of design criteria (similar to ADG 3A-1 1).

Exhibited text	Recommendation/Comment
<i>statement. The Urban Design Guide also provides guidance on place-based design and site analysis.</i>	For clarity and convenience, the requirements for site analysis should be self-contained in the ADG.
<i>Typically, the desired character of an area is described within local planning controls and strategies, such as development control plans and local housing strategies. These establish expectations about the environmental, social, cultural and economic elements of a place that should be maintained, enhanced or changed.</i>	Supported. Also, can typically be contained in local strategic planning statements, LEP objectives, locality statements/local character statements and heritage conservation area descriptions.
<i>DESIGN GUIDANCE Site and context analysis Catchment: an area defined by <u>the walkable distance</u> that encompasses key community amenity, including for example public transport, public open space, a town centre (zoned for commercial uses) or a school.</i>	Add a dimension of length as all distances however small or large are walkable e.g., 800 metres, a ten-minute walk
<i>'Place-based design': responding to context and character Typically, the desired character of an area is described within local planning controls and strategies, such as development control plans and local housing strategies. These establish expectations about the environmental, social, cultural and economic elements of a place that should be maintained, enhanced or changed.</i>	Add <i>such as development control plans, local strategic planning statement, district plan, local government community plan and local housing strategies.</i> Includes required strategic planning documents.
<i>The site as part of an urban system Each site, and the elements within a site, are part of a network or system</i>	Replace urban system and network with surrounding area or place, group of , etc. For example, <i>broader network of green infrastructure</i> , is not as easy to understand as surrounding [or local area, metropolitan etc] street tree planting, parks and other landscaped areas. Use plain English; 'system' and 'network' are jargon and subject to change of fashion, meaning and use.
Page 13	
<i>At the scale of an individual site, particularly a site within an established area, the design team are encouraged to research the local story of Country as it applies to the site, starting with accessing local government resources and advisory committees. The site analysis checklist in Appendix 2.2 highlights some required information.</i>	Supported. But is the 'required' information available through local government resources and advisory committees for all council areas?
Page 14	
1.2 Built form and siting	
OBJECTIVE 1.2.2 Minimise built form impact on neighbouring sites and properties, limit overshadowing in winter, and protect the privacy of adjacent properties.	Modify the objective: 1.2.2 Minimise built form negative amenity impact on neighbouring sites and properties, limit overshadowing in winter, and protect the visual and acoustic privacy of adjacent properties. The following Design Guidance from p61 should be moved to this section (bottom p15):

Minimise overshadowing to public open space and neighbouring residential properties to ensure living areas, private open spaces and communal spaces in the affected properties continue to receive the sunlight access described in the design criteria.

DESIGN CRITERIA

Separation between windows and balconies ensures visual privacy. Minimum required separation distances from buildings to the side and rear boundaries are listed in Table 1.2.1.

Table 1.2.1: Best practice minimum building separation distances [page 14]

BUILDING HEIGHT	BETWEEN NON- HABITABLE ROOMS	BETWEEN HABITABLE AND NON- HABITABLE ROOMS	BETWEEN HABITABLE ROOMS (INCLUDING BALCONIES)
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Modify to say:

*Separation between windows and balconies ensures visual privacy and outlook. Minimum required separation distances **between buildings and from buildings to the side and rear boundaries and street centre lines** are listed in Table 1.2.1.'*

Add **between habitable rooms to side or rear boundaries**, and **non-habitable rooms to side or rear boundaries** columns to the table. Use half the dimensions given in first column for the non-habitable rooms to side or rear boundaries; and, use half the dimensions given in final column for the habitable rooms to side or rear boundaries

An obvious omission.

Add **assume the centreline of a street, lane and walkways is the same as a side or rear boundary when calculating separation distances across streets lanes and walkways.**

Provides clarity for how the criteria apply

Add **including buildings on the same site**

Provides clarity for how the criteria apply

Add a line for **buildings over 12 storeys with distances of 24, 36 and 48 metres**, for the 3 columns. Include a note that this additional line can be varied in accordance with a site specific DCP that provides offsetting of towers.

H= Habitable	NH= Non-Habitable	Bal=Balcony			
Height in storeys	Between NH & side/rear boundary/ street centreline & min outlook	Between H/Bal & side/rear boundary/ street centreline & min outlook	Between NH & NH on same site	Between H/Bal & NH on same site	Between H/Bal & H/Bal on same site
1-4	3m	6m	6m	9m	12m
5-8	4.5m	9m	9m	13.5m	18m
9-12	6m	12m	12m	18m	24m
13-16	9m	18m	18m	27m	36m
17+	12m	24m	24m	36m	48m

Table 1.2.1 provides distance separation distances between rooms/balconies in one building and rooms balconies in another building, not from 'buildings to the side and rear boundaries' as suggested. This is incorrect. The previous phrasing in ADG 3F-1 1 was clearer and should be reinstated.

Exhibited text	Recommendation/Comment
	<p>Reference should be made to 'windows'/'openings' rather than 'rooms' as this is what the distance should be measured from?</p> <p>The middle column header should also include 'balconies'</p> <p>An improvement of the ADG would be to deal with buildings that are taller than 9 storeys which have become far more common in Sydney over recent years. Building separation is also about outlook/views and daylight to the ground plane. Further incremental separation should be provided as buildings get taller. This is similar in idea (but not proportion) to Figure 1.2.7.</p> <p>The concept of increasing separation by 3m when adjacent to a different zone permitting lower density residential (ADG 3F-1 5/ Figure 3F.5) appears to have been removed. This is an important provision which allows for additional spatial separation and room for layered tree planting at zone interfaces to improve outlook, overlooking, and potentially solar access. This concept should be reinstated.</p> <p>The concept of acoustic privacy in relation to building separation (ADG 4H-1 1) appears to have been removed. Acoustic privacy is as important as visual privacy. This concept should be reinstated.</p> <p>Does not deal with situation of counting storeys when on a podium. Should first four storeys be above podium (as effectively a new ground plane)?</p> <p>Does not deal with separation from natural features such as cliffs/cuttings, or man-made features such as high retaining walls? A key function of separation is to provide a minimum acceptable outlook distance from a window.</p>
Page 15	
<p><i>DESIGN GUIDANCE Siting</i> <i>Articulate the skyline using a variety of building heights and stagger-built form in relation to street walls, with adequate tower separation to protect access to sunlight and sky view for the surrounding <u>public realm</u> and neighbouring properties</i></p>	<p><i>Sky view</i> is a technical term and, if used, needs definition in the <i>glossary</i></p> <p>Replace <i>public realm</i> with public space. <i>Public realm</i> is jargon, is used to describe abstract concepts and can refer to any area of activity, interest, or thought. In Australia, <i>realm</i> is a colonial term associated with English claims that its territory is part of the English monarch's realm. Public space is the common language term and is defined in the Local Government Act.</p>
<p><i>To determine the site planning, including entry levels, carefully consider <u>natural systems like ground and surface water management including flooding</u>.</i></p>	<p>Delete <i>natural systems</i>. <i>Natural systems</i> is jargon and is not specific and could lead to misuse.</p>

Exhibited text	Recommendation/Comment
<p>Figure 1.2.1 <i>Variation in tower <u>stepbacks</u> and <u>orientation</u> increase <u>perceived</u> and actual separation distance</i></p>	<p>Replace <i>stepbacks</i> with setbacks Delete <i>orientation</i>. The illustration does not show varied orientation. Delete <i>perceived</i> Allows argument that separation distances can be reduced if their <i>perceived</i> distance is less than the <i>actual</i> distance. The correct caption is: Variation in tower setbacks increases separation distances</p> <p>The building scale/number of floors appears to be incorrect.</p>
<p><i>treat gallery access circulation areas as <u>habitable</u> space, with separation measured from the exterior edge of the circulation space</i></p>	<p>Add: <i>treat gallery access circulation areas as <u>habitable</u> space if it is open or as not habitable if it is heavily screened, with separation measured from the exterior edge of the circulation space</i></p> <p>Gallery access should be treated either as habitable or non-habitable depending on how it is designed.</p>
<p><i>Frame views, and <u>step back</u> from special buildings and landscape features including heritage items or other elements with local significance.</i></p>	<p>Replace <i>stepback</i> with setback</p>
<p><i>Retain significant trees and landscaping and consolidate deep soil zones between properties and within the <u>public realm</u>.</i></p>	<p>Replace <i>public realm</i> with public space. See above.</p>
<p><i>When measuring building separation: — share separation equally between adjacent sites, so each building is located no closer than half the required separation distance from the property boundary</i></p>	<p>Example of imprecise language. Buildings should be located no closer than all of the required distance from the property boundary. The concept of measuring a distance between buildings on different sites is not required with the formulation of the design criteria measuring to the boundary.</p>
<p><i>For residential buildings next to commercial buildings, to measure separation distances:</i></p>	<p>Example of imprecise language. 'For residential buildings next to commercial buildings on the same site'? When on different sites, residential buildings should use separation from the boundary.</p>
<p><i>Match the rhythm, spacing, form and street aspect ratios of existing development that achieves the desired future character of the area.</i></p>	<p>Clarify meaning of 'street aspect ratio'. Street cross-section proportion? If so, should not exceed LEP HOB to do so.</p>
<p><i>Minimise overshadowing of the surrounding areas, streets and other buildings.</i></p>	<p>Clarify meaning of 'minimise'? How much does it need to be reduced by?</p>
Page 16	
<p><i>For some site conditions, building separation and setbacks may need to be increased beyond the minimums noted in Table 1.2.1:</i></p>	<p>Clarify meaning of 'avoid'? None? There is no design criteria or design guidance related to amount of public space that can be overshadowed.</p>

Exhibited text	Recommendation/Comment
<i>to achieve adequate solar access and open space on the site, and avoid overshadowing of public space and overlooking of neighbours e.g. on sloping sites to respond appropriately to the scale of neighbouring sites for future street or footpath widening.</i>	Clarify meaning of 'To respond appropriately to the scale of buildings on neighbouring sites'
<i>Where building separation distances cannot be met (e.g. in the adaptive re-use of existing structures), maximise the visual amenity of apartments using other design strategies. See Figure 1.2.6, and Part 2.9: Visual amenity.</i>	Clarify the test for 'cannot be met' Figure 1.2.6 does not provide an alternative design response; it provides acceptable interpretations of the design criteria.
<i>Demonstrate adequate daylight and ventilation is achieved: see Parts 2.6 and 2.7.</i>	Provision of adequate daylight and ventilation on its own is not an acceptable alternative design response as building separation also achieves other purposes. Needs further qualification.
<i>The building 'envelope' includes allowable gross floor area as well as building components that do not count as floor space but contribute to building design and articulation, such as balconies, lifts, stairs and open circulation space.</i>	Also, external walls and external sun shading. Refer to SILEP definition of gross floor area to make this description accurate. Clarify how open 'open circulation area' are. Compare O'Neill C in GGD Danks Street P/L v Council of the City of Sydney [2015] NSWLEC 1521 and Morris C in Landmark Group Australia Pty Ltd v Sutherland Shire Council [2016] NSWLEC 1577.
<i>For apartment tower floorplates (any part of a building 10 storeys and above), ensure the overall size provides maximum amenity for apartments (e.g. solar access, cross ventilation, common circulation) and minimises impact on surrounding public space and surrounding buildings (e.g. overshadowing, impact on sky views from public space and visual bulk).</i>	'tower' is definitional and could be included in the glossary. Clarify 'maximum' Beyond design criteria and 'As much as possible given the circumstances'. Clarify 'minimises' 'No impact' 'Some impact' If so, how much? SEPP D&P EIE (pA14) proposal to include maximum tower floorplate was positive. Not including this with the Draft ADG design criteria fails to respond to the prevalence of new buildings above 9 storeys in urban areas and the impacts they create.
<i>The overall building depth should provide for optimal cross-ventilation (see Part 2.7: Natural ventilation), daylight access (Part 2.6: Sunlight, daylight, shade and thermal comfort), building separation, landscaping, sky views and sunlight access to neighbouring buildings and open space.</i>	Clarify 'optimal'. Change to reflect design criteria. As much as possible given the circumstances?
<i>Figure 1.2.2</i>	Rear boundary should be labelled.

Exhibited text	Recommendation/Comment
<i>Consider varying building depth relative to orientation and height. Buildings facing east–west capture sun from both aspects and may support dual-aspect apartments of greater depth (see Part 2.7), while buildings facing north–south should be shallower to reduce the number of south-facing apartments that have limited or no direct sunlight access (see Part 2.6).</i>	Clarify ‘...may support dual-aspect apartments in buildings of greater depth’? Units should not be deeper.
<i>Shape, stagger and offset built form within the site and in relation to adjacent development to achieve optimal amenity for public and communal space and individual apartments. See Figures 1.2.2 to 1.2.6.</i>	Reference should be to Figure 1.2.2 and 1.2.6 only?
<i>— Use design solutions such as facade recesses, narrower widths or bays and material variation to create separation.</i>	Facade recesses, narrower widths or bays and material variation does not create separation? Actual space creates separation? Example of imprecise language.
<i>— Where any building length exceeds 40 m, division into separate elements will help reduce the overall bulk of the building.</i>	Supported. The ADG did not contain guidance of this kind. Aligns with SDGP 4.2.4(1)(b).
<i>Where building depths exceed those suggested to achieve adequate daylight access (Part 2.6: Sunlight, daylight, shade and thermal comfort) and natural ventilation (Part 2.7: Natural ventilation), demonstrate the alternative design can achieve the objective of acceptable amenity for apartments. This may require additional building articulation and higher ceiling heights.</i>	This appears to be an alternative design solution however it is not clearly identified as such. All alternate design solutions should be clearly identified with a sub-title in each section.
<i>Figure 1.2.6</i>	Dimensions would assist to understand separation. The first diagram should have pop-out windows or angled windows to better explain the idea. The meaning of the yellow line is unclear. The view arrows indicate a very narrow field of vision.
Page 18	
<i>Appropriate building height ensures adequate daylight and sunlight access, as well as sky view, is available for apartments, communal open space, adjoining properties and public space.</i>	Appropriate building height is also that which is expressed in the LEP HOB. There is strong community expectation that building heights as planned are maintained.
<i>For buildings without podiums, or for built form above a podium, adopt a single setback that is equal to or greater than the separation distance required for the overall building (see Figure 1.2.7).</i>	Supported. This is a better phrasing than the ADG 3F-1 2 ‘ziggurat’.
<i>In locations such as main streets and centres where buildings incorporate blank party walls and a continuous street wall is desirable, no building separation is necessary.</i>	A ‘party wall’ is a wall shared by buildings across the boundary. The clause should refer to ‘a wall abutting or very close to a boundary’ or similar.
<i>Table 1.2.2</i>	Whilst the intention of the table is supported, SEPP D&P 32(3)(c) and SEPP D&P 31(1)(e) (with Table 2.4.2) potentially work counter to this being achieved.

Exhibited text	Recommendation/Comment
	<p>Assume that the difference between floor to floor and floor to ceiling is 400mm. This should be clarified.</p> <p>First floor residential uses are relatively unlikely to change given strata title. Is 3.6m necessary? Is it better to take this 500mm extra and give it to the ground floor (4.1m)?</p>
<p>Figure 1.2.7</p>	<p>The left-hand side of the diagram shows a 10-11 storey building with an 18m separation. The habitable to non-habitable relationship should be clarified.</p> <p>The right-hand side of the diagram shows a 19 storey building with 25m separation. 24m is the maximum required by the design criteria. The floor-to-floor heights are different from the left-hand side.</p>
<p>Figure 1.2.8</p>	<p>Replace 2.7m residential floor to floor height with minimum of 3.1m.</p> <p>The minimum floor to ceiling height is 2.7 metres, a minimum of 3.1 metre floor to floor height is required to provide the 2.7 metre floor to ceiling height.</p> <p>The diagram is incorrect as it shows 2.7m floor-to-floor height for the 'residential habitable' level.</p> <p>Whilst the intention of the figure for higher ceilings is supported, SEPP D&P 32(3)(c) and SEPP D&P 31(1)(e) (with Table 2.4.2) potentially work counter to this being achieved.</p>
<p>Page 20</p>	
<p><i>Clear and connected pedestrian <u>networks</u> provide amenity for local communities, support <u>walkability</u>, enable active and safe streets, and reduce reliance on car travel. Reinforcing pedestrian and cycling <u>networks</u> within larger sites can amplify existing connections and improve public space by increasing <u>permeability</u> and access.</i></p>	<p>Replace <i>networks</i> with paths. Paths has clearer and more concise meaning than <i>networks</i>. Replace <i>walkability</i> with a walkable neighbourhood Walkability is not found in the Macquarie dictionary; it is an invented term without common meaning. Replace <i>permeability</i> with pedestrian access. Permeability is jargon with an imprecise meaning, the direct improving pedestrian access is clear and concise. The statement is better as: <i>Clear and connected pedestrian paths provide amenity for local communities, support walkable neighbourhoods, enable active and safe streets, and reduce reliance on car travel. Reinforcing pedestrian and cycling paths within larger sites can amplify existing connections and improve public space by increasing pedestrian access.</i></p>
<p>OBJECTIVES 1.3.1</p>	<p>Delete <i>any</i>, it is not necessary. Replace <i>link</i> with path, it is less abstract and clearer</p>

Exhibited text	Recommendation/Comment
<i>Any pedestrian link should prioritise walking and cycling and provide access to streets and connection to local destinations.</i>	Add open to the sky, are continuously accessible to all , as necessary minimum amenity required for any pedestrian pathway. <i>The objective is better as:</i> Pedestrian paths prioritise walking and cycling, are fully open to the sky, are continuously accessible to all and connect to streets and provide access to local destinations.
Page 21	
<i>Where a site is sufficiently sized to support the inclusion of through-site links, and for all sites with internal pathways, consider the design and location of links.</i>	Define 'sufficiently sized'.
<i>— Make links direct and accessible from public space.</i>	Through site links should be designed to be accessible 24/7.
<i>Provide clear sightlines for safety and good lighting. Consider minimum lighting and lux levels as set out in AS 1428.2-1992 Design for access and mobility Part 2.</i>	Lighting levels are too detailed to consider at development application stage. This should be a condition of consent.
Page 22	
<i>Accessibility and serviceability</i>	Change to Access and Services Use plain English
<i>Consider larger than minimum widths of common pathways to allow people with prams, wheelchairs and mobility aids to pass each other easily.</i>	Clarify 'larger than minimum' Reference AS1428.1 Section 10.3 [Circulation spaces at doorways on a continuous accessible path of travel] or require 1800mm
Page 25	
<i>Use soft landscaping to soften the street edges of any raised terraces, such as the edges of private open space and basement car parking. Use layered planting to provide privacy rather than solid fences.</i>	Planting is good but planting should not be solely relied upon for privacy as it can fail. Planting should be 'as well as' fences, not 'rather than'. See L&EC planning principle on privacy in Roseth SC Super Studio v Waverley [2004] NSWLEC 91.
<i>Avoid ground floor levels located below the footpath level, or more than 1 m above it. Where this can't be avoided, use well- designed landscape setbacks to achieve the objectives.</i>	Should relate to 'entry level' rather than 'ground floor levels'? Clarify the test for 'can't be avoided'. No objectives directly relate to issues associated with level change.
<i>maximising sunlight and daylight access for ground floor apartments by using: high ceilings and tall windows trees and shrubs that allow sunlight access in winter and provide shade in summer creating flexibility in the design of the ground floor component of double-storey apartments to accommodate uses such as a home office.</i>	Whilst the intention of the advice for high ceilings is supported, SEPP D&P 32(3)(c) and SEPP D&P 31(1)(e) (with Table 2.4.2) potentially work counter to this being achieved.

Exhibited text	Recommendation/Comment
<p>Figure 1.4.1</p>	<p>The top right diagram creates a visual privacy problem with the ground floor apartment (same issue as ADG Figure 3C.1(3))</p>
<p>Page 27</p>	
<p><i>Reduce the visual impact of utilities and building services on public space by locating them in basement car parks wherever possible, including substations, pump rooms, water tanks and waste storage areas.</i></p>	<p>Modify to: <i>Reduce the visual impact of utilities and building services on public space by locating them in basement car parks wherever possible, including substations, pump rooms, water tanks, and waste storage and waste collection areas</i></p> <p>There should be recognition that wherever possible waste collection infrastructure in higher density development should be incorporated on-site.</p>
<p>Page 28</p>	
<p><i>Green infrastructure is the network of green spaces, natural systems, and semi-natural systems that support sustainable communities.</i></p>	<p>Green infrastructure' is defined by SEPP D&P Schedule 3. Ensure full alignment with definition.</p>
<p>OBJECTIVE <i>Provide and retain sustainable landscaping, planting and trees, including planting on structures and in deep, connected soil.</i></p>	<p>The objective is weak as it can potentially be satisfied without providing deep soil.</p> <p>Modify to: Provide and Retain sustainable landscaping, planting and trees, including planting on structures and in deep, connected soil and provide substantial new tree planting in deep soil.</p> <p>Planting on structures is inferior to deep soil planting (p29). Its inclusion and position within the objective is misleading.</p> <p>Deep soil is defined in the glossary. It does not require the qualifier 'connected'. Important to use key terms consistently and not modify them.</p>
<p>1.5 Green Infrastructure <i>For sites where it is not possible to provide sufficient deep soil, e.g. mixed use developments where the basement or building envelope fills the site, use alternative options for green cover, such as planting on structures, including for landscaped communal open space offering amenity and outlook for residents.</i></p>	<p>Add the word equivalent '...options for equivalent green cover ...' This should also be done on p32.</p> <p>Design Criteria The City strongly supports the use of minimum deep soil and canopy cover requirements, and that the local controls take precedence.</p>

Exhibited text	Recommendation/Comment
<p><i>Deep soil</i> <i>Section 1.5 and table 1.5.1</i></p>	<p>These targets are described as a 'minimum recommendation'. It would be preferable for this to be a 'minimum requirement' to set a strong baseline. Change 'Minimum recommendation' to 'Minimum requirement'.</p>
<p><i>Table 1.5.1</i> <i>for sites where it is not possible to provide sufficient deep soil e.g. mixed-use developments where the basement or building envelope fills the site ...</i></p>	<p>This could result in almost all large developments not providing deep soil since it is easy to design a basement to fill the site.</p> <p>This sentence should be deleted and rely on the note below for variation.</p> <p>Deep soil and tree canopy areas should not be referred to as 'targets'. The design criteria should require a minimum deep soil zone and canopy (similar to phrasing of ADG 3E-1 1).</p> <p>Expression of canopy as a % is not useful in design or assessment. Measurement of canopy is not defined or guided. Can canopy overhang the street or neighbouring sites? Can canopy overhang buildings? Is overlap of canopy counted twice?</p> <p>Does not deal with capacity for larger sites to include far more deep soil. See DPIE Greener Neighbourhoods Guide (December 2021 p37) which recommends 650m2-1500m2 15% deep soil/20% canopy, 1500m2-3000m2 20% deep soil/25% canopy, 3000m2+ 25% deep soil/30% canopy.</p>
<p><i>Note: Table 1.5.1 deep soil targets are a minimum recommendation. Local controls reflect variations in character and local context and take precedence where their requirements are greater than these.</i></p>	<p>Deep soil should not be a 'target' or 'recommendation'. It should be a 'requirement'.</p> <p>Supported. ADG as a base minimum is good with local controls superseding.</p>
<p><i>For sites where it is not possible to provide sufficient deep soil, e.g. mixed-use developments where the basement or building envelope fills the site, use alternative options for green cover, such as planting on structures, including for landscaped communal open space offering amenity and outlook for residents.</i></p>	<p>This guidance must include multipliers for example 1.5-2x for plating on structure since the trees will usually not reach normal mature sizes and 3-5x for green cover which doesn't have the volume of tree canopy.</p>
<p>Page 30</p>	
<p><i>Table 1.5.2</i></p>	<p>Table does not provide tree canopy areas for use in calculation. Based on area of a circle, small trees should be 28m2, medium trees should be 50m2 and large trees should be 113m2. However, this information should not be required if Table 1.5.3 is applied as the 'tree planting rate' already factors this in.</p>

Exhibited text	Recommendation/Comment
Table 1.5.3	The tree planting rates are too low and do not achieve the minimum canopy % areas of Table 1.5.1 in the majority of site size instances. The tree planting rates should be increased to ensure that the minimum canopy is always achieved. The tree planting rates should exceed the minimum canopy % areas to allow for factors such as trees failing, trees not achieving optimal spread, trees overhanging boundaries etc. See also higher tree planting rates recommended by Greener Neighbourhoods Guide (December 2021 p37).
Categorise retained trees by canopy size and include them in the tree canopy calculation.	Retained trees can be surveyed and measured in area, for example a very large tree might be more than 12m in diameter and this should be reflected in the calculation.
Page 32	
<p>Green Cover</p> <p><i>For sites where it is not possible to provide sufficient deep soil, e.g. mixed-use developments where the basement or building envelope fills the site, use alternative options for green cover, such as planting on structures, including for landscaped communal open space offering amenity and outlook for residents</i></p>	<p>Repeats p28</p> <p>As above, this could result in almost all large developments not providing deep soil. Specify specific contexts and typologies, e.g. development in Major Centres, Specialised Centres and on Commercial development on Main/High Streets</p>
<p>Green Walls</p> <p><i>Green walls may be desirable in certain circumstances and where ongoing maintenance can be assured. To accommodate green walls, integrate planting structures into a building facade</i></p>	<p>Comments on maintenance should be added Add: Ensure maintenance access and requirements are carefully considered when incorporating a green wall.</p>
Page 33	
Image	Check if this building has flammable cladding.
Page 34	
<p><i>Car parking requirements for residents and visitors are either set out in the Guide to Traffic Generating Developments (RTA 2002) (GTTGD), or as prescribed by the local council.</i></p> <p><i>Whichever is the lower requirement is the minimum required for development in the following locations:</i></p> <ul style="list-style-type: none"> <i>—on sites that are within 800 m of a railway station or light rail stop in the Sydney metropolitan area</i> <i>—on land zoned, and sites within 400 m of land zoned B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre (see glossary).</i> 	<p>GTTGD is an older document using inappropriate definitions (see 'medium density residential flat building', 'high density residential flat building', 'metropolitan regional centres', 'metropolitan sub-regional centres')</p> <p>Measurement of distances should be defined. It should not be 'as the crow flies' as this is not relevant to the issue. It should be walking distance (similar to Housing SEPP definition of 'walking distance' and 'accessible area'). The definition of railway station/ light rail stop should be defined as they can be large - what part of it should be measured to? Tap-on point?</p>
Page 35	

Exhibited text	Recommendation/Comment
<i>Provide the car parking needs for a development off-street.</i>	Emphasis should be given to providing all car parking in a basement level. The section reads as if above-ground car parking is equal/preferable in outcome.
<i>— limiting protrusions of car parking structures to a maximum of 1 m above ground level (measured from the top of the structure)</i>	Aligns with SILEP definition of basement but does not align with SEPP D&P 5(1)(b) (see SEPP D&P 5(1)(b))
<i>Integrate ventilation grilles or screening devices for car parking openings into the facade and landscape design.</i>	Also, entry doors to prevent views into car parks. Services should be concealed.
<i>Make provision for 'EV-ready' connections for all residential car parking spaces as outlined in Part 3.1: Energy efficiency. Provide a shared EV connection to 10 per cent of spaces allocated for visitors, or one space if fewer than 10 spaces are allocated for visitors (see Part 3.1).</i>	Change to: Provide a shared EV connection to every car space
<i>Minimise the width and number of vehicle access points, ramp length and visual impact.</i>	Add text: <i>Minimise the width and number of vehicle access points, ramp length and visual impact while providing on site servicing and waste collection where appropriate.</i>
Page 36	
<i>Provide minimum bicycle parking rates as set out in Table 1.6.1, or according to local DCP requirements, whichever is greater.</i>	Bike parking rates should be minimum 1 per dwelling or 1 plus 1 per bedroom or according to a local DCP whichever is greater or in accordance with the EIE
<i>Make bicycle parking easily accessible from street level, on grade, by lift or using ramps of a maximum gradient of 1:15.</i>	1:15 requires a handrail.
Page 39	
<i>The maximum number of apartments accessed from a circulation core on a single level is 8.</i>	This construction does not account for where separate cores serve the same level and are connected by a long corridor (ADG 4F-1 1 had the same problem). This should be reworded to prevent this outcome as apartment amenity is reduced by longer corridors.
Page 40	
<i>Consider providing greater than minimum requirements for corridor widths to allow for comfortable movement, universal access, and doormats, particularly in entry lobbies, outside lifts and at apartment entry doors.</i>	Modify to read: Consider providing greater than minimum requirements for corridor widths Provide minimum 1.8m wide corridors and on the inside and outside of apartment entry doors to allow for comfortable movement, universal access, and doormats, particularly in entry lobbies, outside lifts and at apartment entry doors.

Exhibited text	Recommendation/Comment
	<p>Suggest requiring a minimum 1.8m width for all corridors or Australian Standard 1428.1:2021 Section 10.3 (including passing spaces for wheelchairs). It also provides space for mobility scooters, bicycles and large items of furniture (queen bed/3 seat lounge).</p> <p>Does not deal with avoiding ramping within corridors</p> <p>Does not deal with instance of lifts and stairs opening directly into apartments.</p>
<p><i>Where a development is unable to achieve 8 or fewer apartments accessed from a circulation core on a single level, provide a high level of amenity for apartments, common lobbies and corridors, including:</i></p> <ul style="list-style-type: none"> - <i>sunlight and natural cross-ventilation in apartments</i> - <i>access to ample daylight and natural ventilation in common circulation spaces</i> - <i>common areas for seating and gathering</i> - <i>generous corridors with greater than minimum widths and ceiling heights</i> - <i>other innovative design solutions that provide high levels of amenity.</i> <p><i>Although 8 apartments is preferable, where this is not possible consider 12 apartments as the maximum number accessed from a circulation core on a single level.</i></p>	<p>Modify text to read:</p> <p><i>Where a development is unable to achieve 8 or fewer more than 6 apartments accessed from any circulation core on a single level, provide a high level of amenity for apartments, common lobbies and corridors, including provide:</i></p> <ul style="list-style-type: none"> - at least the minimum proportion of apartments achieving sunlight and natural cross-ventilation requirements in apartments - access to ample very good daylight and natural ventilation in common circulation spaces - common areas for seating and gathering - generous minimum 1.8m wide corridors with greater than minimum widths and 2.7m ceiling heights; and - other innovative design solutions that provide high levels of amenity. <p>Although 8 apartments is preferable, where this is not possible consider Development must not include more than 12 apartments as the maximum number accessed from any circulation core on a single level.</p> <p>Clarify the test for 'when a development is unable to achieve'. Should be 'when the design does not achieve'</p> <p>Access to ample daylight and natural ventilation should be available anyway.</p> <p>Greater than minimum widths are already required. What is the test for 'when this is not possible'?</p>
<p>Figure 2.1.1</p>	<p>Unclear what is meant by 'limit overcrowding'? Lifts? Example of imprecise language.</p>
<p>Figure 2.1.4</p>	<p>Not necessarily just mixed-use buildings.</p>
<p>Page 41</p>	
<p><i>Provide suitable clearance in front of lifts to allow for people passing, for medical emergency access, and for movement of furniture.</i></p>	<p>Provide suitable 2m <i>clearance in front of lifts to allow for people passing, for medical emergency access, and for movement of furniture.</i></p> <p>Clarify 'suitable clearance'. Suggest requiring a minimum 1.6m or better 1.8m width (allows two wheelchairs to pass) for all corridors as this satisfies all requirements of</p>

Exhibited text	Recommendation/Comment
	AS1428.1 (including passing spaces for wheelchairs). Should be design criteria.
<i>Consider lift redundancy (access to an alternative lift in case one lift is out of service).</i>	This could encourage connected cores and reduction in natural cross ventilation. Could be augmented by advice such as', for example by providing two lifts per core or by connecting cores at ground level, podium level, roof level and for buildings over seven storeys, every third intermediate floor.'
<i>Consider the thoughtful integration of universal access to all common areas and apartments early in the design process. Design access to cater for households and visitors of all ages and abilities, including families with young children, the elderly, and people with impaired mobility, and to accommodate residents and visitors using prams, mobility scooters and larger electric wheelchairs.</i>	This should not be a 'consideration'. This is a requirement of NCC Table D3.1 for Class 2 buildings.
<i>Daylight and natural ventilation in common circulation spaces that are above ground will improve amenity, thermal comfort and reduce operational costs. For daylight and natural ventilation, provide: a minimum glazed area of 10 per cent of the common circulation floor area served a minimum equivalent open area (EOA) of 2 per cent of the common circulation floor area served 2 or more sources of natural ventilation and daylight, where the floorplate has 7 or more apartments per floorplate, with the distance between openings maximised to encourage air movement high-level and low-level windows for natural ventilation where openings are located on a single aspect where glazing is connected to a slot or indent in the facade, the slot should have a width-to-length ratio of 1:3 or wider and be open to the sky.</i>	Supported. This is a key amenity and numerical in nature. Should be design criteria. Construction requires measurement of window areas and floor areas in design and assessment. Supported. 2 or more sources of natural ventilation and daylight where floorplate has 7 or more apartments is a positive improvement. 'Maximising the distance between openings' is not an easily assessable construction. Could be simplified to at least Xm apart'. Does not deal with open-air circulation. Often preferable. Does not deal with potential of light and air from a skylight.
<i>Daylight and natural ventilation Daylight and natural ventilation in common circulation spaces that are above ground will improve amenity, thermal comfort and reduce operational costs. For daylight and natural ventilation, provide: — a minimum equivalent open area (EOA) of <u>2 per cent</u> of the common circulation floor area served.</i>	Add Design Criteria Common circulation spaces have natural ventilation and daylight Delete a minimum equivalent open area (EOA) of 2 per cent replace with a minimum equivalent open area (EOA) of 5 per cent to accord with the natural ventilation requirements of the National Construction Code
Page 42	
<i>For safety and equitable access, ensure circulation spaces are well-lit. Consider minimum lighting and lux levels as set out in AS 1428.2–1992 Design for access and mobility, Part 2.</i>	Lighting levels are too detailed to consider at development application stage. Alternatively, could be a condition of consent.

Exhibited text	Recommendation/Comment
Bottom left image	Has same caption as image on p43.
Page 44	
<i>At any time between 9 am and 3 pm in midwinter (21 June), ensure at least half the communal open space area receives 2 hours solar access</i>	This is not clear. Change the design criteria to: <i>At any time between 9 am and 3 pm in midwinter (21 June), ensure an area equal to at least half the communal open space area receives 2 hours solar access</i>
<i>Communal open space supports a broad range of activities...</i>	Ensure communal open space is clearly defined as 'outdoor' as all communal spaces are discussed here. Change 'Communal open space supports a broad range of activities...' to ' Communal open space is outdoor, and supports a broad range of activities... '
<i>The quantity of communal open space provided is 8 m2 per dwelling, up to 25 per cent of the site area.</i>	Supported. This is an improvement on ADG 3D-1 1 which required 25% communal open space regardless of development size and did not specify the size of the 'principle usable part of the communal open space. 8m2 per dwelling provides a minimum communal open space of 36m2 (based on 4 units) which is 6m x 6m (the minimum dimension). Change the design criteria to: <i>The quantity of communal open space provided is 8 m² per dwelling, up to 25 per cent of the site area.</i>
Page 45	
<i>Communal open space Where <u>the communal open space area calculation exceeds 25 per cent of the site area</u>, the additional part is optional, and can be provided flexibly as more communal open space or as communal indoor space.</i>	This is not clear. The design criteria sets a maximum of 25% of the site area, that is, there is no calculation that will exceed this. Change the design guidance to: <i>Where <u>the communal open space area calculation exceeds 25 per cent of the site area</u>, the part in excess of 25% additional part is optional, and can be provided either flexibly as more communal open space or as communal indoor space.</i> The additional part should not be 'optional' (i.e., not provided). Large developments, particularly tall buildings on small sites, can generate significant communal open space requirements. The additional part should be provided but can optionally be provided as outdoor or indoor space.
<i>Communal open space may be provided on podiums or rooftops; it is not required to be co-located with deep soil.</i>	Supported. Decoupling communal open space from deep soil can be sensible (as compared to ADG 3D-1 5). Deep soil areas at ground level often do not have as good amenity as podiums or rooftops higher up. Also, communal facilities can detrimentally compete with deep soil for ground space. However, emphasis of advice

Exhibited text	Recommendation/Comment
	seems to be against co-locating which is not intrinsically a bad thing. Could be a combination of both types.
<i>At midsummer (21 December), achieve a minimum 30 per cent direct shade to communal open space for a minimum of 2 hours between 9 am and 3 pm, using planting and landscape structures.</i>	Supported. However, a key amenity and numerical in nature. Should be design criteria. Aspects of the construction are unclear. 30% shade to all of the communal open space or shade to 30% of the communal open space? Construction should be similar to solar access design criteria. Should be a design criterion.
<i>Provide communal open space with a minimum dimension of 6 m. For sites under 650 m2 a minimum dimension of 4 m is acceptable.</i>	Minimum dimension should be included as a part of the design criteria.
<i>Provide for activities which cannot be accommodated within apartments, like nature play, informal ball games, noisy activities, exercise, gardening, and social gatherings both indoors and outdoors.</i>	Body corporate meetings and children's birthday parties are typical uses that should be considered for outdoor spaces as well (as indoor spaces are not required to be provided).
OBJECTIVE 2.3 <i>Provide a range of apartment types, sizes and configurations to promote flexible housing that caters for current and projected housing needs of the community</i>	A range of apartment types and configurations is not, of itself flexible Delete the word flexible
Page 46	
<i>For developments with multiple buildings, provide communal open space and communal spaces for each building, i.e. within each building or on each rooftop, in addition to spaces shared by the whole development.</i>	Should also refer to cores (where 1 'building' may have multiple cores (actually separate but attached buildings))?
<i>Ensure communal indoor space has a high level of amenity, including good ventilation and natural light.</i>	Unclear what is meant by 'a high level'? More than minimum? Example of imprecise language. Ventilation should be 'natural ventilation'. See glossary definition of 'Communal indoor space'.
<i>Communal indoor spaces can provide a range of facilities, such as: multi-purpose rooms for strata meetings, social activities, birthday parties, co-parenting and rainy-day play for children, sharing domestic equipment and children's toys sound-insulated music rooms gyms, pools and exercise rooms shared kitchens, pantries and laundries libraries, reading rooms, shared studies or work from home spaces dedicated spaces for children and young teenagers communal workshop space with shared tools for home, furniture and bicycle maintenance and hobbies storage space.</i>	Storage space for individual apartments should not be able to be provided in communal indoor spaces.
Page 47	

Exhibited text	Recommendation/Comment
<i>Open space which is publically accessible When providing publicly accessible open space in addition to the requirement for communal open space, consider the following principles...</i>	Ensure description and/or definition of communal open space clearly states that it must not be publicly accessible.
<i>When providing publicly accessible open space in addition to the requirement for communal open space, consider the following principles:</i>	Publicly accessible open space should be designed to be accessible 24/7.
<i>— Provide year-round sunlight access and protection from strong winds.</i>	Clarify meaning.
Page 48	
OBJECTIVES <i>2.3 Provide a range of apartment types, sizes and configurations to promote flexible housing that caters for current and projected housing needs of the community.</i>	Modify text: <i>2.3 Provide a range of apartment types, sizes and configurations to promote flexible provide housing that caters for current and projected housing needs of the community.</i>
Page 49	
<i>Refer to local housing strategies, targets and planning controls to ensure the development responds to local housing needs and provides a range of apartment types, sizes and configurations that can support different household types and stages of life.</i>	An applicant should only have to refer to planning controls.
<i>Unless otherwise outlined in a local planning policy, use the following to determine housing mix and diversity: ... For a development with more than 20 dwellings, provide a minimum of 3 different dwelling types. Provide a mix of the types so that: — no less than 10 per cent of the total number of dwellings are one type — no more than 50 per cent of the total number of dwellings are studio or 1-bedroom units (combined).</i>	Supported. Council DCP mixes should take precedence. Default mix is supported. Good wording.
<i>Provide of minimum of 20 per cent of apartments that incorporate the Livable Housing Australia (LHA) Livable Housing Design Guidelines Silver Level universal design features. Provide universal access apartments across a range of types and locations within a development.</i>	Increase to 100% Silver: <i>Provide of minimum of 20 per cent of All apartments that incorporate the Livable Housing Australia (LHA) Livable Housing Design Guidelines Silver Level universal design features.</i> Cost and space implications are negligible compared to benefits. Easy to achieve in design. Should be a design criterion.
<i>Provide adaptable housing according to the relevant council policy, designed according to the requirements of AS 4299–1995 Adaptable housing.</i>	Modify to read: Provide a minimum of 15 per cent of apartments that incorporate the LHA Platinum Level and Australian Standard for Adaptable Housing universal design

Exhibited text	Recommendation/Comment
	<p>features or according to the relevant council policy whichever is greater.</p> <p>Council requirements are to all different standards and include adaptable (AS 4299), accessible (AS 2890) and Platinum (LHDG). Clause should be worded to enable all of them.</p>
Figure 2.3.1	<p>The figure does not represent what is in the caption.</p> <p>Most of the apartments appear to be single aspect.</p>
Page 50	
<p><i>Design apartment layouts to provide flexibility over time and opportunities for future reconfiguration. Lightweight non- structural partitioning between internal rooms without services facilitates future modification. See Figure 2.3.2 for an example floor plan arrangement showing flexible options.</i></p>	<p>Reconfiguration of internal walls requires a development application and should not be encouraged without assessment of resulting internal amenity.</p> <p>Lightweight partitioning is not beneficial for acoustic privacy between rooms within a dwelling or for maintenance/longevity.</p> <p>See comments on Figure 2.3.2 below</p>
<p><i>Consider diverse household types and stages of life including single-person households, families, multigenerational families and group households. Design solutions include:</i></p> <p><i>sizing and proportioning rooms to enable a variety of uses, activities, and furniture configurations – rectangular spaces 2:3 are more easily furnished than square spaces 1:1.</i></p> <p><i>rooms and spaces with different levels of privacy and acoustic separation</i></p> <p><i>dual key apartments (see glossary)</i></p> <p><i>greater than minimum apartment areas</i></p> <p><i>generous private open spaces.</i></p>	<p>Supported. These concepts support flexibility.</p> <p>Whilst the intention of the advice for larger apartments is supported, SEPP D&P 32(3)(b) potentially works counter to this being achieved.</p>
Figure 2.3.2	<p>Figure 2.3.2 3-bedroom configuration has a disproportionately small living space for the number of occupants (e.g., lounge seats). Figure 2.3.2 1-bedroom configuration at 120m² is unrealistic. No private open space is shown. This conception of ‘flexibility’ is flawed and should not be included. Flexibility can be achieved in other ways (as suggested in the p50 text).</p>
<p><i>Provide 20 per cent of 2-, 3- and 4-bedroom apartments as family-friendly apartments to accommodate the needs of families with children. Design solutions include:</i></p> <p><i>greater than minimum apartment sizes</i></p> <p><i>location in lower levels of the development to allow easy access to open space and reduce dependency on corridors and lifts</i></p> <p><i>multiple living rooms or main bedrooms</i></p>	<p>Clarify wording:</p> <p><i>Provide 20 per cent of all apartments as 2-, 3- and 4-bedroom apartments as family-friendly apartments to accommodate the needs of families with children. Design solutions include Family-friendly apartments are:...</i></p> <p>Reword following dot points to suit.</p>

Exhibited text	Recommendation/Comment
<p><i>wider than minimum hallways and entry zones to allow for manoeuvring of prams and other bulky children's equipment</i></p> <p><i>larger than minimum areas for living rooms and private open spaces, including areas for play that are visible from the kitchen</i></p> <p><i>consider co-locating family friendly apartments and attached private open space with communal open space on ground level or podiums to allow intervisibility from kitchen to common play space</i></p> <p><i>for private open space consider the safety of children, e.g. use integrated planters that eliminate climbing hazards</i></p> <p><i>at least one bedroom with sufficient size to provide space for furniture like study desks and cribs (see Figure 2.3.4)</i></p> <p><i>bedroom sizes and layouts that suit various configurations of children's furniture including 2 single beds, bunk beds, space for play, and space for desks</i></p> <p><i>bathroom sizes and layouts that accommodate a parent and child using a bathroom together, and at least one bathroom with a bathtub</i></p> <p><i>greater acoustic separation between apartments and communal spaces, as well as between bedrooms and living areas.</i></p>	<p>How much bigger is 'greater than minimum apartment sizes'? Example of imprecise language. Suggest requiring a minimum additional Xm2?</p> <p>How wide is 'wider than minimum hallways and entry zones'? Example of imprecise language. Suggest using LHDG to guide as 20% Gold or Platinum?</p> <p>Clarify 'larger than minimum areas for living rooms and private open spaces'.</p> <p>Clarify 'intervisibility'. All language throughout should be as plain and direct as possible.</p> <p>Supported. Inclusion of bathtub positive.</p>
<p><i>Minimum-sized study rooms are capped at one per apartment. Design considerations include:</i></p> <p><i>a minimum size of 7 m2 and minimum dimension of 2.4 m clear</i></p> <p><i>access to daylight and natural ventilation</i></p> <p><i>a higher level of acoustic privacy than a typical bedroom.</i></p>	<p>Supported. Studies are a good initiative. Dimensions are reasonable. Daylight and ventilation go without saying. One per dwelling important to include.</p> <p>Advice should be provided whether studies can count towards storage volume within apartments.</p>
Figure 2.3.3	Cross-over apartments do not intrinsically reduce internal common circulation.
<p><i>Development that includes social housing, or is delivered by a community housing provider, may incorporate an alternative approach to apartment mix, aligned with relevant housing strategies.</i></p>	Supported.
<p><i>Where proposals are considered under State Environmental Planning Policy (Affordable Rental Housing) 2009,</i></p> <p><i>the consent authority may be flexible in applying the design guidance for the provision of apartment mix and configuration and consider the design guidance in Part 2.4: Apartment configuration – Alternative design responses.</i></p>	SEPP ARH has been repealed and replaced by SEPP Housing. It is unclear what part of SEPP ARH is being referred to and why this would be appropriate. Flexible application should go without saying. The term 'apartment configuration' calls up Part 2.4 and all of its design criteria which should not be the intention.
Figure 2.3.4	Supported. Should be design criteria for all main bedrooms.

Exhibited text	Recommendation/Comment
<p><i>Successful apartment design and efficient and well-planned spaces can create homes that are a pleasure to live in for many years</i> – not simply a step on the way to a standalone house.</p>	<p>Reference to a ‘step on the way to a standalone house’ is outdated and inappropriate. The understanding should be that apartment buildings will be around for 50-100 years, that they are difficult to change as they are usually in joint ownership, and that during the course of the building’s life, all demographics will live in each unit type and therefore diversity and amenity is key.</p>
<p>Table 2.4.1</p>	<p>Supported. Maintains SDG 4D-1 1. Minimum unit areas work well and allow for a factor of ‘inefficient design’ (eg a 5m long corridor leading into a 1B corner apartment)</p> <p>Modify text: NON-DISCRETIONARY DEVELOPMENT STANDARDS/DESIGN CRITERIA</p> <p>To be consistent with the language of the SEPP and Regulations it must be clear that the apartment size and ceiling heights are also Design Criteria.</p>
<p>Ceiling height Table 2.4.2</p>	<p>Include text before the table: Provide the following minimum floor-to-ceiling and floor-to-floor heights for apartments and non-residential ground floor uses.</p> <p>Add a note: Minimum floor to floor heights are 0.4m greater than minimum floor-to-ceiling heights.</p> <p>Guidance is required to advise on suitable allowances for floor-to- floor heights. ADG 2C 1 advised that 0.4m per floor is required for ‘structure, services, set downs and finishes.’ ADG Figure 4C.5 confirmed the 0.4m dimension. 0.4m of structure should be included in the design criteria for ceiling height.</p> <p>The reduction of kitchen ceiling heights is not supported. 2.4m ceilings for kitchens is a reduction in amenity from the current ADG. Kitchens are very often part of open plan living areas and should have the same ceiling height as dining rooms and living rooms. The Glossary defines a kitchen as a ‘habitable room’.</p> <p>3.3m ground floor non-residential uses is less than heights in Table 1.2.2 design guidance for mixed-use development.</p>
<p>Page 53</p> <p>DESIGN CRITERIA <i>Depth of habitable rooms is limited to a maximum of 2.5 times the ceiling height or primary window-head height, whichever is lower.</i></p>	<p>Supported. A 2.7m ceiling allows a 6.75m room. This is in line with the environmental science. See Draft ADG 2014 Figure 4Q.1</p>

Exhibited text	Recommendation/Comment
<i>Where living and dining rooms are combined, habitable room depth is limited to a maximum of 3 times the ceiling height or primary window-head height, whichever is lower. This excludes depth occupied by storage space or a kitchen benchtop on the room's farthest wall.</i>	<p>Clarify that this criteria is limited to open plan living/dining/kitchens with a maximum depth inclusive of benches of 8m per the RFDC: <i>Where living and dining rooms are combined with kitchens the maximum habitable room depth is limited to 8m a maximum of 3 times the ceiling height or primary window head height, whichever is lower. This excludes including the depth occupied by storage space or a kitchen benchtop on the room's farthest wall.</i></p> <p>A 2.7m ceiling allows for an 8.1m deep room. This is a minor reduction in amenity from the 8m in ADG 4D-1 2. Further, a kitchen benchtop at the rear of the space would typically allow for an 8.7m (+600mm) deep room which is a significant (9%) increase in depth. The rear of the space is also likely to be 'stuffy' in single aspect units as the air will not change sufficiently.</p> <p>Will encourage floor-to-ceiling glazing to maximise depths which will significantly change the performance and appearance of building. Complication/refinement of window head-height is unnecessary.</p> <p>Depth to height construction (rather than 8m) may allow 2 storey units to have a very small void at the window with lower-level room depth based on overall ceiling height? (for example, see image on p53 but imagine minimal void adjacent window). Needs additional guidance.</p>
<i>Every habitable room has a window in an external wall with a total minimum glass area of not less than 10 per cent of the room's floor area. Daylight and air is not borrowed from other rooms.</i>	Supported
<i>Main bedrooms have a minimum area of 10 m2 and other bedrooms 9 m2 (excluding wardrobe space).</i>	Main bedrooms should be like that described in Figure 2.3.4. This would guarantee at least one bedroom in each apartment could accommodate additional furniture (desk or crib).
<i>Additional bathrooms increase the minimum internal area by 5 m2 each.</i>	A definition of 'bathroom' is required for proper operation of this design criteria. Is an ensuite (accessed off a bedroom) a bathroom? Must it contain a bath (is a shower ok)? Is a powder room a bathroom? Is a laundry with a pan a bathroom?
<i>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12 m2 each.</i>	A design criterion should also be included for adding a study. Suggest requiring a minimum additional 9m2 to accommodate the minimum study area (7m2) plus wall thickness and some corridor.
<i>For living rooms and combined living and dining rooms, the minimum room width is: 3.6 m for studio and 1-bedroom apartments 4 m for 2- and 3+ bedroom apartments and cross-through apartments.</i>	Clarify meaning of 'and cross-through apartments'? Of all sizes?

Exhibited text	Recommendation/Comment
<i>Provide a minimum area of 24 m2 for combined living and dining rooms in 2- and 3+ bedroom apartments.</i>	This should include 1B apartments otherwise the living room could be as small as 13m2 (3.6m x 3.6m).
<i>Ensure a window is visible from any point in a habitable room.</i>	Supported. Modify to read: <i>Ensure a window in an external wall [no internal windows] is directly visible [no mirrors] from any point in a habitable room</i>
<i>Locate all living areas and bedrooms on the external face of the building to achieve the design guidance for natural ventilation (see Part 2.7: Natural ventilation).</i>	Clarify language. Not dining rooms or studies? Do they need a window? Suggest 'Locate all habitable rooms on the external face of the building and service with a window...'
Page 54	
<i>Consider greater than minimum ceiling heights in lower-level apartments to enable better daylight access, and in shallower single-aspect apartments to enable better natural ventilation.</i>	Whilst the intention of the advice for high ceilings is supported, SEPP D&P 32(3)(c) and SEPP D&P 31(1)(e) (with Table 2.4.2) potentially work counter to this being achieved.
<i>Wherever possible, avoid bulkheads compromising ceiling heights. Consider stacking service rooms and wet areas from floor to floor, and coordinating bulkhead locations above kitchens and non-habitable rooms. Do not extend kitchen bulkheads into the dining area (e.g. in eat-in kitchens).</i>	If bulkheads 'compromise' ceiling heights, then the design criteria is not being achieved. Allowing bulkheads over kitchens is a reduction in amenity from the current ADG. The Glossary defines a kitchen as a 'habitable room'.
Figure 2.4.1	The figure demonstrates the substantial negative impact of lower ceiling heights over kitchens. The 'slot' between the kitchen and the dining room is a poor outcome (if there are no other windows present). Could be argued that kitchen is not 'combined'/'open plan' with living and dining. Compare with Draft ADG 2014 Figure 4Q.1 No dimensions/ratios are shown below the diagram.
Figure 2.4.2	Note describes kitchen as 'non-habitable'. The Glossary defines a kitchen as a 'habitable room'. Diagram could instead be used to show how kitchen bulkhead can be accommodated over rear and side cupboards leaving ceiling at 2.7m.
<i>Where minimum apartment sizes and room dimensions are not achieved, demonstrate: apartment planning is efficient, usable and functional, as indicated by realistically scaled furniture layouts and circulation areas (see Appendix 5: Furniture schedule) apartments satisfy the design guidance set out in: Part 2.6: Sunlight, daylight, shade and thermal comfort Part 2.7: Natural ventilation — Part 2.10: Storage</i>	The term 'room dimensions' could include ceiling heights which alternative design response do not address. Appendix 5 does not provide circulation areas
<i>Offset less than minimum apartment sizes with: increased private open space provision</i>	Unclear whether this is instead of, or as well as, first alternative design response. Should be both.

Exhibited text	Recommendation/Comment
<i>high-quality communal spaces that exceed the minimum criteria set out in Part 2.2: Communal spaces.</i>	
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Table 2.5.1	<p>Supported. Increase of 2B apartments to 2.4m is positive.</p> <p>Balcony dimensions often include elements like balustrades and planter box depths. This should be clarified. These elements should be excluded.</p> <p>Unclear whether private open space on ground level or podium can count area less than 3m (as specifically not a 'balcony')?</p>
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<i>Enhance liveability for residents by: locating private open spaces adjacent to the living room, dining room or kitchen to extend the living space facing the longer side outwards, or having the private open space open to the sky to optimise daylight access into adjacent rooms</i>	<p>Supported. However, should be design criteria as a part of Table 2.5.1 as central to outcome. Currently qualified by 'enhance liveability by'. Balconies as shown in Figure 2.5.2 may able to be turned at 90 degrees into the plan which would be a poor outcome.</p>
<i>Provide balconies with minimum dimensions as shown in Figure 2.5.2 to ensure suitability for furniture. The remainder of the minimum balcony area over and above these minimum dimensions can be provided flexibly with a minimum depth of 1 m.</i>	<p>Supported. Improves upon existing interpretation of ADG 4E-1 1 of minimum furnishable area of 2m x 2m or 2.4m by 2.4m. However, should be design criteria as a part of Table 2.5.1 as central to outcome.</p>
<i>To maximise protection from adverse winds, design single-aspect balconies that do not project beyond the facade.</i>	<p>Supported. Useful new advice.</p>
<i>For corner balconies in exposed locations, mitigate high wind speeds using devices such as full-height impermeable screens on the most exposed aspect.</i>	<p>Supported. Useful new advice.</p>
<i>Locate sources of heat rejection, such as those from air conditioning units, in a location away from private open space, and to avoid degrading the amenity of private open space. The roof can be used to locate split- system condensers for up to 8 storeys immediately below, i.e. within the limits of the condensate pipework length and height difference. For buildings with more than 8 residential storeys, and where a rooftop location is not practical, centralise heat rejection in dedicated on-floor plant rooms (condenser decks) that are sufficiently sized to provide efficient heat rejection, and suitably screened to reduce visual and acoustic impacts.</i>	<p>Supported. Useful new advice.</p> <p>Can heat rejection also be located in basements/semi-basement when natural ventilation is available?</p>
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Exhibited text	Recommendation/Comment
<p>Where clothes drying or storage areas are located on balconies:</p> <ul style="list-style-type: none"> - count these areas in addition to the minimum balcony size - provide screening and integrate them into the building design. 	<p>Add text: 'Provide 0.4sqm of external clothes drying area per bedroom for all apartments and show on plan. Where clothes drying or storage areas are located ...'</p> <p>Mechanical clothes drying accounts for the highest energy consumption in apartments after heating and cooling. All apartments must have access to external areas for natural air drying.</p>
<p>Insulate the ceilings of apartments below balconies and roof terraces to avoid heat loss.</p>	<p>Insulation is too detailed to consider at development application stage. Alternatively, could be a condition of consent.</p>
<p>Provide water and electricity for primary balconies and private open spaces wherever possible. Ensure locations do not assist climbability.</p>	<p>Water and electricity points are too detailed to consider at development application stage. Alternatively, could be a condition of consent.</p>
<p>— preferencing solid or partially solid balustrades over full-width glass balustrades, particularly at lower levels of the building</p>	<p>Solid and partially solid balustrades are preferable for the full height of the building. Partially open balustrades allow for views whilst the partially solid component provides privacy from the street, from neighbouring buildings, and can conceal balcony contents.</p>
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<p>Where alternative solutions are being considered under an applicable SEPP, such as policies for affordable rental housing or build-to-rent apartments, the consent authority may be flexible in considering how a proposal complies with guidance for private open space.</p>	<p>Unclear why 'affordable rental housing' would require flexibility with private open space? SEPP Housing Part 2 Division 1 In-fill affordable housing and Division 5 social housing residential flat buildings require continued application of SEPP 65 with no modifier.</p> <p>Alternative solutions should also apply to situations set out in the previous clause?</p>
<p>Design wintergardens to temper noise and harsh conditions but not limit natural ventilation or natural cross-ventilation within the apartment.</p>	<p>Supported. Useful new advice.</p>
<p>To allow adequate natural ventilation of the balcony and the apartment, provide the wintergarden with permanent openings at the top of the enclosure, and running the full length of the wintergarden facade. Make the size of the openings at least the greater of: 25 per cent of the external face of the balcony on its longest aspect twice the EOA required for openings from the apartment onto the wintergarden to support natural ventilation or natural cross- ventilation.</p>	<p>Supported. Useful new advice.</p> <p>Advice could be provided on whether this solution contributes to GFA. See SILEP definition of GFA. Also see Tuor C in Haralambis Management Pty Ltd v Council fo the City of Sydney [2013] 1009. SLEP2012 4.5A may also be relevant.</p>
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<p>OBJECTIVE 2.6.1 Maximise the number of apartments that receive sunlight to living rooms and private open spaces, and</p>	<p>Unclear what is meant by 'maximise' (similar issue to ADG 4A-1 1 'optimise')? All of them? The 70% design</p>

Exhibited text	Recommendation/Comment
<p><i>have high-quality daylight access, especially where sunlight is limited.</i></p>	<p>criteria? Less sometimes? Should use a quantitative term that implies the design criteria should be achieved.</p> <p>Modify to read: 2.6.1 Maximise the number of apartments that receive sunlight to both the living rooms and private open spaces, and have high-quality daylight access, especially where sunlight is limited.</p>
<p>OBJECTIVE 2.6.2 Use passive environmental design strategies to optimise heat storage in winter and reduce heat transfer in summer, using low thermal transmittance construction, shading devices, and balconies.</p>	<p>Modify to read: 2.6.2 Use passive environmental design strategies to optimise provide winter sun, summer shade, heat storage in winter and reduced heat transfer in summer, using low thermal transmittance construction and external shading devices, and balconies.</p>
<p>DESIGN CRITERIA In the Sydney Metropolitan Area, and Newcastle, Gosford, and Wollongong LGAs, the living rooms and private open spaces in at least 70 per cent of the apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at midwinter (21 June).</p>	<p>Supported. Maintains ADG 4A-1 1.</p> <p>Modify to read: In the Sydney Metropolitan Area, and Newcastle, Gosford, and Wollongong LGAs, both the living rooms and private open spaces in at least 70 per cent of the apartments in a building receive a minimum of 1 square metre of 2 hours direct sunlight for 2 hours between 9 am and 3 pm at midwinter (21 June).</p> <p>The term 'building' is not defined by the ADG. Currently, an NCC understanding is used which can mean that multiple residential flat buildings connected by a single basement car park can be considered a single 'building'. This might allow one building to have no sunlight if the other buildings can compensate, which is a poor outcome. The ADG should define 'building' along the lines of the collection of apartments sharing a vertical core and/or sharing a front door.</p>
<p><i>In all other LGAs, the living rooms and private open spaces in at least 70 per cent of the apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at midwinter.</i></p>	<p>This clause recalls RFDC Rule of Thumb p85 (which distinguished 'dense urban areas' as being able to have less solar access (2 hours)). However, any area where residential flat buildings are permitted today (regardless of LGA) are likely now planned to be dense/tall enough for neighbouring buildings to impact solar access. All LGAs could now reasonably allow 2 hours. 3 hours can require unreasonable design contortions to achieve as it requires units to see due north/12 noon at some point during the day (9am-12 or 12-3pm). 2 hours provides more design flexibility while maintaining sufficient amenity.</p>
<p><i>No more than 15 per cent of the apartments in a building receive no direct sunlight between 9 am and 3 pm at midwinter.</i></p>	<p>Include: '...no direct sunlight to living rooms ... (similar issue to ADG 4A-1 3). This was clarified for the ADG by the 'Solar access requirements in SEPP 65' Technical Note p2.</p>

Exhibited text	Recommendation/Comment
<p><i>Where glazing is greater than 30 per cent of the apartment facade on any individual apartment aspect (when measured on the internal face of the wall), provide external sun shading to a maximum of 30 per cent of the exposed glazing in a wall to block 30 per cent of summer sun.</i></p>	<p>Rewrite to be consistent with the procedure on pA16.</p> <p><i>Where glazing is greater than 30 per cent of the apartment facade on any individual apartment aspect (when measured on the internal face of the wall), provide external sun shading to a maximum of 30 per cent of the exposed glazing in a wall to block 30 per cent of summer sun so that no more than 30% of the facade comprises glass exposed to direct sun over the summer season.</i></p> <p>Consider if the 30% should be changed to 20%. This proportion has recently been tested with LAHC at the Cowper Street site in Glebe.</p> <p>Simple compliance options should be provided e.g. operable/movable shading for east and west, allow for future tables of complying shading dimensions for different orientations and glazing sizes and consider supporting industry to develop CAD plugins that could be certified by GANSW.</p>
<p>Page 61</p>	
<p><i>— Living areas are best located to the north and service areas to the south and west of apartments.</i></p>	<p>Unclear what is intended with regard to service rooms (similar issue to ADG 4A-1 1). All faces of an apartment should prioritise habitable rooms. South and west are suitable for bedrooms. Service areas are often internalised. Delete this subclause as main clause is sufficient.</p>
<p><i>For living rooms and private open spaces, 'receiving direct sunlight' includes the following surfaces receiving direct sunlight for at least 15 minutes:</i></p> <ul style="list-style-type: none"> <i>- the floor of a private open space, or the face of its surrounding walls</i> <i>- the glazed opening to a living space.</i> 	<p>Supported. Defines 'no sun' as less than 15 minutes. Could be included in the glossary.</p> <p>Supported. Floor or walls of private open space does not require construction of artificial 1m high floor level to measure (as per ADG 4A-1 8).</p> <p>Has removed the requirement for an area of 1m² to be achieved for the minimum 15 minutes (ADG 4A-1 8). This will allow the sun to just 'touch' the window to count (as under RFDC). This does not achieve the minimum amenity of 'useable' amount of sunlight that 'provides real benefits to residents' so that a 'resident can for instance pull up a chair and read a book in the sunlight in their living room/private open space' (Solar access requirements in SEPP 65' Technical Note p1). This may require reversion to the solar access NSWLEC planning principle to determine adequacy. See The Benevolent Society v Waverley Council [2010] NSWLEC 1082.</p> <p>Modify to read: <i>For living rooms and private open spaces, 'receiving direct sunlight' includes the following surfaces receiving</i></p>

Exhibited text	Recommendation/Comment
	<p>at least 1 square metre of direct sunlight for periods of at least 15 minutes:</p> <ul style="list-style-type: none"> - the floor of a private open space, or the inside face(s) of its surrounding walls - the glazed opening glazing to a living space.
<p><i>To provide daylight to habitable rooms, use skylights, high-level windows (sill height of 1,500 mm or greater), courtyards or light wells as secondary sources only.</i></p>	<p>'Courtyard' means the same as 'lightwell' in this context? (similar to ADG 4A-2 1). The use of the term 'courtyard' is confusing as it can also refer to larger, often landscaped spaces where it is desirable to have habitable rooms facing on to them. 'Lightwell' is a more appropriate term, however it is not defined by the ADG. The term 'courtyard' is defined as a 'communal space at ground level or on a structure (podium or roof) that is open to the sky, formed by the building and enclosed on 3 or more sides.' This is closer to the meaning of 'lightwell' and could be adopted. The definition of courtyard should also be redefined.</p>
<p><i>Where courtyards or light wells are used: make them fully open to the sky restrict their use to kitchens, bathrooms and service areas consider noise and privacy (see Part 1.2: Built form and siting, Part 2.8: Acoustic privacy, noise and pollution, and Part 2.9: Visual amenity) treat them as part of the building's visible external facade, including appropriate selection and detailing of materials and building services provide access for cleaning and maintenance from a communal area.</i></p>	<p>Supported. Could be improved by 'consider noise and privacy by providing adequate building separation...'</p> <p>The use of the term 'courtyard' is confusing in this context (similar to ADG 4A-2 2) as it can also refer to larger, often landscaped spaces where it is desirable to have habitable rooms facing on to them. 'Lightwell' is a more appropriate term, however it is not defined by the ADG. The term 'courtyard' is defined as a 'communal space at ground level or on a structure (podium or roof) that is open to the sky, formed by the building and enclosed on 3 or more sides.' This is closer to the meaning of 'lightwell' and could be adopted. The definition of courtyard should also be redefined.</p>
<p><i>Where the local street grid or subdivision pattern limits potential sunlight access to a building, the minimum 2 hours or 3 hours of direct sunlight in midwinter can be received between 8 am and 3 pm (i.e. the time interval extended one hour earlier). However, consider the potential impact on satisfying Objective 1.2.2 for any future residential development on adjacent sites.</i></p>	<p>Delete advice</p> <p>This is poor advice. Sunlight at 8am is very low in the sky (less than 10°). Even if this sunlight is available (would require modelling to some distance to demonstrate), future neighbouring context will most likely obstruct this sunlight. This will mean that neighbouring sites are unfairly constrained to retain this sunlight ('first-in-best-dressed'), or alternatively, that sunlight will be removed at a later date and cannot be relied upon. Retention of 9am to 3pm is more equitable.</p>
<p><i>Providing sunlight access may not be possible on some sites. This includes:</i></p> <ul style="list-style-type: none"> - where greater residential amenity can be achieved along a busy road or railway line by orientating the living rooms away from the noise source - on south-facing sloping sites - where significant views are oriented away from the desired aspect for direct sunlight - adaptive re-use of existing buildings or heritage items. 	<p>What is the test for 'may not be possible'?</p> <p>Some are not necessarily mutually exclusive (for example south facing slopes can provide cross through apartments)</p> <p>Modify to read: Providing Maximising sunlight access may not be possible on some sites. This includes in some contexts</p>

Exhibited text	Recommendation/Comment
	<p>may require a high proportion of dwellings to have dual aspect, including:</p> <ul style="list-style-type: none"> - on south-facing steeply sloping sites - where significant views are oriented away from the desired aspect for direct sunlight <p>Other solutions may be required:</p> <ul style="list-style-type: none"> - where greater residential amenity can be achieved along a busy road or railway line by orientating the living rooms away from the noise source - adaptive re-use of existing buildings or heritage items.
<p><i>Where this is the case, demonstrate how the site constraints and orientated preclude meeting the design guidance, and how the development meets the objectives in other ways.</i></p>	<p>Combined with the clause above it</p> <p><i>Where this is the case, demonstrate how the site constraints and orientated preclude meeting the design guidance, and how the development meets the objectives in other ways.</i></p> <p>Change to 'orientation'</p>
Orientation	Move all guidance to 1.2 Built form and siting
<p><i>Minimise overshadowing to public open space and neighbouring residential properties to ensure living areas, private open spaces and communal spaces in the affected properties continue to receive the sunlight access described in the design criteria.</i></p>	<p>Supported in principle. Quantifies an amount of overshadowing that is acceptable to neighbours (similar to ADG 3B-2 1). A key amenity and numerical in nature. Should be design criteria.</p> <p>Requires an assessment of the neighbouring building to determine whether 70% of the apartments receive the minimum hours of sunlight between 9am and 3pm at midwinter. This can be difficult if the documentation for the neighbouring building is not readily available (particularly internal layouts/room use — outside can be surveyed).</p> <p>Should clarify that if neighbour is a type to which the ADG does not apply (e.g., house or townhouse) that the solar access requirements of those types apply instead.</p> <p>There is no design criteria for overshadowing to public open space.</p>
<p><i>If neighbouring properties are already not receiving the recommended minimum number of hours, ensure their sunlight access is not reduced by more than 20 per cent as a result of the proposed design.</i></p>	<p>Supported in principle. Quantifies an amount of reduction of sunlight that is acceptable (similar to ADG 3B-2 3). Should clarify that properties are individual dwellings for this clause, not whole buildings. Should clarify that reduction is in time not area (90 minutes not reduced to less than 72 minutes). See 'steps' in City of Sydney Draft Minimising overshadowing of neighbouring apartments. Could import methodology into ADG.</p>
<p><i>If the proposal significantly reduces the neighbours' sunlight access, mitigate the impact of shading by increasing the</i></p>	<p>Clarify the level of reduction that is 'significant'</p>

Exhibited text	Recommendation/Comment
building separation beyond the minimums set out in Part 1.2: Built form and siting.	
Page 62	
<i>Alternative design responses – solar access Where the local street grid or subdivision pattern limits potential sunlight access to a building, the minimum 2 hours or 3 hours of direct sunlight in midwinter can be received between 8 am and 3 pm (i.e. the time interval extended one hour earlier). However, consider the potential impact on satisfying Objective 1.2.2 for any future residential development on adjacent sites.</i>	Delete guidance Extending the hours solar access to 8am is not practical or advisable. At 8am in Sydney the vertical sun angle is around 10 degrees or a ratio of almost 6:1. This means that, for example, that a ground floor apartments sunlight will clear an 8 storey building only if it is 150 metres away. Maintaining the sunlight access and calculating its availability is over neighbouring properties is difficult. The guidance places an overly onerous constraint on too many neighbouring properties. It greatly increases the complexity of strategic planning, site analysis and assessment.
<i>Where the solid material on an apartment facade in an individual aspect is 70 per cent or more, no additional shading is required for glazing on that aspect.</i>	Consider increasing to 80 per cent
<i>Where a covered balcony with a minimum depth of 1 m extends across the length of a glazed facade or opening, this is considered to provide the shading necessary for all facade orientations apart from +/- 30° of west. A building facade located behind a covered balcony can therefore be excluded from the apartment facade calculation.</i>	Supported. Clarify that the 1m overhang must be located level with the head of the glazing and that side walls must be provided for orientations 30-60 degrees from north.
<i>For all balconies oriented +/- 30° of west, incorporate operable shading to protect glazing. If a balcony has an orientation to the north and west, only the western orientation will require additional shading.</i>	Supported. Note that where closed shading completely shields all glazing that it is deemed to meet the requirement.
<i>The amount of shading required depends on the amount of glazing on that aspect. Increase or decrease shading in proportion to the glass-to-wall ratio.</i>	Supported.
<i>Reduce direct summer sun on a glazed apartment facade through a combination of: solid materials and projections shading of the glazed facade.</i>	Supported.
<i>Design shading so it does not limit the sunlight access recommended for midwinter. Operable and movable shading devices are best for this situation.</i>	Supported.
Figure 2.6.1	The view from the sun technique at midwinter is superior to plan views as it demonstrates solar access to windows as well as the ground plane (Solar access requirements in SEPP 65' Technical Note p2).

Exhibited text	Recommendation/Comment
	Equinox shadow diagrams are not required by the ADG design criteria?
Page 63	
<p><i>Consider facades on an individual aspect and per apartment basis, and measure along the internal face of the external wall. For facade calculations, exclude:</i></p> <ul style="list-style-type: none"> <i>any walls or glazing located behind a covered balcony of 1 m or greater depth except where the elevation is within 30° of west</i> <i>facades facing between south-west, south, and south-east</i> <i>the area of window or door reveals</i> <i>the area between the finished ceiling height and finished floor area above</i> <i>the edge of party walls.</i> 	<p>This method could be simplified to Xsqm per linear metre and anticipate future CAD plugins that could be certified by GANSW</p>
<p><i>Elements which can be considered as providing shade for glazed areas include opaque building elements on the site or on neighbouring sites, including:</i></p> <ul style="list-style-type: none"> <i>vertical screens</i> <i>horizontal projections</i> <i>opaque balcony balustrades — other buildings within the site.</i> 	Supported.
<p><i>The following elements cannot be considered as providing shade to glazed areas:</i></p> <ul style="list-style-type: none"> <i>translucent built elements including glass balustrades</i> <i>opaque built elements outside the site yet to be delivered</i> <i>trees within or outside the site.</i> 	Supported.
Figure 2.6.2	2.4m ceilings for kitchens is a reduction in amenity from the current ADG (see above). Not required to be shown or dimensioned in this diagram.
Page 64	
<p>OBJECTIVE</p> <p><i>2.7 Provide natural ventilation to all habitable rooms and maximise apartments with natural cross-ventilation to optimise indoor air quality and thermal comfort and reduce reliance on mechanical ventilation.</i></p>	<p>Supported. Maintains ‘natural ventilation to all habitable rooms’ (similar to ADG 4B-1).</p> <p>Clarify what is meant by ‘maximise’ (similar issue to ADG 4B-3). All of them? The 60% design criteria? Less sometimes? Should use a quantitative term that implies the design criteria should be achieved.</p> <p>The wording to ‘provide natural ventilation’ may allow development that is noise affected to provide mechanical ventilation and not solve the noise issues for a naturally ventilated state. In contrast the current wording that ‘all habitable rooms are naturally ventilated’ makes the natural ventilation active not simply provided. Alternatively provide guidance to clarify that noise and natural ventilation must be solved at the same time.</p>

Exhibited text	Recommendation/Comment
	<p>Ideally split into two objectives: 2.7A All habitable rooms are naturally ventilated. 2.7B The proportion of apartments with natural cross-ventilation is maximized.</p> <p>Or modify to read: 2.7 All habitable rooms are naturally ventilated Provide natural ventilation to all habitable rooms and maximise and the proportion of apartments with natural cross-ventilation is maximised [to optimise provide good indoor air quality and thermal comfort and reduce reliance on avoid the need for mechanical ventilation and air conditioning.] The part of the objective in square brackets could be modified or deleted</p>
<p>DESIGN CRITERIA <i>Natural cross-ventilation (using exposure to wind and appropriate sizing and distribution of openings) is provided for at least 60 per cent of the apartments in the first 9 storeys of a building.</i></p>	<p>Supported. Maintains ADG 4B-3 1. Additional wording regarding wind and openings does not appear to detract.</p> <p>The term 'building' is not defined by the ADG. Currently, the NCC understanding is used which can mean that multiple residential flat buildings connected by a single basement car park can be considered a single 'building'. This might allow one building to have no natural cross ventilation if the other buildings can compensate. The ADG should define 'building' along the lines of the collection of apartments sharing a vertical core and/or sharing a front door.</p>
<p><i>Apartments at 10 storeys or greater are deemed to be cross-ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and balconies cannot be fully enclosed.</i></p>	<p>Supported. Maintains ADG 4B-3 1.</p> <p>'Adequate natural ventilation' should be defined for the purposes of this clause.</p>
<p><i>The overall depth of a cross-over or cross-through apartment does not exceed 18 m, measured from glass line to glass line.</i></p>	<p>Maintains ADG 4B-3 2 and maximum specified in ADG 2E 1 advice ('maximum apartment depths of 12-18m from glass line-to-glass line'). However, 18m apartment depths make for very deep buildings, particularly with balconies added to each side (often up to 24m+). ADG Figure 2C.4 indicates 18m should be maximum for the building envelope (could be glass line-to-glass line but should also be inclusive of balconies where present).</p> <p>Reinstate Draft ADG 2014 p37 advice 'maximum apartment building depths of 12-18m' overall (not glass line-to-glass line). An 18m overall envelope dimension would improve general apartment amenity immensely as most of the floorplate would be within reasonable proximity of the perimeter wall, greatly reducing the number of internalised spaces (service rooms and pseudo-habitable spaces) and reducing tension for adequate window frontage to habitable rooms.</p>

Exhibited text	Recommendation/Comment
Page 65	
<i>Provide an equivalent open area (EOA) of ventilation openings equal to at least 5 per cent of the floor area served.</i>	Provide a definition of ‘floor area served’ for proper operation of this design criteria. How is it measured? Is it the whole unit area or by room (like the NCC)? Does it exclude service rooms? Does it exclude circulation?
<i>For EOA calculations, include an allowance for flyscreens, regardless of whether they are provided, and opening restrictors, if required for fall prevention.</i>	Supported The required ‘allowance for fly screens’ should be specified for proper operation of this clause. ADG Glossary p179 definition of EOA included that ‘fly screens and security screens will reduce the effective openable area by half’ (50%). Modify to read: For The EOA calculations, must include an allowance for flyscreens, regardless of whether they are provided, and opening restrictors, if required for fall prevention.
<i>For courtyards or building indentations, provide a width-to-depth ratio of less than 2:1 to ensure effective air circulation and avoid trapping pollutants.</i>	Supported. Maintains ADG 4B-2 2 For clarity modify to: For courtyards or building indentations, provide a width-to-depth ratio of less than 2:1 to ensure the width of such spaces is greater than the depth including balconies to provide effective air circulation and avoid trapping pollutants
<i>Use ceiling fans to improve air circulation within standard-height habitable rooms.</i>	Supported. Useful new advice. Modify to read: Use Provide ceiling fans to improve air circulation in all habitable rooms within standard-height habitable rooms. The term ‘standard height’ is not required.
<i>Avoid light wells as the primary air source for habitable rooms.</i>	Supported. Maintains ADG 4B-1 4. Could be improved by ‘To provide air to habitable rooms, use lightwells as a secondary source only’ (similar to daylight design guidance construction).
<i>Where possible, use windows to provide natural ventilation for bathrooms and kitchens to reduce moisture build-up, disperse smells, and provide ventilation if an exhaust fan breaks down.</i>	Supported. Useful advice (similar to ADG 4D-2 5). Could require a percentage of kitchens and bathrooms to have a window (similar to RFDC Rule of Thumb p87)
<i>Window opening restrictors for fall protection and flyscreens severely limit available airflow. When calculating the amount of ventilation available, it must be based on the geometric open area (GOA) of the window, which takes the restrictor into account. In addition, the reduction shown in Table A4.1 (see Appendix 4) must be applied to the geometric open area to calculate the EOA, allowing for loss of airflow due to flyscreens.</i>	Supported in principle. Allowance for restrictors and flyscreens is essential to ensure adequate intended amenity. A ready reckoner should be provided to deal with typical room sizes and window types (for example an awning window of Xm2 will always satisfy a typical bedroom of Ym2).

Exhibited text	Recommendation/Comment
<p><i>Even if flyscreens are not installed from the outset, the calculations must allow for future installation of flyscreens. (See Appendix 4 for calculation of EOA.)</i></p>	
<p>Figure 2.7.1</p>	<p>Supported. Useful new advice.</p>
<p>Page 66</p>	
<p><i>Acceptable solutions for providing natural cross-ventilation include:</i></p> <ul style="list-style-type: none"> - <i>cross-through, corner and roof-window apartments consistent with wind exposure achieved through minimum separation</i> - <i>limited obstruction to wind from the building</i> - <i>appropriate sizing and distribution of openings (see Appendix 4.2: Natural cross- ventilation decision tree)</i> 	<p>Supported</p> <p>This section must be redrafted. The 3 pieces of guidance are effectively 2 pathways to demonstrating natural cross ventilation with a sub test for questionable corner apartments. This relationship between the different pathways must be made very clear and simple to follow. For example</p> <p>Modify to read: <i>Acceptable solutions for providing demonstrating natural cross-ventilation include:</i></p> <ul style="list-style-type: none"> - meeting the definition for a naturally cross-ventilated apartment type [Pathway 1 - all the geometric requirements will need to be in the definitions and where a corner apartment is questionable check compliance with the geometric tests in the guidance and Appendix 4.2; or - modelling to show compliance with the natural cross-ventilation rates as required in Appendix 4.2 [Pathway2]. <p>Modify the subsequent guidance to match the 2 pathways.</p> <p>Clarify that the 225-degree test is only for questionable corner apartments not cross-through apartments.</p> <p>The changes required to ensure good cross ventilation are complex and relate to the criteria, guidance, glossary and new appendix. The City would welcome a specific meeting to discuss how all these parts can support each other most clearly.</p> <p>Does 'minimum separation' include the minimum 3m non-habitable separation (for example cross ventilating a corner apartment from a living room (with 12m separation) through a bathroom window (with 3m separation)?</p> <p>Clarify that cross-over apartments also naturally cross ventilate - refer to 'dual-aspect apartments'</p> <p>Clarify that 'roof-window apartments' naturally cross ventilate if the clerestory window faces the same direction (is not in a corner or cross-through orientation)</p>

Exhibited text	Recommendation/Comment
<p><i>Where facade exposure is inconsistent with acceptable apartment types, achieve exposure to wind by: Providing unobstructed access to 225° of wind exposure to openings, measured from the centre of the openings (see Figure A4.2.2 in Appendix 4) and: Maintaining adequate separation distances between buildings: - 9 m minimum separation between buildings if space between buildings is open at both ends and has unobstructed airflow - 6 m minimum separation between buildings if space between buildings is open at both ends and has unobstructed airflow, and the adjacent building facade is the same length or shorter - minimum habitable–non-habitable separation distance if the apartment opens to a courtyard - in all other cases, assume building separation distances between habitable rooms as set out in Part 1.2: Built form and siting (see Figure 1.2.1).</i></p>	<p>Clarify what ‘limited obstruction to wind from the building’ means. From the building itself and/or other buildings?</p> <p>Provide guidance for ‘Pathway 1’</p> <p>Clarify that the 225-degree test is only to confirm questionable corner apartments and that cross-through apartments do not need to meet this test.</p> <p>The adequate separation distances part of this guidance should be common to both parts of Pathway 1. Could be integrated in the glossary definition of a naturally cross-ventilated apartment.</p>
<p><i>Achieve appropriate sizing and distribution of the natural ventilation openings by: - providing openings with a total EOA of not less than 5 per cent of the total habitable floor space of the apartment - balancing the openings between facades, with no facade having openings with an EOA of less than 2 per cent of the total habitable floor space if the apartment has dual aspects, or 1.5 per cent of the apartment has three aspects</i></p>	<p>Unclear what ‘total habitable floor space’ includes. Does it include circulation connecting habitable rooms which is on the air path? Does it include kitchens which are defined as ‘habitable’ in the Glossary?</p> <p>This should be integrated into the glossary definition of a naturally cross-ventilated apartment</p>
Page 67	
<p><i>Making the primary air path between the openings: - not less than 5 m - pass through the primary living space and n-1 bedrooms (where n is the number of bedrooms) and pass through no more than one single doorway - not pass through any common circulation or communal area other than gallery access.</i></p>	<p>Reinstate the part of the ADG Glossary definition of natural cross ventilation ‘for the majority of the primary living space’. This may allow the primary air path to only flow through the front of the living space (for example through a 5m wide bay window)</p> <p>Modify to read: <i>Making the primary air path between the openings: - not less than 5 m long - not turn more than 90 degrees in either direction along its path (i.e. should not turn back on itself) - pass through the majority of the primary living space and n-1 bedrooms (where n is the number of bedrooms) and pass through no more than one single doorway - not pass through any common circulation or communal area other than gallery access (if acoustic and visual</i></p>

Exhibited text	Recommendation/Comment
	<p>privacy is provided) or shared common open space and associated pathways. [note comment below]</p> <p>The primary air path passing through doorways should be acceptable. It can often be beneficial to include a hallway door to assist in the zoning of heating/cooling compartments within an apartment. Should this guidance be focused more on number of corners turned? The entry and exit openings may also be doors which might defeat the guidance.</p> <p>'Not pass through any... communal area' may prevent natural cross ventilation through shared landscaped courtyards. Example of imprecise language.</p> <p>'Not pass through any common circulation... other than gallery access' will encourage natural cross ventilation through gallery access, however this will create windows to corridors which become a privacy issue (acoustic and potentially visual) and will contradict other design guidance in this respect. Natural cross ventilation through common circulation should not be allowed.</p>
<p><i>Indentations, slots and other similar facade treatments do not provide adequate exposure to different wind direction and natural cross-ventilation.</i></p>	<p>Supported. Useful new advice. Could be improved by '...and therefore natural cross ventilation'.</p>
<p>Figure 2.7.3</p>	<p>The plan appears to show that the apartment is cross-ventilating through a clerestory window in a bathroom. Is this allowable/ intended?</p> <p>Unclear what the 'rear one quarter of room depth' is referring to or what its purpose is?</p>
<p><i>Where apartment developments are unable to achieve this design guidance due to ambient noise and pollution, consider alternative solutions for:</i></p> <ul style="list-style-type: none"> - sunlight and daylight access - private open space and balconies - natural cross-ventilation. 	<p>Is this in the wrong section as it also refers to sunlight, daylight and private open space? Duplicates advice in Part 2.8. Possibly delete.</p>
<p><i>An alternative natural ventilation pathway can be applied which allows a smaller area of opening to be acoustically attenuated, with the balance of the 5 per cent EOA to be provided via unattenuated openings. See Appendix 4.1: Natural ventilation.</i></p>	<p>Add:</p> <p>'In noisy environments an alternative natural ventilation pathway can be applied ...'</p> <p>In noisy environments an alternative natural ventilation pathway can be applied which allows a smaller area of opening to be acoustically attenuated, with the balance of the 5 per cent EOA to be provided via unattenuated openings for flushing of hot air or to purge odours or pollutants. See Appendix 4.1: Natural ventilation.</p>
<p><i>An alternative design response for natural cross-ventilation requires confirming</i></p>	<p>The modelling option must be carefully managed to ensure a consistent approach to modelling and reporting. Include in 'Pathway 2' noted above.</p>

Exhibited text	Recommendation/Comment
<i>the performance through testing using the verification methods described in Appendix 4.</i>	
Image	Selected image is in a common corridor, not in an apartment.
Page 68	
<p>OBJECTIVE 2.8 Minimise the impact of noise and pollution on residential amenity by careful site and apartment planning, using appropriate noise shielding or attenuation in design detailing, material selection and construction quality.</p>	<p>The objective does not indicate hierarchy or responses. Modify to read: 2.8 Minimise the impact of noise and pollution on residential amenity by careful site and apartment planning, using creating appropriate noise shielding or and attenuation in design detailing, material selection and construction quality.</p> <p>Does not deal with concept of 'plenums' within this section. See City of Sydney Draft Alternative natural ventilation of apartments in noisy environments performance pathway guideline.</p>
Page 69	
<i>Use appropriate siting to separate the development from noise sources, minimise propagation of noise through the site, and minimise noise reaching habitable rooms and private open spaces.</i>	<p>Supported. Add two supporting design guidance:</p> <p>'Use layout to face habitable rooms away from noise sources.'</p> <p>'Siting and layout are used in preference to facing habitable rooms toward noise sources such that attenuation strategies and devices are required to meet noise amenity criteria.'</p>
<i>Design window and door openings in habitable rooms so they are oriented perpendicular to a noise source and shielded by other structures where possible.</i>	Supported. Useful new advice. Modify to include '...so they are oriented away from or perpendicular to a noise source...'
Figure 2.8.1	<p>Unclear what a 'barrier building' is? Should be described or defined with the ADG.</p> <p>Unclear what 'facade A' and 'facade B' are as labels are on the roof? Is a noise direction needed for this diagram?</p>
<i>Use external acoustic treatments such as reducing the extent of flat reflective surfaces, increasing building articulation, or designing vertical projections, balcony soffits and wintergardens to minimise the need for alternative natural ventilation.</i>	Clarify what the direct relationship is between 'external acoustic treatments' and 'natural ventilation'. Needs to be explained.
<i>For developments near a busy road, obtain a site-specific acoustic and air quality assessment to determine the existing noise and air quality environment and inform potential mitigation strategies.</i>	Does NSW have standards/requirements for air quality that can be assessed against? QLD may do.

Exhibited text	Recommendation/Comment
Figure 2.8.2	Advice is good but this layout rarely happens in practice as buildings are deeper.
<i>Where necessary, embed acoustic treatments and controls on structure-borne noise in the building or in caveats for operators of non-residential uses.</i>	Structure-borne noise is too detailed to consider at development application stage apart from a spatial allowance. This should be a condition of consent Unclear what 'caveats' are in this context?
Page 70	
<i>Minimise noise impacts from the floors of apartments below, above or next door.</i>	Acoustic insulation is too detailed to consider at development application stage? Alternatively, could be a condition of consent.
<i>For all habitable rooms, including where an alternative solution for natural ventilation is necessary, refer to the noise level criteria with windows closed in Development near Rail Corridors and Busy Roads – Interim Guideline.</i>	Supported however the reference to "windows closed" is potentially confusing: <i>For all habitable rooms, including where an alternative solution for natural ventilation is necessary, refer to the noise level criteria with windows closed in Development near Rail Corridors and Busy Roads – Interim Guideline Table 3.1 noting the requirement for natural ventilation.</i>
<i>Apartments that require an alternative natural ventilation solution to meet acoustic amenity requirements may be removed from the total count of apartments used to calculate provision of natural cross-ventilation and sunlight access.</i>	Modify to read: <i>Apartments that require an alternative natural ventilation solution to meet have a layout that protects habitable rooms from noise sources to achieve acoustic amenity requirements may be removed from the total count of apartments used to calculate provision of natural cross-ventilation and sunlight access.</i>
Figures 2.8.3 and 2.8.4	Diagrams should be removed or clarified that the spaces behind are non-habitable In most cases these solutions do not achieve sufficient noise reduction. A mostly enclosed balcony can be designed like an acoustically lined plenum, but it requires plan illustration showing offset of opening and acoustic lining. Not 'enclosed' if it has permanent opening? Should refer to Part 2.5? Advice could be provided on whether this solution contributes to GFA. See SILEP definition of GFA. Also see Tuor C in Haralambis Management Pty Ltd v Council for the City of Sydney [2013] 1009. SLEP2012 4.5A may also be relevant. Could also include idea of wintergarden openings working in plan (rather than section).
Page 72	
OBJECTIVE	Require minimum separation and outlook distances to be the minimum outlook distances for habitable rooms and balconies (1.2 p14).

Exhibited text	Recommendation/Comment
2.9 <i>Provide privacy to apartments without compromising outlook, access to daylight and natural ventilation, or visual connections to surrounding public realm.</i>	For instance, all habitable rooms should have a minimum 6m unobstructed outlook beyond their window. This would prevent rooms looking into slots and guide arrangements for situations with angled windows.
<i>Maximise the visual amenity that can be achieved by scaling and configuring the development and apartment layouts in response to the adjacent context, topography and activities in spaces where overlooking may occur.</i>	Advice is very general in nature.
Page 74	
<i>Mediate visual and privacy impacts without compromising the design quality and safety of communal and public spaces by relying on blank walls, high-level windows or fixed screens.</i>	Could be improved by 'Mediate visual privacy without compromising outlook or the passive surveillance of...'
<i>Separate private open space and windows to apartments, particularly the primary windows to habitable rooms, from common circulation areas, communal spaces and public spaces. Design solutions include: providing solid or partially solid balustrades to balconies and private open spaces raising apartments or private open space above the public space or communal open space, keeping distance above to 1 m or less using landscape design including trees and vegetation to separate spaces, and planter boxes incorporated into walls and balustrades to increase visual separation. providing operable or fixed screening devices and louvres providing bay windows or pop-out windows to provide privacy in one direction and outlook in another using pergolas or shading devices to limit overlooking of lower apartments or private open space.</i>	<p>Repeats advice from earlier sections. See comments above.</p> <p>Should not include 'provide operable or fixed screening devices and louvres'. All other design solutions are preferable to obstructing a window with screening. A screened window prevents outlook and can be oppressive.</p> <p>The last subclause does not relate to the relationship between apartments and common space.</p>
Figure 2.9.1	Should not include 'raised window sills' unless it is a secondary window. A comfortable unobstructed horizontal view from both standing and sitting positions is a key amenity. High window sills disconnect from outside and can be oppressive.
<i>On constrained sites where it can be demonstrated that building layout opportunities are limited, provide fixed louvres or screens to windows or balconies where required to provide privacy. Balance this with the amenity of habitable rooms in apartments, including their: sunlight and daylight levels natural cross-ventilation outlook (where possible), including long- distance and middle-distance views of the sky, surrounding context, communal open space, public space and landscaping.</i>	<p>Should not include 'provide fixed louvres or screens'. All other design solutions are preferable to obstructing a window or balcony with screening. A screened window or balcony prevents outlook and can be oppressive.</p> <p>Wording suggests that amenity of one habitable room might be compensated for by another habitable room within the apartment. All habitable rooms should have adequate visual amenity as occupants may spend extensive periods of time in them.</p>

Exhibited text	Recommendation/Comment
	<p>Outlook should not be '(where possible)'. All habitable rooms should have adequate outlook which is provided by minimum building separation distances.</p> <p>Based on this proposed clause, visual amenity should not have an 'alternative solution'.</p>
Page 76	
Table 2.10.1	<p>Supported. Increase in overall volume a positive. Retaining volume within apartment reasonable.</p> <p>Advice should be provided whether studies can count towards storage volume within apartments.</p> <p>Advice should be provided on non-habitable 'storage rooms' without windows as they can be used as habitable spaces (for example a study or a nursery).</p>
Page 77	
Table 2.10.2	Supported. Ensures an adequate volume for key household items (for example vacuum cleaner/broom/ironing board).
<i>Provide a main bedroom wardrobe 0.6 m deep x 1.8 m wide at a minimum. Provide all other bedroom wardrobes at least 0.6 m deep x 1.5 m wide.</i>	Supported. Better location for this guidance.
<i>For adaptable apartments, consider flexible provision for storage or circulation to accommodate mobility devices including mobility scooters or electric wheelchairs. Provide a charging point for mobility devices.</i>	Should also ensure that minimum storage volume is maintained in adapted state. Storage is often deleted to provide greater circulation spaces.
Page 78	
<i>Where alternative design solutions are being considered under an applicable SEPP, such as policies for affordable rental housing or build-to-rent apartments, the consent authority may be flexible in applying the design guidance for internal storage, and instead consider whether provisions for storage outside apartments (as set out above) will meet the needs of the residents.</i>	Unclear why 'affordable rental housing' would require flexibility with storage? SEPP Housing Part 2 Division 1 In-fill affordable housing and Division 5 social housing residential flat buildings require continued application of SEPP 65 with no modifier.
Page 79	
Image	Example of storage appears to be part of a kitchen (which does not count towards storage volumes)?
Page 81	
<i>Express building functions to support wayfinding and passive surveillance: Clearly define building entries Express apartment layout externally.</i>	Expressing apartment layout externally is not always desirable (for example image p83). Other compositional devices/approaches can be preferable in achieving urban design outcomes (for example, breaking down scale)

Exhibited text	Recommendation/Comment
<i>Avoid large areas of painted surfaces such as painted render or concrete, as these can detract from the building's appearance over time.</i>	Could be improved by '...over time and create maintenance issues.'
<i>For apartments located on the top floor or in habitable roof space, consider incorporating operable skylights, or dormer or clerestory windows, to maximise access to daylight, natural ventilation and natural cross-ventilation.</i>	Should not include 'operable skylights'. All other design solutions are preferable. Operable skylights are most likely to leak, may fail if mechanised and are difficult to shade.
Bottom left image	Mention use of colour.
Page 82	
<i>Some proposals that adapt existing buildings may not be able to achieve all of the design objectives. Consider alternative solutions for the following situations: where there are existing higher ceilings, increasing depths of habitable rooms by demonstrating adequate access to natural ventilation, cross-ventilation (when applicable), and sunlight and daylight (see Sections 2.6: Sunlight, daylight, shade and thermal comfort, and 2.7: Natural ventilation) providing deep soil where less than the minimum requirement is currently available on the site providing building and visual separation by demonstrating alternative design approaches to achieving privacy common circulation car parking private open space and balconies.</i>	<p>Providing deep soil may involve cutting new voids into/through the building where there is high site coverage. Is this envisaged/ acceptable?</p> <p>Alternative solutions for visual privacy are not recommended (see above).</p>
Page 85	
<i>3.1.1 Use low-carbon, low-emission systems, construction processes and materials to deliver energy-efficient apartment developments, where possible.</i>	3.1.1 Use low-carbon, low-emission systems, construction processes and materials to deliver energy-efficient apartment developments, where possible.
<i>3.1.2 Maximise environmentally sustainable energy consumption and facilitate energy production, where practical.</i>	3.1.2 Maximise environmentally sustainable energy consumption and facilitate energy production, where practical.
Page 86	
<i>Preference electricity as the power source for all energy requirements associated with normal operations.</i>	Preference Use electricity as the power source for all energy requirements associated with normal operations.
<i>Consider induction cooktops to reduce overheating of apartments, cooling loads and air pollutants.</i>	Consider Use induction cooktops to reduce overheating of apartments, cooling loads and air pollutants.
<i>Locate heat pumps in a central location to reduce urban heat-island effects.</i>	Use and Locate heat pumps in a and locate them central location on top of the building to reduce urban heat-island effects.
Page 90	

Exhibited text	Recommendation/Comment
3.3.1 Minimise waste storage impacts on the streetscape, building entries and amenity of residents.	Insert and collection impacts after 'waste storage impacts' to recognise the significant impacts that on-street waste collection can have on the streetscape and amenity.
3.3.2 Minimise occupants' waste to landfill by providing safe and convenient onsite organic and inorganic waste and recycling facilities.	<p>Supported with amendment. Specific reference to organic recycling is crucial and that convenient recycling at point of disposal should be emphasised.</p> <p>Insert and co-located after 'convenient' to further clarify the meaning of convenient and better ensure that organics recycling is well integrated and considered as part of waste and recycling infrastructure design.</p>
	<p>Insert new objective “Provide adequate waste storage capacity and access to ensure that the development can be serviced safely and efficiently and to maximise resource recovery.”</p> <p>This objective would strengthen the need for developers to design waste storage spaces and truck access that can be serviced as part of the standard council service, avoiding the need for bespoke arrangements, high frequency of servicing and unintended on-street servicing due to access issues.</p>
Images	Images should be updated to incorporate Australian Standards bin colours (AS4123.7-2006)
Page 91	
<i>Integrate waste management infrastructure to facilitate separation of waste, recycling and organics at the point of disposal – for large buildings, on each residential level.</i>	Supported. Reference should also be made to provision of adequate storage space for organics bins in waste storage area.
Design Guidance – waste storage	<p>Include “Adequately sized waste storage area that meets Council requirements for storage and separation of streams”</p> <p>This is in current ADG but is missing in draft ADG.</p>
Design Guidance – waste storage	<p>Include “Waste storage area is designed to allow bins to be easily manoeuvred within and between storage and collection points”.</p> <p>This is in current ADG but is missing in draft ADG.</p>
Figure 3.3.1 & 3.3.2	Figure description is not supported. Description should indicate that this is an example of a design solution that meets the requirement for separation of waste, recycling

Exhibited text	Recommendation/Comment
	<p>and organics at the point of disposal. Others include provision of food organics bins within chute rooms or within the waste storage area depending on the point of disposal for recycling proposed.</p> <p>Use of e-diverters with general, organics and recycling could lead to contamination issues and should not be included.</p>
Figure 3.3.3	<p>Supported with amendment. The inclusion of organics bins in the waste storage area and demonstration of a 1.8m doorway is supported. Figure 3.3.3 should be edited to incorporate aisles for resident access and bin manouverability.</p> <p>Note: Australian standards has food only bins as maroon. In high density areas a food only service may be provided.</p>
Page 93	
Landscape maintenance	<p>This section does not mention that it is difficult to access planting at height.</p> <p>Under 'landscape maintenance' add Ensure all planting is directly and easily accessible for maintenance, avoiding the need for specialist safety systems wherever possible. Ensure ownership for maintenance purposes is clearly defined to all building users.</p>
Page A1	
Registration no.	Only one number. Unclear whether NSWARB number of D&BP Act number required. See EP&A REGS [1].
<i>I confirm that I was responsible for designing the development, and that the development is consistent with the relevant principles of State Environmental Planning Policy (Design and Place) 2021 (DP SEPP) and the objectives of the Apartment Design Guide (ADG).</i>	Should use same wording as EP&A REGS 57 requirement 'verify that the architect designed, or directed the design, of the development' and 'explain by reference to the Apartment Design Guide, how the development achieves the objectives of the Guide.'
Page A2	
<i>The table below describes how the proposed development meets the non-discretionary development standards or, where they are not met, how the proposed development balances this with other design objectives and provides the best possible design response.</i>	Should not be balanced with 'other' design objectives (related to other issues?). Should demonstrate how the relevant objective is met with an alternative solution. It is important that this is not interpreted to permit/encourage 'trade-offs', particularly between core residential amenities. See SEPP D&P 30(2)(b)
Non-discretionary development standards	See comments above related to each of these non-discretionary development standards.
Page A3	

Exhibited text	Recommendation/Comment
<p><i>The table below describes how the proposed development satisfies the ADG objectives – by following the ADG design guidance or by using alternative solutions – and how the proposed development balances all the ADG objectives to provide the best possible design response.</i></p>	<p>Should not 'balance all' the ADG objectives. Should demonstrate how each relevant objective is met with an alternative solution. It is important that this is not interpreted to permit/encourage 'trade-offs', particularly between core residential amenities. See SEPP D&P 30(2)(b)</p> <p>Objective 1.6.3 is missing.</p> <p>The link between the ADG objectives and the SEPP D&P design principles is tenuous as the SEPP D&P design considerations do not reference key terms related to the ADG objectives. See SEPP D&P 13(1)</p>
Page A9	
<p><i>To gain an understanding of place, including what makes it unique, special, or suitable for change, carefully consider the approach to gathering, layering and interpreting relevant site and contextual information. The best way to capture the site and context information to inform the design process is to spatialise the data across 3 scales: catchment, neighbourhood and site.</i></p>	<p>Generally, more specific requirements should be provided to direct the scope of context and scales of drawings required.</p>
<p>Figure A2.1.1</p>	<p>Analysis examples should be complete with scale bar, legend, any written component, any images. Whatever is shown here will become the minimum standard for a site analysis.</p>
<p>Figure A2.1.2</p>	<p>Synthesis examples should be complete with scale bar, legend, any written component, any diagrams, any images. Whatever is shown here will become the minimum standard for a site analysis.</p>
Page A10	
<p>Figure A2.1.3</p>	<p>Interpretation examples should be complete with scale bar, legend, any written component, any diagrams, any images. Whatever is shown here will become the minimum standard for a site analysis.</p> <p>Driver 1 should show all trees with their classification, including those to be removed. 'Setbacks' beyond the site boundary are confusing. DCP setbacks should also be shown. Driver 2 why is there no pedestrian access from the park side? Driver 3 what does dark green mean? LEP HOB should also be shown? Too many questions to make example convincing/useful. Does not appear to be a site analysis for a development application (maybe a planning proposal?)?</p>
Page A11	
<p><i>Once the key design strategies have been identified through the process of site analysis, undertake a process</i></p>	<p>The requirement for the 'interrogation of various options' is not always useful to show and can be time consuming</p>

Exhibited text	Recommendation/Comment
<i>of design testing, in which various options are interrogated against findings from the site analysis.</i>	to document. Documenting a careful series of decisions to explain and support the approach to a design proposal is also a valid method. Showing options has value in some circumstances, but not in all circumstances. Design options are usually most useful at Pre-DA stage where the applicant is seeking advice on the most appropriate approach, not at development application stage where the design has already substantially progressed for submission. Requirement for options should be qualified by 'where of assistance'.
<i>The design solutions which emanate from the design strategies may be further developed from a detailed understanding of strategic planning documents and by exploring the application of particular typologies (see Appendix 8 for examples). The goal is to select a building type that marries a response to the unique qualities of the place with the client's objectives. The choice of building type may yield similar development outcomes but result in very different impacts and contributions.</i>	The site and context analysis should take into account a detailed understanding of strategic planning documents (SEPP/LEP/DCP/ other relevant policies) from the outset ('Gather' phase). These documents inform key development parameters including HOB, FSR, setbacks, local character, required building articulation etc., which should be incorporated as early as possible into the design process.
Figure A2.1.4	Development controls are not 'tested', design options are tested within development controls. Any variation to development controls proposed must show how they still meet the objectives.
<i>The design verification statement should clearly and concisely summarise the process in a way that allows the assessor and stakeholders to track how the site and place-specific considerations are reflected in the design. The statement becomes a useful tool to communicate the design process, either as part of a design review process, or in a formal discussion with council before submitting a development application.</i>	Supported. Could be improved by including that the process should be 'comprehensive to show all of the factors considered'. A missing factor (for example, road noise) would then be able to be identified as a deficiency of the proposal.
Page A12	
Site and context analysis checklist	The City supports the consultant work that was done on good site analysis. It should be implemented in full.
Page A15	
<i>To achieve 2 hours of direct sunlight in midwinter, a good test is to check whether the sun can 'see' the living room window and private open space between 11 am and 1 pm in plan view.</i>	Advice is taken from ADG Appendix 5 p177, however the diagram has been substituted (with ADG Figure 4A.1). The original ADG Appendix 5 diagram contains the essential information relating to the advice (time of day, azimuth angles and altitude angles/ratios). The original ADG Appendix 5 diagram should be reinstated.
<i>The ratios below can be used to determine how far sunlight extends into apartments at a given time of day, according to the ratios indicated on the sunlight access tool above.</i>	The 'sunlight access tool above' no longer provides the given time of day and ratios. 'According'

Exhibited text	Recommendation/Comment
Page A16	
<p>Demonstrating good solar shading</p>	<p>Supported but needs refinement – the City would welcome detailed discussion about the information provided in this section and further simplification of deemed to comply options.</p> <p>This requirement and the EOA requirements mean that a window schedule must be included in the minimum architectural plans.</p>
Page A17	
<p><i>Provide a plan indicating which apartments achieve the required hours of direct sunlight access, along with a schedule showing overall percentages, and one of the following:</i></p> <p><i>view from sun diagrams at midwinter between 9 am and 3 pm with apartment numbers shown on the building facade, or elevations with shadows at midwinter between 9 am and 3 pm with apartment numbers shown on the building facade.</i></p>	<p>Should not include 'elevations with shadows'. View from the sun diagrams are preferable. See 'Solar access requirements in SEPP 65' Technical Note p2</p>
<p><i>Provide shadow diagrams (midwinter, equinox and midsummer) to demonstrate the potential impact of development on neighbouring properties</i></p>	<p>The view from the sun technique at midwinter is superior to plan views as it demonstrates solar access to windows as well as the ground plane (Solar access requirements in SEPP 65' Technical Note p2).</p>
<p><i>Detailed analysis of the proposed overshadowing impact on neighbouring properties may need to be demonstrated. Where requested by the consent authority, prepare one of the following sets of diagrams to demonstrate compliance with the design criteria:</i></p> <p><i>sunlight hour diagrams which illustrate the hours of direct solar access achieved between 9 am and 3 pm at midwinter on the impacted facade of a neighbouring building</i></p> <p><i>view from sun diagrams between 9 am and 3 pm in midwinter with a supporting table outlining the hours of direct sunlight access achieved by apartments within the affected neighbouring property under the existing and proposed settings.</i></p>	<p>See comments on overshadowing above. See 'steps' in City of Sydney Draft Minimising overshadowing of neighbouring apartments. Could import methodology into ADG.</p> <p>Sunlight hour diagrams do not allow for the assessor to understand at which hours that sunlight is received. They should not be used as a tool to demonstrate compliance. View from the sun diagrams are preferable.</p>
Pages A19-23	
<p>Natural ventilation</p>	<p>Supported but needs refinement – the City would welcome detailed discussion about the information provided in this section.</p> <p>EOA requires a window schedule to be submitted.</p>

Exhibited text	Recommendation/Comment
	<p>See comments on natural ventilation (EOA) design criteria above.</p> <p>Calculation of EOA and the performance calcs have been confused and insufficient information provided for how performance calcs should be done</p>
Alternative natural ventilation pathway – assessment requirements	Technical submissions can be problematic if the consent authority is unable to independently understand, verify and assess them. The calculation process and documentation must be clearly described.
Natural cross-ventilation	<p>Supported but needs refinement – the City would welcome detailed discussion about the information provided in this section.</p> <p>See comments on natural cross ventilation design criteria above.</p> <p>Technical submissions can be problematic if the consent authority is unable to independently understand, verify and assess them. See ‘general comments’ above.</p>
Figure A4.2.1	<p>See comments on natural cross ventilation design criteria above. Flow chart requires ‘Yes/No’ decisions to be indicated.</p> <p>Cross-over units have been excluded.</p>
Page A26-A28	
Furniture schedule	<p>Supported</p> <p>Include minimum circulation space around/between furniture. This guidance can be general</p> <p>Make it clearer that only one coffee table and dining table is required, rectangular <u>or</u> round</p> <p>Does not include circulation component described by Alternative Design Response (p54). Requires circulation allowance to make table usable. Further, advice is required whether circulation is required to all side of furniture (for example four sides of a dining table, or 3? both sides of a double bed, one side, just the foot?). See also requirements of Livable Housing Design Guidelines/ AS1428.1/AS4299) E.g. 450mm between living room furniture (e.g. couch and coffee table), 900mm around seating sides of dining tables where chairs are and 1050mm (preferably 1200mm) at kitchen benches and walking routes from room to room or space to space increased for higher level Livable Design Guide apartments.</p>

Exhibited text	Recommendation/Comment
	<p>Laundry and bathroom schedules should also be provided (particularly minimum laundry tub, appliances adjacent, and shower recess — other fittings are standard).</p> <p>Making a collection of ‘standard’ CAD symbols to scale would be useful</p> <p>Include drawing and dimensions for waste bin, recycling bin and organics bin for all apartment types.</p>
Kitchen furniture schedule	<p>Revise spatial allocations Studio bench length is too short (suggest 900mm). 2B-4B bench length is too short at 800mm (suggest 1500mm for 2B then increasing by 300mm or 600mm for 3B-4B). Advice should be given to measure the bench length along the centre line (for corner benches). One primary bench space of 900mm width should be required (so not broken down into small unusable pieces)</p> <p>Are over-bench cupboards required? Can they be in lieu of other storage?</p> <p>Require range hoods that exhaust externally and do not recirculate to ensure internal air quality. Ducts must not reduce ceiling heights below minimum requirements.</p>
Pages A30-31	
Figures	<p>All plans should demonstrate the furniture schedules including circulation and kitchen requirements.</p> <p>All plans should be checked to ensure they achieve the relevant design criteria and design guidance (for example room sizes, room areas, storage, private open space) and adjusted where required.</p>
<i>3-bedroom apartment indicative layout Flexible dual key apartments allow for a variety of configurations, including use of the smaller apartment as a home office or to accommodate extended family in an intergenerational family household. Note: these do not represent the only solutions.</i>	Note is not located with relevant plans.
<i>Note: dual key apartments which are separate but on the same title are regarded as two sole occupancy units for the purposes of the BCA and for calculating dwelling mix.</i>	Dual key apartments should also be regarded as two sole occupancy units for the purposes of all ADG design criteria and design guidance (for example unit size, private open space, sunlight access %, natural cross ventilation % etc). Dual key units are commonly separately let, so each should perform as an independent unit — the amenity of one unit is not available to the other.

Exhibited text	Recommendation/Comment
A36	
Typologies (Apartment building types)	Typologies should include under the considerations section: location of waste storage areas and appropriate access for servicing to meet amenity and frontage requirements.
Page A46	
Glossary	<p>Some terms are not used throughout the document and could be removed (for example 'articulation zone', 'business zones', 'dense urban area', 'multi-dwelling housing')</p> <p>Definitions for 'bathroom', 'building', 'light well', 'no sun', 'tower' and 'view from the sun diagrams' would be useful (see comments throughout).</p>
BCA	Now an outdated term. Should refer to NCC.
<p><i>Amenity</i> <i>The 'liveability', comfort or quality of a place which makes it pleasant and agreeable to be in for individuals and the community.</i> <i>Amenity is important in the public, communal and private domains and includes the enjoyment of sunlight, views, privacy and quiet. It also includes protection from pollution and odours. Expectations of amenity and comfort are contextual and change over time.</i></p>	<p>Could be improved by '...sunlight, daylight, natural cross ventilation, ventilation, outlook and views, visual privacy and quiet.'</p> <p>Remove 'Expectations...'. Suggests that design criteria may not be valid in the future.</p>
<p><i>Busy road or rail line</i> <i>As defined in State Environmental Planning Policy (Infrastructure) 2007 and Development Near Rail Corridors and Busy Roads – Interim Guideline.</i></p>	Supported.
Page A47	
<p><i>Communal indoor space</i> <i>A consolidated area of internal space within common ownership to be accessible by all residents and designed as an area of recreation and social interactions.</i> <i>Communal indoor space should provide amenity and opportunities for all ages and abilities. It should have daylight and natural ventilation.</i></p>	<p>Does not necessarily need to be consolidated (for example could be separate rooms located throughout building(s)?)</p> <p>Should clarify that communal indoor space cannot be common circulation areas (for example hallways). Communal indoor space should be a dedicated room or area.</p>
Contiguous deep soil	Already built into definition of deep soil?
Corner apartment	Does 100° mean that a rectilinear (90°) corner of a building does not count as a 'corner'. Diagram may assist.

Exhibited text	Recommendation/Comment
<i>A dual-aspect apartment on one level with aspects at least 100° apart. Corner apartments are located on the outermost corners of buildings.</i>	<p>Presumably the aspects could be 90-145 degrees apart. Greater than 145 would make it a cross-through.</p> <p>Could be improved by '...with windows at least...'</p> <p>Definition of 'outermost corners of buildings' is required (all corners are outermost in one sense). Should exclude local corners within body of building. Diagram may assist.</p>
<p>Courtyard <i>Communal space at ground level or on a structure (podium or roof) that is open to the sky, formed by the building and enclosed on 3 or more sides.</i></p>	<p>Definitions for 'courtyard' and 'lightwell' should be clarified (see above in relation to design guidance concerning light and air via 'lightwells')</p>
<p>Cross-over apartment <i>A dual-aspect apartment with 2 opposite aspects and with a change in level between one side of the building and the other.</i></p>	<p>How far apart do the aspects need to be? Is 5° acceptable? Should be same as a corner apartment at a minimum.</p>
<p>Cross-through apartment <i>A dual-aspect apartment on one level with two opposite aspects.</i></p>	<p>Do they need to be exactly opposite? Presumably with aspects between 135-225 degrees difference.</p>
<p>Deep soil <i>A landscaped area connected horizontally to the soil system and local groundwater system beyond, and unimpeded by any building or structure above or below ground with the exception of minor structures.</i></p>	<p>Supported. Improved new definition.</p>
<p>Deep soil zone <i>An area of soil within a development that is unimpeded by buildings or structures above and below ground and has a minimum dimension of 3m.</i> <i>Deep soil zones exclude basement car parks, services, swimming pools, tennis courts and impervious surfaces including car parks, driveways and roof areas.</i> <i>Deep soil zones with a minimum dimension of 3 m allow sufficient space for the planting and healthy growth of new trees that will provide canopy cover and assist with urban cooling and infiltration of rainwater to the water table. A deep soil zone also allows for the retention of existing trees.</i></p>	<p>Supported. Could be improved by 'An area of deep soil with a minimum dimension of 3m.' Does not need to repeat 'deep soil' definition.</p>
<p>Dual-aspect apartment <i>Apartments which have at least 2 major external walls facing in different directions, including corner, cross-over and cross-through apartments.</i></p>	<p>Also includes 'Roof-window apartments'?</p>
<p>Dual key apartment <i>An apartment with a common internal corridor and lockable doors to sections within the apartment so that it is able to be separated into 2 independent units. Under the BCA, dual key apartments are regarded as 2 sole</i></p>	<p>Dual key apartments should also be regarded as two sole occupancy units for the purposes of all ADG design criteria and design guidance (for example unit size, private open space, sunlight access %, natural cross ventilation % etc). Dual key units are commonly</p>

Exhibited text	Recommendation/Comment
<p>occupancy units. They are also considered as 2 units when calculating apartment mix.</p>	<p>separately let, so each should perform as an independent unit — the amenity of one unit is not available to the other.</p>
<p>Gallery access <i>An external corridor, generally single- loaded (i.e. with apartments to one side), which is not less than 50 per cent permanently open to the outside and which provides access to individual apartments along its length. For the purposes of natural cross-ventilation, 50 per cent permanent opening is to be local to any naturally cross- ventilated apartment. Gallery access circulation is required to be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i></p>	<p>Unclear what '50 per cent permanently open' means? In section (above the handrail)? Or along its length in plan? How is it measured?</p> <p>This will encourage natural cross ventilation through gallery access, however this will create windows to corridors which become a privacy issue (acoustic and potentially visual) and will contradict other design guidance in this respect. Natural cross ventilation through common circulation should not be allowed.</p>
<p>Page A48</p>	
<p>Habitable room <i>A room used for normal domestic activities, and includes a bedroom, living room, lounge room, music room, television room, kitchen, dining room, sewing room, study, playroom, family room and sunroom; but excludes a bathroom, laundry, water closet, pantry, walk-in wardrobe, corridor, hallway, lobby, photographic darkroom, clothesdrying room, and other spaces of a specialised nature occupied neither frequently nor for extended periods, as defined by the BCA.</i></p>	<p>Kitchen is defined as a 'habitable room' (see above in relation to design criteria concerning ceiling heights).</p> <p>Should also include 'home theatre' in line with the NCC definition.</p>
<p>Landscaped area <i>A part of a site used for growing plants, grasses and trees, but not including any building, structure or hard-paved area. This Includes deep soil, planting on structures, rooftops and rain gardens as defined in the Standard Instrument – Principal Local Environmental Plan.</i></p>	<p>Should just be 'As defined in the Standard Instrument - Principal Local Environmental Plan.'</p> <p>Landscaped area should not include planting on structure or rooftops as these include 'building' and 'structure'?</p>
<p>Definition of Minor Structures <i>For the purpose of calculating deep soil, the following 'minor structures' may be included in the deep soil area where they have at least 1.2 m clear width of deep soil to either side:</i></p> <ul style="list-style-type: none"> (a) <i>a path, access ramp or area of paving with a maximum width up to 1.2 m</i> (b) <i>essential services infrastructure (such as stormwater pipes) with a maximum diameter up to 300 mm</i> (c) <i>landscape structures (such as lightweight fences, light poles or seating) requiring a footing with a maximum size of up to 300 mm x 300 mm in cross-section.</i> 	<p>The definition of the minor structure should be improved to ensure it captures the combined total impact, as the current wording allows multiple minor structures within the area.</p> <p>Item (a) creates possible issues with cumulative extent of paving and paths, as well as footings. Update the definition to:</p> <p>For the purpose of calculating deep soil, the following may be included in the deep soil area:</p> <ul style="list-style-type: none"> (a) <i>essential services infrastructure (such as stormwater pits and pipes) with a maximum combined total dimension of 300mm x 300mm, located along the perimeter of the deep soil area.</i> (b) <i>landscape structures (such as lightweight fences, light poles, seating or timber decking with spaced decking</i>

Exhibited text	Recommendation/Comment
	<p>boards) with pier footings with maximum plan dimensions of 300mm x 300mm.</p> <p>These structures must be positioned so that they allow for unimpeded root development of any tree within the deep soil area.</p>
<p><i>Natural cross-ventilation</i> <i>Wind-driven ventilation that provides ventilation rates at least 7 times greater than a single-aspect apartment in the same location, due to 2 or more openings on separate facade aspects being exposed to a wide range of unobstructed wind directions.</i> <i>The improvement in ventilation rates is to be achieved over a year and can be demonstrated following the natural cross- ventilation verification requirements (see Appendix 4.2).</i></p>	<p>Supported.</p>
Page A49	
<p><i>Primary windows</i> <i>Windows to habitable rooms located on the external wall of a building. Primary windows may be supplemented by windows in courtyards, skylights, notches and along galleries.</i></p>	<p>Should also exclude windows with a high sill. 'Notches' is not used elsewhere - replace with 'slots' and 'indentations'.</p> <p>Needs to include '...located on the external wall of a building providing a source of light and air.' Cannot be a 'solid' window (no light). Cannot be a 'fixed' window (no air).</p>
<p><i>Roof-window apartments</i> <i>Roof-window apartments provide natural cross-ventilation through a suitably located opening clerestory window in the roof.</i></p>	<p>Clarify is roof-window apartments a type of dual aspect apartment. How far apart do the aspects need to be? Is 5° acceptable? Should be same as a corner apartment at a minimum.</p>
<p><i>Solar access</i> <i>The ability of a building to receive direct sunlight without obstruction from other buildings or impediments, not including trees.</i></p>	<p>Has removed the words 'to continue to' from the current ADG definition. These words must be reinstated. These words require that the known future context must be taken into account. The proposed changed version allows future neighbouring buildings to obstruct sunlight that is relied upon (these may not be subject to the ADG, for instance a commercial building).</p>
Page A50	
<p><i>Tree</i> <i>A woody plant able to be walked under, with a minimum canopy spread of 6 m.</i></p>	<p>Supported. Could be improved by 'A woody plant greater than 3m tall and...' Sensibly limits species possibilities.</p>
<p><i>Universal design</i> <i>The design of homes to meet residents' needs across their lifetime. A universally designed home should be easy to enter, easy to move around and easily and cost-effectively adaptable.</i></p>	<p>Could refer to Livable Housing Design Guidelines</p>

Exhibited text	Recommendation/Comment
<p><i>Urban canopy target</i> <i>A target set to increase tree canopy cover in urban areas.</i></p>	<p>Tree canopy areas should not be referred to as ‘targets’. The design criteria should require a minimum deep soil area can canopy (similar to phrasing of ADG 3E-1 1).</p>
<p>Multiple locations</p>	
<p><i>‘significant trees’</i></p>	<p>The ADG refers to trees that are to be retained or considered as ‘significant trees’. For most councils this means trees that are heritage listed or on a significant tree list. Of the estimated 80,000 trees in the City’s LGA, there are less than 2,000 that meet a ‘significant’ criteria.</p> <p>Amend the ADG wording throughout the document to replace ‘significant tree’ with ‘healthy and well-structured established tree’.</p>

ENDS

Attachment 4 – Urban Design Guide (UDG) Detailed Recommendations

Exhibited text

1.3

Components of successful places

URBAN STRUCTURE The natural topography, arrangement of streets, paths, blocks, subdivision patterns, public open spaces, blue and green infrastructure, activity centres, public transport nodes, corridors and neighbourhoods	1. Projects start with nature, culture and public space. 2. District and local routes provide transport choice and accessibility. 3. Compact and diverse neighbourhoods connect to good amenity. 4. Place-based risks are mitigated and ecological values sustained to ensure resilient communities.
MOVEMENT AND CONNECTION The network of transport systems for public transport, cars, bicycles, and pedestrians	5. Walkable neighbourhoods are vibrant and productive. 6. Block patterns and fine-grain street networks define legible, permeable neighbourhoods. 7. Walking and cycling is prioritised, safe and comfortable for people of all abilities. 8. Parking is minimised, adaptable and integrated.
NATURAL SYSTEM The integration of the natural environment and local ecologies and their interface with green infrastructure like parks, urban tree canopy, waterways and stormwater in the design and development of new urban areas	9. Landscape features and microclimates enhance human health and biodiversity. 10. Tree canopy supports sustainable, liveable and cool neighbourhoods. 11. Water is retained and water quality improved in urban places.
PUBLIC SPACE The core of good urban design, the heart of urban environments, and where urban structure, the natural system, movement and connection, and built form components can collectively create public good	12. Public open space is high-quality, varied and adaptable. 13. Streets are safe, active and attractive spaces for people. 14. Public facilities are located in key public places, supp
BUILT FORM The contribution and interface of built form with its broader setting	15. The lot layout supports green neighbourhoods and a diversity of built form and uses. 16. There is a strong sense of place structured around heritage and culture. 17. Scale and massing of built form responds to desired local character. 18. Built form enlivens the ground plane and activates and frames public space. 19. Developments use resources efficiently, reduce embodied emissions, and consider onsite energy production.

Recommendation/Comment

DELETE and REPLACE

The table includes a number of category errors, for example, streets defined earlier as public space, are found in urban structure, movement and connection and public space. This should be improved.

The table includes unhelpful jargon and should be recast in plain English.

The table below shows a simple reordering to resolve the category errors, reordered the objectives, and replaced some jargon.

The recommended structure is provided in Table 1 below including some changes to criteria and guidance.

Table 1 – Proposed UDG restructure

THE NATURAL AND CULTURAL ASPECTS OF THE SITE The natural and cultural environment generate the design and development of new and existing urban areas <i>[The integration of the natural environment and local ecologies and their interface with green infrastructure like parks, urban tree canopy, waterways and stormwater in the design and development of new urban areas]</i>		
1. Start with Country <i>[added]</i>	1.1 Identify and protect significant Aboriginal heritage and environmental values (tangible and intangible) 1.2 Walk country and ensure design decision start with Connecting with Country <i>[1.3 Identify and protect significant Aboriginal heritage and environmental values (tangible and intangible)]</i>	ASSESSMENT GUIDANCE <i>Refer to GANSW (2020), Draft Connecting with Country: A draft framework for understanding the value of Aboriginal knowledge in the design and planning of places, Government Architect New South Wales, Department of Planning, Industry and Environment.</i>
2. The natural environment of the place generates the project. <i>[1. Projects start with nature, culture and public space]</i>	2.1 Base design decisions on comprehensive place analysis, including the surrounding context 2.2 Identify, integrate and support the topography and landscape of the site in the project 2.3 Integrate a water cycle management strategy 2.4 Respond to existing natural heritage values <i>[1.1 Base design decisions on comprehensive place analysis, strategic planning priorities and the site's contextual opportunities and constraints 1.2 Identify, integrate and support the topography and landscape of the site in the structure of renewed or new places 1.7 Integrate a water cycle management strategy at the neighbourhood scale 16.2 Respond to existing natural and built heritage values]</i>	ASSESSMENT GUIDANCE <i>The proposal demonstrates how the design response has been informed by place analysis. The project vision and place-based principles have been developed through place analysis. Topography and natural elements are clearly expressed, and a comprehensive, integrated and informs the layout of public space and the subdivision of private land. Areas of ecological importance and significant vegetation are retained, enhanced and connected. A water management strategy is appropriate to the demands of the project and context. Refer to the EP&A Regulation. Waterways and water-sensitive urban design elements have been integrated into the project.</i>
3. Maintain and enhance the cultural heritage of the place <i>[1. Projects start with nature, culture and public space, and 16. There is a strong sense of place structured around heritage and culture.]</i>	3.1 Retain and integrate heritage items and other elements of history to enhance the place 3.2 Respond to existing built and other cultural environmental heritage values <i>[16.1 Retain and integrate elements of history to enhance the place 16.2 Respond to existing natural and built heritage values]</i>	ASSESSMENT GUIDANCE <i>Heritage buildings and culturally significant landscape qualities are integrated into the development. Adaptive re-use of heritage buildings is considered. Historical street patterns are considered and reinstated where possible.</i>
4. Place-based risks are mitigated and ecological values sustained to ensure resilient communities. <i>[4. Place-based risks are mitigated and ecological values sustained to ensure resilient communities.]</i>	See comments in main body text 4.1 Address, mitigate and respond to risks 4.2 Ensure safety and resilience underpin new communities 4.3 Protect the natural ecology holistically <i>[4.1 Address, mitigate and respond to risks 4.2 Ensure safety and resilience underpin new communities 4.3 Protect natural ecology as a system]</i>	See comments in main body text ASSESSMENT GUIDANCE <i>The proposal includes a design for resilience summary including: — how development has considered the likely impacts of cumulative place-based risks (shocks and stresses) — demonstrating how it will build community resilience. The proposal meets the DP SEPP and EP&A Regulation requirements for urban design development and the 'design for resilience' template and accompanying guidance. Development along the coast is informed by the Coastal Design Guidelines for NSW (Coastal Council 2003). Areas of high ecological value have been mapped and are protected. Areas of ecological value are connected.</i>

<p>5. Water is retained and water quality improved in urban places.</p> <p><i>[11. Water is retained and water quality improved in urban places]</i></p>	<p>5.1 Retain water in the landscape 5.2 Reduce water consumption, reduce stormwater run-off and improve water quality</p> <p><i>[11.1 Retain water in the landscape and contribute to urban cooling 11.2 Reduce water consumption, reduce stormwater run-off and improve water quality]</i></p>	<p>ASSESSMENT GUIDANCE <i>Water flows into and out of the site are retained in-place to support urban tree canopy cover and contribute to reducing the urban heat-island effect. Water (particularly run-off and stormwater) is retained on-site or managed within the neighbourhood.</i></p>
<p>PUBLIC SPACE The layout and design of the public space includes the parks, streets, and public facilities and other reserves for infrastructure.</p> <p><i>The core of good urban design, the heart of urban environments, and where urban structure, the natural system, movement and connection, and built form components can collectively create public good</i></p> <p><i>The natural topography, arrangement of streets, paths, blocks, subdivision patterns, public open spaces, blue and green infrastructure, activity centres, public transport nodes, corridors and neighbourhoods</i></p> <p><i>The network of transport systems for public transport, cars, bicycles, and pedestrians</i></p>		
<p>6. Public space is the primary form and character giving aspect of a project.</p> <p><i>[added]</i></p>	<p>6.1 Establish an integrated, continuous and connected layout of streets, public open spaces and reserves for public facilities and infrastructure 6.2 Ensure the public space integrates and supports natural and cultural aspects of the site. 6.3 Provide high-quality public spaces that provide a forum for public life 6.4 Design public space that is safe and accessible for all people</p> <p><i>[1.4 Establish connected public space networks that integrate and support natural features 1.5 Provide an integrated and connected blue and green infrastructure framework 1.6 Integrate a high-quality structure to provide a forum for public life public open space network into the urban 12.2 Design public open spaces that are safe and accessible for all people]</i></p>	<p>Design Criteria Between 45 - 55% of the site is public space with 15 - 25% in parks and reserves, 20 - 25% [excluding environmental land and regional open space] for streets and walkways and the like 5 - 10% for public facilities and 0 - 10% for other infrastructure reserves.</p>

<p>7. Public open space, parks and reserves, is high-quality, varied and adaptable, integrates with landscape features, tree canopy, and microclimates; to enhance human health and biodiversity, and to support sustainable, liveable and climate responsive neighbourhoods.</p> <p><i>[9. Landscape features and microclimates enhance human health and biodiversity.</i></p> <p><i>10. Tree canopy supports sustainable, liveable and cool neighbourhoods.]</i></p> <p><i>12. Public open space is high-quality, varied and adaptable]</i></p>	<p>7.1 Design high-quality public open spaces to provide a forum for public life</p> <p>7.2 Locate public open space to be visible and connected</p> <p>7.3 Provide landscaping and enhance tree canopy in public open space</p> <p>7.4 Provide for sports and active and passive recreation</p> <p>7.5 Provide flexible, adaptable and resilient public open space</p> <p>7.6 Develop design measures to protect public open space</p> <p>7.1 Use landscape and greening to improve human health and biodiversity</p> <p>7.2 Use nature to provide delight</p> <p>7.1 Enhance urban tree canopy</p> <p>7.2 Support urban tree canopy with deep soil</p> <p>7.3 Provide an interconnected soil network from public open space, streets and setbacks on lots</p> <p>[1.6 Integrate a high-quality public open space network into the urban structure to provide a forum for public life</p> <p><i>12.1 Locate public open space to be visible and connected</i></p> <p><i>12.3 Provide for landscaping and enhance tree canopy in public open space</i></p> <p><i>12.4 Provide for sports and active and passive recreation</i></p> <p><i>12.5 Provide flexible, adaptable and resilient public open space</i></p> <p><i>12.6 Develop design measures to protect public open space</i></p> <p><i>9.1 Use green infrastructure to improve human health and biodiversity</i></p> <p><i>9.2 Use nature to provide delight</i></p> <p><i>10.1 Enhance urban tree canopy</i></p> <p><i>10.2 Support urban tree canopy with deep soil</i></p> <p><i>10.3 Provide an interconnected soil network]</i></p>	<p>ASSESSMENT GUIDANCE <i>The proposal demonstrates adequate amenity and human comfort can be achieved. Public open spaces include features to support human comfort and mitigate against negative sensory experiences.</i></p> <p>DESIGN CRITERIA</p> <p><i>Public open space provision</i></p> <p><i>For development over 5 ha, deliver a minimum of 15 per cent of the net developable land (NDL) [see also criteria at 6] as freely-accessible public open space, with the majority of this as dedicated RE1-zoned land (small, local, district and linear parks).</i></p> <p>Parks are accessible to all by:</p> <p>locating on flat land</p> <p>surrounding with streets</p> <p>Provided facilities for all members of the community.</p> <p><i>Regional open spaces are excluded from this 15 per cent calculation.</i></p> <p><i>For all development, deliver open spaces of varying sizes within walking distance of all residents and workers as follows:</i></p>			
		<p>OPEN SPACE</p>	<p>MEDIAN SIZE</p>	<p>MINIMUM SIZE</p>	<p>WALKING DISTANCE TYPE (CATCHMENT)</p>
		<p>Small park</p>	<p>0.45 ha</p>	<p>0.15 ha</p>	<p>200 m</p>
		<p>Local park</p>	<p>2.5 ha</p>	<p>0.5 ha</p>	<p>400 m</p>
		<p>District park</p>	<p>10 ha</p>	<p>5 ha</p>	<p>1,600 m</p>
		<p>Green corridors and linear parks [where provided in addition to local and district parks]</p>	<p>15 m min. width 400 m min length</p>		<p>400 m</p>
		<p>Sports fields [in addition to small and local parks]</p>			
		<p>See Appendix 2: Public open space for further detail on calculating and providing public open space, including exclusions for various site sizes and development densities</p>			
		<p>Solar access and shading for public open space</p> <p>50 per cent of the public open space, including public squares and plazas, has sunlight access for a minimum of 4 hours between 9 am and 3 pm on 21 June, demonstrated by shadow diagrams.</p> <p>20 per cent of the public open space, and public squares and plazas, is protected from direct sunlight on 21 December, to provide protection against ultraviolet radiation.</p> <p>Public open space is protected from adverse wind has a safe and comfortable pedestrian wind environment with at least 50% of the area meeting the sitting comfort criteria, wherever possible.</p>			

		<p><i>Alternative design solutions</i> Consent authorities may consider the 15 per cent open space criteria being partially met through existing open space located outside the development boundary, subject to a merit assessment. Any considered public open space must be within walking distance of the development, consistent with design criteria for this objective and proven to be in excess for the existing and anticipated or likely future development in the surrounding area.</p> <p>Consent authorities may consider the provision of publicly accessible private open space, provided it is accessible to all, free of impediment at all times of day, and appropriate management and maintenance is provided. The provision of shade can be from natural features or human-made structures. Tree canopy should be encouraged and accepted as a design solution, however temporary built structures may be necessary to allow for tree canopy to achieve maturity. For further detail see Appendix 2: Public open space</p> <p><i>Alternative design solutions</i> Where sites are constrained (e.g. In existing high-density mixed-use urban sites, existing high streets, and where there are overhead powerlines), consider additional greening alternatives. Alternatives are Additional greening is not comparable to planting in deep soil, and if used, the quality and quantity must aim to achieve the same environmental outcomes as planting in deep soil, recognising this may not be possible on all sites. Additional Greening alternatives include green cover, green roofs, green walls, pergolas with climbers, podiums, planters, lawns and gardens, rain gardens, and permeable pavements. Greening alternatives can be included on new buildings, retrofitted onto existing buildings, and can require little, if any, space at ground level. Consider greening alternatives early in the design process to incorporate their requirements (e.g. drainage, irrigation and lighting) with other built form aspects.</p>
<p>8. Streets are safe, active and attractive places for people</p> <p><i>13. Streets are safe, active and attractive spaces for people.</i></p>	<p>8.1 Ensure the street layout considers the existing conditions and environment 8.2 Connect and integrate the street layout with the broader context, and overcome barriers 8.3 Provide a legible street hierarchy with various street types that generate and respond to place qualities. 8.4 Create a fine-grain street layout that facilitates ease of access to key destinations 8.5 Design streets to be adaptable for future change 8.6 Create comfortable streets that are visually pleasing and encourage social interaction 8.7 Provide landscaped tree-lined streets 8.8 Integrate services to be accessible and that do not obstruct pedestrians, interfere with landscape or adversely affect the character of places 8.9 Create streets which are safe, and accessible for people of all abilities to encourage walking 8.4 Place trees in streets to allow for maximum canopy growth 8.5 Ensure a diversity of street types enable tree planting</p> <p><i>[2.4 Ensure movement networks consider the existing conditions and environment 3.4 Connect and integrate urban networks with the broader context, and overcome barriers</i></p>	<p>ASSESSMENT GUIDANCE The development is aligned with broader strategic planning, transport strategies and plans (See Part 3). The case for change has been adequately justified. A Movement and Place approach has been used to understand and balance movement and place functions and inform network planning, street hierarchy and street environments within the project. A diverse range of transport options is delivered, prioritising walking, cycling and public transport.DESIGN CRITERIA The development is aligned with broader strategic planning, transport strategies and plans (See Part 3). The case for change has been adequately justified. A Movement and Place approach has been used to understand and balance movement and place functions and inform network planning, street hierarchy and street environments within the project. A diverse range of transport options is delivered, prioritising walking, cycling and public transport.</p> <p><i>Street space for social interaction and comfort</i> Sufficient 'dwell space' is provided for activities, pedestrians, landscape and buffers in accordance with the local council requirements or as set out in Appendix 4: Street dwell space – whichever is the greater.</p> <p><i>Alternative design solutions</i> Proponents may demonstrate there is sufficient space for all of the following functions: — buffer, from buildings and fast-moving traffic — pedestrian clear path of travel — deep soil, wherever street trees are anticipated — anticipated activities, such as street dining on eat streets. See Appendix 4 for further guidance. Where the streets by their nature allow people to stop and stand in any part of the right of way, such as shared zones, play streets or slow-speed environments that permit 'cars as guests', the entire right of way is</p>

	<p>6.1 Provide a street network with a legible hierarchy</p> <p>6.2 Create a fine-grain street layout that facilitates ease of access to key destinations</p> <p>6.4 Design urban environments to be adaptable for future change</p> <p>7.4 Place trees to allow for maximum canopy growth</p> <p>7.5 Ensure a diversity of street types enable tree planting [1.6 Integrate a high-quality public open space network into the urban structure to provide a forum for public life</p> <p>10.5 Ensure a diversity of street types enable tree planting</p> <p>13.1 Provide varied street types that respond to the street hierarchy and place qualities</p> <p>13.2 Create comfortable streets that are visually pleasing and designed to encourage social interaction</p> <p>13.3 Provide landscaped tree-lined streets that integrate services</p> <p>13.4 Create streets which are safe, walkable, and accessible]</p>	<p>considered dwell space and separate space does not need to be provided for these functions.</p>
<p>9 The street layout is legible, permeable, with priority for walking and cycling.</p> <p>[6. Block patterns and fine-grain street networks define legible, permeable neighbourhoods.</p> <p>7. Walking and cycling is prioritised, safe and comfortable for people of all abilities.] and</p>	<p>9.1 Provide fine-grain pedestrian permeability</p> <p>9.2 Provide pedestrian priority and amenity</p> <p>9.3 Provide low-traffic and slow-traffic streets</p> <p>9.4 Integrate safe cycling</p> <p>7.1 Provide fine-grain pedestrian permeability</p> <p>7.2 Provide pedestrian priority and amenity</p> <p>7.3 Provide low-traffic and slow-traffic streets</p> <p>7.4 Integrate safe cycling</p>	<p>DESIGN CRITERIA</p> <p>Walkable-Street layouts to encourage walking block lengths</p> <p>Maximum distance between street intersections-block length for industrial areas is less than 220–250 m. Maximum block length for; residential and mixed-use development is an average of less than 100 metres 160–220 m. This is complementary to the design criteria for pedestrian and cycle permeability in Objective 7.</p> <p>Mid-block connections</p> <p>Mid-block connections and through-site links for pedestrians are provided no more than 60–130 m apart within walking catchments of key destinations such as centres, public open spaces, transport nodes and schools.</p> <p>Dedicated footpaths are provided on both sides of street carriageways (excluding shared accessways).</p>
<p>10. Streets and reserves support district and local transport routes providing choice and accessibility</p> <p>[2. District and local routes provide transport choice and accessibility.]</p>	<p>10.1 Connect with existing and planned transport networks</p> <p>10.2 Provide for a diversity of transport modes and give priority to active and public transport connections</p> <p>10.3 Provide for efficient movement of goods to minimise the impact on places</p> <p>[2.1 Align with existing and planned transport networks</p> <p>2.2 Provide a diversity of transport modes and give priority to active and public transport connections</p> <p>2.5 Provide for efficient movement of goods to minimise the impact on places]</p>	
<p>11. Public facilities are located in key public places, supporting community and place identity</p> <p>[14. Public facilities are located in key public places, supporting community and place identity]</p>	<p>11.1 Provide public facilities that meet the needs of the community</p> <p>11.2 Provide public facilities that are accessible and safe for all</p> <p>11.3 Locate public facilities to be easily visible and to activate the surrounding public space</p> <p>[14.1 Identify public facilities to meet the needs of the community</p> <p>14.2 Provide public facilities that are connected and safe</p> <p>14.3 Co-locate public facilities so they activate the public realm</p> <p>14.4 Make public facilities visible civic spaces]</p>	<p>ASSESSMENT GUIDANCE</p> <p>Specialist analysis of existing and future demographic needs has been undertaken and supports the proposal — using relevant best practice benchmarks, council strategies and guidance.</p> <p>Public facilities meet the needs of the existing and proposed community (which may differ by option) and are aligned with relevant strategic plans. Public facilities are co-located with complementary uses and have direct and active interfaces with the public realm.</p>

PRIVATE LAND – BLOCKS AND LOTS Surrounded by the public space blocks of private land are divided into lots that anticipate the development of buildings. Together with the public space the blocks form neighbourhoods.				
[added]				
12. The street layout defines blocks of private land. <i>[6. Block patterns and fine-grain street networks define legible, permeable neighbourhoods].</i>	12.3 Provide blocks that suit the anticipated uses and other future uses <i>[6.3 Provide a diversity of block patterns to suit a variety of uses]</i>	DESIGN CRITERIA <i>In residential, and mixed-use areas, the maximum block sizes is one hectare.</i> ASSESSMENT GUIDANCE <i>A variety of blocks (sizes, orientations and access arrangements) are provided to suit the anticipated and other future building types.</i>		
13. Together with the Public Space the blocks form compact and diverse neighbourhoods. <i>[3. Compact and diverse neighbourhoods connect to good amenity]</i>	13.1 Provide a network of centres that supports a compact urban form 13.2 Ensure block sizes, arrangement and distribution accommodates the various land uses to create diverse neighbourhoods 13.5 Provide a compact urban footprint that minimises impact on adjacent natural productive rural land. <i>[3.1 Provide a network of centres that supports a compact urban form 3.2 Ensure key land uses are well-sited and integrated for amenity, safety and productivity 3.3 Provide mixed and diverse neighbourhoods with high amenity 3.5 Provide a compact urban footprint that minimises impact on adjacent productive sites]</i>	DESIGN CRITERIA Determine Neighbourhood density to meet the requirements of relevant strategic planning documents including Regional Plans, District Plans, Local Strategic Planning Statements to set Minimum gross residential densities of 30 dwellings per hectare are provided: Concentrate development and grade increasing density towards centres based on: — in and around activity centres within 5 minutes' walk of neighbourhood shops, neighbourhood centres or local centres — within 10 minutes' walk of strategic and metropolitan centres, regional towns and cities — within 10 minutes' walk of high frequency public transport. The minimum average gross residential density is 15 dwellings per hectare if not called out in the neighbourhood catchments above. The scale and distribution of density varies within catchments according to the centre scale and form. Higher densities are likely to be appropriate in larger centres and closer to transport hubs. Alternative design solutions If individual blocks are not capable of meeting a density target of 30 dwellings per hectare, the development proposal needs to demonstrate the average gross residential density across the area defined in the design criteria is capable of exceeding the target, and there is a suitable transition from highest to lowest density. Depending on the context, it may be appropriate to spread grade density across a wider catchment adjacent to centres or where there are multiple transport nodes.		
14. Blocks are divided into lots that support green neighbourhoods and the anticipated of built form. <i>[15. The lot layout supports green neighbourhoods and a diversity of built form and uses.]</i>	14.1 Design lots that orientate to the topography 14.2 Provide a diversity of lots that suit the anticipated mix of building types <i>[15.1 Design lots to support desired character and topography 15.2 Support mixed use 15.3 Provide a mix and diversity of lots and buildings]</i>	ASSESSMENT GUIDANCE <i>A mix of lot types and sizes is provided that supports a range of building types. A mix of lots within each residential block is provided. A mix of building types is provided.</i>		
15. Walkable neighbourhoods are vibrant and productive.	15.1 Deliver neighbourhoods with a vibrant centre	DESIGN CRITERIA Walkable neighbourhoods All homes in a city are within 15 to 20 10 minutes walk of a collection of local shops, a primary school, public transport, a supermarket or grocery store, and 20 minutes of a primary school. All homes in other urban areas are within a 20 minute walk. Public open space accessibility Access to public open space is provided as follows:		
		DEVELOPMENT TYPE	NET DWELLING DENSITY	PROVIDE ACCESS TO
		All new residential, commercial and mixed-use development	50 dwellings/ ha or greater	Small park
				MINIMUM CATCHMENT AND MODE 200 m(2–3 min. walk)

			10 dwellings /ha or greater	Local park	400 m(5 min. walk)
			All densities	District park	1,600 (20 min. walk) m
				Regional park	5 km (cycle, drive or public transport)
			Alternative design solutions Where residential areas cannot provide local access to a collection of all the destinations listed in this objective: — prioritise the provision of all listed destinations within a 20-minute walk — provide smaller clusters of destinations that form a logical sequence of everyday linked trips, such as a school and open space for after-school recreation, or public transport with a grocery shop for access to fresh food.		
BUILT FORM The buildings in relation to the surrounding public spaces, other built form and the amenity of people <i>[The contribution and interface of built form with its broader setting]</i>					
16. Built form protects the health and amenity of people in the public space and in buildings <i>[added]</i>	16.1 Configure built form to protects sun access to public open space and streets 16.2 Configure built form to provide comfortable and safe pedestrian wind environment to public open space and streets 16.3 Carefully site built form to protect sensitive uses, residential, child care and the like, from the poor health effects of noise and air pollution. 16.4. Ensure the built form will provide the apartment required by other Guides, like the Apartment Design Guide, environmental planning instruments and other relevant plans and guidelines <i>[17.1 Ensure built form layout responds to natural and built conditions of the place to maximise amenity 17.4 Design massing and setbacks appropriate for adjacent public space 17.5 Create positive climatic conditions through layout, siting and appropriate built form]</i>	ASSESSMENT GUIDANCE <i>Solar access is adequately protected to public spaces and existing and future dwellings</i> A safe and comfortable wind environment is provided Residential and other sensitive development is protected from air and noise pollution Building are located safely in relation to fire and flood.			
17. Scale and massing of built form responds to desired local character 17. Scale and massing of built form responds to desired local character	17.1 Concentrate development and grade density towards and around with highly accessible public transport stops 17.2 Adjust the mass of built form to transition at edges to fit with the surrounding context 17.3 Ensure site coverage provides both indoor and outdoor spaces of appropriate size 17.4 Use materials that are appropriate for the local climate <i>17.2 Manage built form (scale and massing) transitions at edges and within the development to fit the context 17.3 Consider human scale 17.6 Ensure site coverage provides a balance of indoor and outdoor space 17.7 Use materials that are appropriate for the local area and will reduce urban heat 2.3 Locate and integrate development with highly accessible public transport</i>	ASSESSMENT GUIDANCE Redraft the following considerations based on the Evaluating Good Design GANSW guide <i>Local conditions, datums lines and materials have informed the design of the built form. The scale, massing and height of new development responds positively to adjoining buildings, the topography, views, vistas and landmarks to reinforce a coherent local identity.</i> <i>The proposal demonstrates adequate amenity and human comfort is maintained for local public space.</i> <i>Materials and detailing respond to the local character of adjacent streetscapes and parks. Setbacks are appropriate to local conditions and deep soil (where required).</i> <i>Built form elements have appropriate orientation, proportion, composition and articulation.</i>			
18. Built form enlivens the ground plane and	18.1 Ensure the built form defines streets	ASSESSMENT GUIDANCE <i>Built form frontages to main streets, neighbourhood centres, and public open spaces are fine grain and provide active frontages.</i>			

<i>activates and frames public space.</i>	18.2 Provide setbacks, courtyards and other spaces that support greening and tree canopy cover 18.3 Provide active frontages where appropriate 18.4 Integrate services and infrastructure 18.5 Consider the impacts of material choices in relation to durability, embodied carbon, and climate responsiveness 18.6 Support the local night-time economy and provide for a variety of well-integrated entertainment uses 13.5 <i>Design active and defined streets</i> 18.1 <i>Design public-private interfaces to support the public realm</i> 18.2 <i>Vary and articulate built form</i> 18.3 <i>Design active frontages</i> 18.4 <i>Integrate services and infrastructure</i> 18.5 <i>Consider the impacts of material choices</i> 5.2 <i>Support the local night-time economy and provide more varied, well-integrated entertainment uses</i> 15.4 <i>Provide setbacks that support green cover and tree canopy</i>	<i>Materials make a positive contribution to the public realm.</i>
19. Developments use resources efficiently, reduce embodied emissions, and consider onsite energy production.	19.1 Reduce energy consumption and support renewable energy generation 19.2 Deliver net zero emissions neighbourhoods 19.3 Minimise embodied carbon in materials 19.4 Consider integrating smart technologies and solutions	ASSESSMENT GUIDANCE <i>The proposal is a sustainable development. The development has considered and committed to emissions targets through to implementation and considered onsite renewable energy equivalent to 20 per cent of the annual electrical energy demand. Smart technologies and infrastructure have been integrated into the development.</i>
20. <i>Parking is minimised, adaptable and integrated.</i>	20.1 <i>Integrate parking into urban form</i> 20.2 <i>Minimise parking, manage demand and explore strategies to accommodate new technologies</i> 20.3 <i>Consolidate access to parking, and minimise conflicts</i> 20.4 <i>Screen above-ground parking</i> 20.5 <i>Make parking adaptable and sustainable</i>	ASSESSMENT GUIDANCE <i>Car parking is minimised. Where feasible, maximum parking rates are encouraged in setting development controls. All parking controls and outcomes are aligned with the place vision. Electric vehicles are supported through charging infrastructure.</i>

Exhibited text

Recommendation/Comment

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*Objective 4
Assessment guidance
The proposal meets the DP SEPP and EP&A Regulation requirements for urban design development and the 'design for resilience' template and accompanying guidance.*

The design for resilience template should be provided for comment

Strongly commend the incorporation of Resilience considerations into the Urban Design Guide through Objective 4.

Adding words that anticipate exposure, or that reflect the design life of a development or useful life of materials may serve to ensure resilience is long lasting and does not expire at a certain point.

Including references to other hazard related guidance docs (eg Floodplain Management, Bushfire Protection) would strengthen coherence and implementation of this objective.

Including examples of design that can build community resilience (such as a shared spaces/commons for interactions) could further align section 4.2 with the SEPP design consideration.

Assessment and design guidance under Objective 4. would benefit from greater alignment to resilience principles articulated in The Minister's Planning Principles (Principle 4) and the NSW Government's recently released Natural Hazards Package.

Restructure, add and amend text:

4.1 Anticipate, avoid and reduce exposure to natural and human induced hazards ~~address mitigate and respond to risks~~

- Adopt an 'all-hazards' approach, that considers the potential for cumulative impacts, including interactions with other risk factors and changes to hazard risk over time.

- Assess existing and future natural hazard risks early and incorporate available data, mapping, scientific and scenario modelling, historical information, Aboriginal knowledge of the landscape and climate change impacts, trends and projections.

- Base natural hazard and climate change risk identification, assessment and adaptation on the best available science, impacts, accurate and contemporary natural hazard data and detailed analysis of land uses or communities that are more exposed or vulnerable to risks from hazards.

- Consider climate change risks such as changes to the intensity and frequency of natural hazard events over time and the potential to increase existing vulnerabilities and risk exposure.

- Implement strategies that anticipate, ~~will~~ manage, reduce or mitigate ~~any~~ hazards such as bushfires, drought or flooding (whether natural or human-induced), and hazards such as air pollution, land contamination and gas or fuel pipelines.

- Undertake a risk assessment of industrial hazards and associated pollution, sites or risk factors including acid sulfate soils, naturally occurring asbestos, mine subsidence areas, unstable land, proximity to hazardous land uses, or contaminated land.

4.2 Ensure safety and resilience underpin new communities

- Engage with the local community and community partners to capture local risks, values and knowledge

Exhibited text	Recommendation/Comment
	<p>about impacts from natural hazards, including lived experience from past events.</p> <ul style="list-style-type: none"> - Locate new development away from high-risk areas to avoid community exposure to natural hazards as far as is practical. Where avoidance is not possible, mitigate risk to acceptable levels. - Ensure that land use is compatible with the level of risk of an area, such as open space or playing fields in flood prone locations. - Incorporate rigorous design and construction standards for hazard prone land, protection of environmental assets and natural buffers, or structural and engineering works. - <i>Consider community resilience at all scales of development. For a new subdivision or major urban renewal, use the layout and composition of development to provide an opportunity for designated safe zones for use in emergency management. A safe zone is a designated area in case of an emergency that prioritises safety considerations.</i> - Incorporate materials and incorporate design approaches that consider asset and development resilience and lifespan - Consider emergency response and evacuation in consultation with the relevant local emergency management committees <p>4.3 Protect natural ecology as a system Facilitate or enable natural geographic processes and systems to support community resilience</p> <p>Acknowledge the value of features such as coastal dune structures and riverine floodplains, and the protective and productive benefits they provide to local ecosystems and economies.</p> <ul style="list-style-type: none"> - <i>Carefully plan development along the coast to ensure natural character values are maintained or enhanced; see the Coastal Design Guidelines for further guidance.</i> - <i>Use hazard-prone and other environmentally sensitive areas to add value and outlook to the development, rather than by introducing barriers such as fencing.</i> - <i>Use engineering tools, such as rain gardens, tree pits, swales, detention tanks and piped networks, to manage the speed and volume of stormwater. See Objective 11 for further guidance.</i> - <i>Provide buffers to sensitive ecological areas.</i> - <i>Set subdivision patterns and building setbacks to enable contiguous planting of vegetation to enhance habitat and ecology.</i> - <i>Improve interconnections between urban habitat areas to support ecological resilience.</i>
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Why it is important?	There is substantial research that outlines the importance of providing sufficient canopy for the community health and wellbeing.

Exhibited text	Recommendation/Comment
<p><i>Design Criteria</i> <i>Tree canopy targets</i></p>	<p>Include a specific reference that canopy cover is important for the community's health and wellbeing.</p> <p>We strongly support the inclusion of minimum canopy targets across streets, parks and properties.</p>
Page 52	
<p><i>Design Guidance</i> <i>10.1 Enhance urban tree canopy – point 3</i> <i>When setting a canopy target for large development: ensure no net loss on the existing canopy baseline account for the opportunities of each development</i></p>	<p>It is assumed that “ensure no net loss on the existing canopy baseline” means not to remove all vegetation on the site and start again to achieve the minimum canopy target. However, it could be interpreted as being required to retain the existing canopy baseline (i.e. if the site currently has 80% cover, you need to retain that), which would be an issue, especially for green field sites.</p> <p>Clarify the wording relating to or application of “ensure no net loss on the existing canopy baseline”.</p>
<p><i>Design Guidance</i> <i>10.1 Enhance urban tree canopy – point 4</i> <i>Deliver tree canopy for on-grade car parks by applying the development category canopy targets in the design criteria for this objective. For on-grade car parks where the benchmarks do not apply (e.g. hospitals, shopping centres) deliver sufficient canopy to mitigate the urban heat-island effect.</i></p>	<p>The second sentence should be strengthened to require the simple tree replenishment rate per car parking space as outlined. It should apply equally to types on grade carparking locations.</p> <p>Replace this design guidance with: For on-grade car parks where the benchmarks do not apply (e.g. hospitals, shopping centres) deliver the same provision of tree planting to mitigate the urban heat-island effect.</p>
<p><i>Design Guidance</i> <i>10.1 Enhance urban tree canopy – point 5</i> <i>Consider site-specific constraints and requirements when planting trees and ensure future flexibility.</i></p>	<p>It is not clear what ‘ensure future flexibility’ means, as it could be interpreted many ways. Ideally it would be clarified, as it is assumed it means to design / build in a tree friendly manner.</p> <p>clarify the wording relating to ‘ensuring future flexibility’, amend to: Consider site-specific constraints and requirements when planting trees and ensure well designed and constructed spaces that will promote healthy mature tree growth.</p>
<p><i>Design Guidance</i> <i>10.1 Enhance urban tree canopy – point 6</i> <i>For species selection, gain maximum benefits from the urban canopy by considering species suitability for the site constraints and contribution to biodiversity.</i></p>	<p>This could be better framed to be more inclusive of site attributes (such as provision of solar access), not just constraints. Further it needs to consider species diversity, not just biodiversity (which is usually focused on native flora and fauna only). Amended to: Use species suitable for the site attributes and constraints that will contribute to species diversity and biodiversity.</p>

Exhibited text	Recommendation/Comment
<p><i>Design Guidance</i> 10.2 Support urban tree canopy with deep soil – point 2 Minimise barriers to tree growth by consolidating below-ground services and aligning them to paths, removing overhead cables and powerlines, and creating buffer zones.</p>	<p>Increased installations of below ground infrastructure have the potential to significantly constrain tree planting and to undermine the City's goals. With space so contested, it is considered this could be slightly tweaked to ensure that services are also designed / constructed in a manner that considered future mature trees in close proximity. Amend to: Avoid barriers to tree growth by consolidating below-ground services, removing overhead powerlines, creating buffer zones and designing and installing new infrastructure that accommodates mature tree growth.</p>
Page 53	
<p><i>Design Guidance</i> 10.3 Provide an interconnected soil network</p>	<p>Include a new point that relates to locating underground / basement car parking beneath the building footprint to minimise deep soil impacts. Add point: Locate underground / basement car parking beneath the building footprint to minimise deep soil impacts.</p>
<p><i>Design Guidance</i> 10.4 Place trees to allow for maximum canopy growth – point 2 Select appropriate tree species to avoid new tree placement that blocks high-amenity views.</p>	<p>Delete this guidance point. It is unclear what the definition of a 'high amenity view' is. With large areas of greater Sydney having views that this could apply to (e.g., harbour, ocean, city views etc) it is considered that this could be interpreted to plant small trees within these areas. This would be a major issue across our streets, parks and also in private property. Larger trees provide exponentially more benefits. This should be discouraged, as it is not clear from where the view is seen (views from where and to what).</p>
<p><i>Design Guidance</i> 10.4 Place trees to allow for maximum canopy growth – point 3 Place trees to allow tree growth in a balanced and healthy shape and minimise risk of pruning to an unnatural form, such as under overhead powerlines.</p>	<p>Delete or reword to the following: Place trees to allow healthy and structurally sound growth. Almost half of the City's street trees are located underneath powerlines. It is unlikely that this will change significantly in the foreseeable future, and we expect that is the same for many councils. Our concern is that this would give utilities increased reason to request / limit having trees, especially those that require pruning, around their infrastructure.</p> <p>We also think this point is redundant, as it is already covered in other points previously, such as planting for the site constraints and the point that follows it</p>
Pages 54 and 55	
<p><i>Design Guidance</i> 10.5 Ensure a diversity of street types enable tree planting</p>	<p>It is noted that these configurations all refer to planting within the verge. Design options to plant within the road carriage way (medians and kerb blisters) should also be included as an option.</p>

Exhibited text	Recommendation/Comment
	Amended to include design options to plant within the road carriage way (medians and kerb blisters).
Page 55	
<p><i>Design Guidance</i> <i>Alternative design solutions – point one</i> <i>Where sites are constrained (e.g. existing high-density mixed-use urban sites, existing high streets, and where there are overhead powerlines), consider greening alternatives.</i></p>	<p>There needs to be greater requirement here to demonstrate the greening cannot be achieved, as the existing built form is not capable of modification. Amended to: Where sites are constrained and it is demonstrated they are not capable of modification (e.g. existing high-density mixed-use urban sites, existing high streets, overhead multi-span powerlines), consider greening alternatives.</p>
<p><i>Design Guidance</i> <i>Alternative design solutions – point three</i> <i>Greening alternatives include green cover, green roofs, green walls, pergolas with climbers, podiums, planters, lawns and gardens, rain gardens, and permeable pavements.</i></p>	<p>Permeable pavement is not equivalent to provision of canopy or green space. It may help with water sensitive urban design, but it is not greening and needs to be deleted. Delete permeable pavements from point three.</p>
<p><i>Design Guidance</i> <i>Alternative design solutions – point 5</i> <i>Consider greening alternatives early in the design process to incorporate their requirements (e.g. drainage, irrigation and lighting) with other built form aspects.</i></p>	<p>The greening alternative have structural implications (e.g. green roofs) suggested to modify the wording slightly. Amend to: Consider greening alternatives early in the design process to incorporate their requirements (e.g. structural design, drainage and irrigation) with other built form aspects.</p>
Page 108	
<p>APPENDIX 4 STREET DWELL SPACE Carriageway <i>Consideration needs to be given to the carriageway width and how it has been allocated. To reinforce slower speeds and make room for cycling or space behind the kerb, consider reallocating existing road space in accordance with the Road User Space Allocation Policy (TfNSW 2021), particularly where lane widths exceed 3.2m on regional and local roads.</i></p>	<p>This should also include allocating space for tree canopy cover. Amended to: Consideration needs to be given to the carriageway width and how it has been allocated. To reinforce slower speeds and make room for cycling, space behind the kerb and in-road or footpath tree planting, consider reallocating existing road space in accordance with the Road User Space Allocation Policy (TfNSW 2021), particularly where lane widths exceed 2.9m on Regional and local roads.</p>
Page 111	
<p>Definitions Minor structures</p>	<p>The definition of the minor structure can be improved to ensure it's a combined total impact, as the current wording allows multiple minor structures within the area. Update definition – see ADG comments for drafting</p>

ENDS



Submitted on Fri, 25/02/2022 - 11:26

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

1.1 NAME

First name

Sharon

Last name

Smith

I would like my submission to remain confidential

No

1.2 INFO

Email

sharon.smith@chcc.nsw.gov.au

Suburb/Town & Postcode

Coffs Harbour

Please provide your view on the project

I support it

Submission file

[chcc-subm-design-and-place-sepp-feb-2022-final.pdf](#)

Submission

Submission attached.

I agree to the above statement

Yes



Our ref: 7592462

25 February 2022

Att. Design and Place SEPP team
NSW Department of Planning and Environment

Submission lodged via NSW Planning Portal

Dear Sir/Madam

Submission to the NSW Government on the draft State Environmental Planning Policy (Design and Place) 2021

Please find enclosed a submission on the draft State Environmental Planning Policy (Design and Place) 2021 (DP SEPP), currently open for consultation until 28 February 2022. This submission has been prepared by Council staff on behalf of Coffs Harbour City Council.

Council thanks the NSW Government for the opportunity to provide input into this matter. The attached submission contains a number of matters which Council requests are taken into consideration by the NSW Department of Planning and Environment prior to finalising this matter.

For further information, please contact Sharon Smith on 02 6648 4000.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Sharon Smith', is written over a light blue wavy line.

Sharon Smith
Section Leader, Local Planning

Encl.

DRAFT DESIGN AND PLACE STATE ENVIRONMENTAL PLANNING POLICY**Submission by Coffs Harbour City Council****25 February 2022**

This submission has been prepared by staff of Coffs Harbour City Council (Council) in response to exhibition of the draft State Environmental Planning Policy (Design and Place) 2021 (the SEPP) and associated revisions to the Environment and Planning Assessment Regulation 2021; as well as the revised Apartment Design Guide (ADG), proposed new Urban Design Guide (UDG) and updates to BASIX tools. This submission has been prepared following review of the exhibition documents and attendance of Council staff at various on-line webinars held over January and February 2022.

A. GENERAL COMMENTS

Council makes the following general comments about the draft SEPP:

- Council thanks the NSW Government that they took into account feedback received to the EIE process in 2021 and have prepared the exhibition documents with this feedback in mind.
- Council supports the overarching rationale of the SEPP that good design is at the heart of creating great places and buildings that are functional, attractive, adaptable, resilient and prosperous.
- Council agrees in the fundamental importance of good design and is therefore supportive of the SEPP adopting a design-based approach to delivery of a broad range of development types.
- Council is generally supportive of the revised Apartment Design Guide as exhibited so as to achieve improved useability and design performance; and to improve place outcomes.
- Council is supportive of the proposal to introduce an Urban Design Guide for precinct planning and larger scale development.
- Council is generally supportive of the approach to the new BASIX standards.
- In the event that the NSW Government chooses not to proceed with the SEPP, Council submits that the ADG, UDG and BASIX tools must be retained to uphold development standards in NSW.
- Council is generally supportive that key documents (which vary dependent on the nature and/or scale of the development) are to be submitted to support an application.

B. SPECIFIC COMMENTS

Council makes the following requests about specific aspects of the draft SEPP and associated documents as exhibited, for resolution prior to the SEPP coming into force:

- Negotiating and approving only well-designed development will place additional demands on the time and resources of local government development assessment teams. This situation is particularly at odds with the NSW Government's priority to reduce development assessment timeframes and the Environmental Planning and Assessment (Statement of Expectations) Order 2021 from the Minister for Planning in November 2021. Serious thought needs to be given to its practical implementation in order to avoid compromised time and resource constraints. Failure to meet the Ministerial expectations laid out in the Statement of Expectations Order can result in the Minister's appointment of a planning administrator or regional panel to exercise a council's planning functions in place of the elected council. The NSW Government should adjust its priority

from minimising assessment timeframes to prioritising the approval of well-designed development.

- Many local government DA planners do not have a background or significant training in design or place and consequently, some may struggle to interpret the five guiding principles or implement criteria that result in good design and place-based outcomes. It is requested that training, materials and resources are developed and provided to support local government DA staff in the second half of 2022, prior to the SEPP coming into force.
- Similarly, developers (through their designers) will be a key part of the delivery of development outcomes that meet the SEPP provisions. Good design will, in some cases, add costs to projects which may be at odds with the motivations of developers who are often looking to reduce project costs. It is requested that training and information is also provided to industry groups prior to the SEPP coming into force to assist developers' understanding of the SEPP and the importance of engaging good designers to design their developments.
- Council is still not fully clear as to how consideration will be given in the Land and Environment Court to interpret the principles and considerations within the SEPP. There is concern that there may be scope for misinterpretation and approval of development that does not achieve the aims of the SEPP.
- Council understand there is still a significant amount of debate as to who should be considered as qualified urban designers within the SEPP. In regard to this initiative, Council submits that the SEPP should retain registered and experienced planners in the qualified urban designer definition for the purposes of master planning of precincts and significant development. Urban design and master planning is a core element of planners' education, and the profession is often central to design and planning exercises for large areas or precincts. Council therefore considers that registered and experienced planners have the necessary skills, qualifications and experience to lead or carry out master planning exercises.
- Council maintains its position that the majority of development in regional NSW occurs at a smaller scale on a site-by-site basis, and is disappointed that the SEPP only applies to sites of 1 hectare size and greater. We request that there is fresh consideration for a greater emphasis on criteria for single-site development.
- Council continues to maintain that consideration should be given to providing some form of guidance for well-designed low density, detached dwellings; this could be in the form of a guide similar to the apartment design guide but more succinct. This could potentially take the form of some simple, yet significant measures, such as maximum site coverage (to enable provisions of useable private open space and space for shade tree planting); requirements for living areas to be orientated to the east and north; requirements for comfortable and useable private outdoor open space; requirements for 1 shade tree per lot (or two, front and rear); and requirements for built to boundary walls on one side boundary in order to reduce wasted land area and allow more useable private open space.
- Similarly, given complying development is a key element of the development approval system it would seem remiss to not apply the SEPP provisions to development undertaken through complying development pathways. Not requiring complying development to deliver outcomes sought by the SEPP will limit the achievement of good place and built form outcomes.

- Council is currently in the process of setting up a design review panel to assist with improved design outcomes in the local setting. The draft amendment to the Environmental Planning and Assessment Regulation 2000 deals with design review panels, including the constitution, membership and procedures and states that the Minister will set up the panels and appoint the members. In addition to certain development types being reviewed by the panel, there is an associated Planning Direction that will require certain LEP amendments to be reviewed by the panel. Council submits that, if Councils are interested, that they should be able to set up local design review panels to ensure good design outcomes while expediting development in the local setting, to an agreed value/development type. Design review panels need to be readily available and accessible so as not to slow the development assessment timeframes or local environmental plan amendment timeframes. Then beyond an identified cut-off or level (such as State significance) they elevate to the NSW Government's design review panel.
- Council maintains its position that more flexibility should be allowed in relation to fees to allow councils to appropriately resource the task of reviewing the design of different types of development. A range of fees that apply to different types or scales of development would allow flexibility and be fairer for applicants. Clarification also needs to be made in relation to resourcing design review panels, particularly for regional councils, given that the draft regulations specify that the Minister is responsible for establishing the panels and appointing members to the panel.



CUMBERLAND
CITY COUNCIL

14 March 2022

Design and Place SEPP Team
NSW Department of Planning, Industry and Environment
GPO Box 39
SYDNEY NSW 2000

Submitted via the NSW Planning Portal

Dear Sir/Madam

SUBMISSION - DESIGN AND PLACE STATE ENVIRONMENTAL PLANNING POLICY (SEPP) CONSULTATION DRAFT

Thank you for the opportunity to comment on the new *Design and Place State Environmental Planning Policy (SEPP) Consultation Draft* and supporting documents. Council has reviewed the draft SEPP and associated documents and would like to provide the following comments as attached.

Broadly Council supports the draft SEPP, in particular the use of a uniform urban design guide for NSW and the amendment of the Apartment Design Guide. Council raises in our submission several areas for further refinement regarding the new guides and the assessment of Development Applications as outlined in our submission attached.

The comments contained in this letter are officer-level comments only as the matter has not been reported to the elected Council for a formal view or resolution.

Council's concerns and feedback on the Consultation Draft and supporting documents are as attached. If you have any queries in relation to this matter, please contact Daniel Cavallo, Director Environment and Planning, on 8757 9850 or email daniel.cavallo@cumberland.nsw.gov.au

Yours faithfully

Peter J Fitzgerald
GENERAL MANAGER

ENCL.

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Welcome *Belong* Succeed

Attachment A - Council Officer Level Submission

1. Training and Resources

Council welcomes the strong design led and evidence based draft Design and Place SEPP (draft DP SEPP). The documentation and changes are lengthy and technical, and Council strongly recommends training programs run by the Government Architects Office for Council officers, Local and Regional Planning Panel members and design consultants regarding the interpretation and application of the draft DP SEPP to ensure a consistent Council interpretation.

Council also recommends a live Design and Place portal with practice notes, user guides and the like, showing how different key sections should be utilised or have been interpreted well. A type of pattern book or best practise examples should be made available to assist lower tier developers and Council planners in their assessment. In particular, resources for more tricky apartment/development sites, the ground floor plane / public domain activation and integration of services, as ideal scenario apartment designs are often shown in the guidelines. Council would be willing to support this through local level design forums of good and undesirable local examples and engagement with the industry through educational webinars.

2. Ministerial Direction – Design Principles and Considerations

The draft Direction is strongly supported by Council, in particular the requirement to ensure consideration of the design principles early in the planning process, consideration by the design review panel and overall focus on place based outcomes.

Council recommends that the UDG apply to planning proposals less than 1 hectare in endorsed LSPS Strategic and Local centres (defined as Principal Local Centres in Cumberland's LSPS such as Auburn, Lidcombe, Granville and Wentworthville), working with Council's design excellence policies and provisions.

Council supports the designing with Country provisions, however this should capture sites larger than 1 hectare as proposed.

3. DP SEPP

Design Principles and Design Considerations

Council supports the new design principles and considerations proposed in the DP SEPP, which are more focused on design quality as well as how people live in places. In particular, inclusion of consideration of the public realm, smart places, walkability, green infrastructure, public spaces designed for interaction, electrical vehicle infrastructure is strongly supported.

Wording - Application in Development Assessment

Of concern is the SEPP requirement that 'development consent not be granted unless the consent authority is satisfied that the development is consistent with the design principles'. It is likely that different assessment staff will interpret each principle differently, resulting in inconsistent planning advice/outcomes. Thought should be given to replacing 'must be consistent' with 'must demonstrate consideration of' or 'must be generally consistent with'.

Objectives of the UDG and ADG

Council strongly supports inclusion of wording that alternate solutions must demonstrate a neutral or better outcome than the set design criteria.

Green Travel Plan

Council supports the requirement for Green Travel Plans, prepared by a qualified transport planner or engineer, as a first step in encouraging greater uptake of public transport, walking and cycling. Aligning the development of green travel plans to areas with high accessibility (PTAL level 6) is a transparent and evidence-based mechanism for reducing parking minimums in appropriate locations. PTAL categorises accessibility based on a combination of distance to nearby public transport and frequency of public transport service, which council acknowledges has been supported by research and application in the UK.

However, it is noted that the current data (provided by TfNSW) identifying areas with high accessibility are categorised into each hour of the day (across a 24-hour period) and each hour has a different accessibility level. For example, 1am, in contrast to 9am, has fewer services and therefore a lower accessibility score. It is therefore difficult to assess what areas of NSW would be required to prepare a Green Travel Plan. For consistency and to enable Council to assess the extent of Green Travel Plan application, clarification should be provided in the DP SEPP regarding the time of day that will be used to assess accessibility. Council recommends stipulating a period between 6am-10pm. It would also be desirable for a draft map to be exhibited as Council has reviewed the current TfNSW PTAL data, and there are examples where the data does not translate into real world accessibility.

Parking

There is no indication within the documentation exhibited on how to identify the different areas where the GTTGD applies, particularly the difference between the Metropolitan Regional and Metropolitan Sub-Regional areas. This information should form part of the Design and Place SEPP's Guide to provide clarity, instead of adding it as part of a practice note.

Travel Patterns

Context should also play an important role in developing and assessing Green Travel Plans. The Cumberland residents have unique travel patterns that are not well accommodated by

public transport. Although it is acknowledged that encouraging public and active transport is important, a higher percentage of Cumberland residents work in industries that are more dependent on private vehicles use, or commute for jobs that are not serviced by trains or buses, such as manufacturing and construction, see figure 1 and 2 below. These residents should not be disadvantaged by reduced parking minimums, and demographics and employment should be considered in the assessment of Green Travel Plans.

Given that different LGAs have different needs, the Department should create a Green Travel Plan guideline in order to consistently assess the merits of a proposal seeking to reduce car parking and recommends a grace period for the draft DP SEPP to be implemented to enable Council to do so. The Green Travel Plan guideline should also provide an opportunity for innovative or alternate arrangements to be considered, in order for Council to respond flexibly to local circumstances. This should be drafted in consultation with Councils.

Method of Travel to Work	Cumberland (%)	Greater Sydney (%)
Car (as driver and passenger)	59.1	56.6
Public Transport (train and bus)	25.6	22.3
Active Transport (walk and cycle)	2.2	4.7

Figure 1. Method of Travel to Work

Source: Australian Bureau of Statistics, Census of Population and Housing 2016

Industry Sector of Employment	Cumberland (%)	Greater Sydney (%)
Healthcare and Social Assistance	11.9	11.6
Construction	10.6	8.2
Retail Trade	10.1	9.3

Accommodation and Food Service	7.6	6.7
Manufacturing	7.2	5.8

Figure 2. Industry Sector of Employment

Source: Australian Bureau of Statistics, Census of Population and Housing 2016

Active Transport

Council supports greater consideration of bike parking requirements and, in general, changes to encourage greater uptake in active transport modes. It could be beneficial to better understand how people that ride bikes, or would like to ride bikes, want bike parking in apartment buildings. Engagement should take place to inform the actual bike parking requirements/guidance in the DP SEPP. For example, the revised Apartment Design Guide encourages bike parking under cover at ground, first floor or basement level 1, but this may not be fit for purpose for cyclists. It may be more appropriate to provide bike parking within an apartment, or near front doors, to make cycling more convenient and avoiding the issues with basement parking. Inclusion of bike parking requirements into apartments themselves would also make apartments larger, without additional cost to developers.

4. Draft DP SEPP EPA Regulations

Design Verification Statement

The current EPA regulations currently only require a Design Verification Statement for RFBs, however in the draft EPA (DP) regulation, this requirement is expanded to include urban design development and development involving public or common space with an area greater than 1,000 square metres. The expansion of design verification statements is supported as is the greater focus on a quality document. Council encourages the DVS to also include a description of the design process and testing of development options on the site that informed the final design to assist with understanding design constraints during the assessment. This should be primarily diagrammatic.

Definition of Urban Design Development

Council supports this definition and recommends inclusion of sites of any size where multiple buildings are proposed within the one DA.

Sustainability Requirements

Council generally supports the draft DP SEPP interventions to mitigate and adapt to the changing climate, particularly the inclusion of electric vehicle charging through the building design and consideration of net zero and embodied emissions. Proposed clause 99 relating to conditions for EVs is supported. However, there is concern about the equitable distribution of managing the burden of climate change. This is particularly important in the Cumberland LGA, which will be disproportionately impacted by increasing heat.

Council understands that the draft DP SEPP sets minimum percentage reduction in the amount of carbon dioxide emissions resulting from development, which is dependent on the Climate Zone the development will take place. Although the Climate Zone maps are not available for review, there is concern that areas experiencing greater heat, such as Cumberland, would be expected to have higher emission reductions. It is therefore likely that development in these areas would cost more and therefore become less feasible and affordable. Communities in the western suburbs of Sydney, including Cumberland, have on average lower incomes and would be more disadvantaged than those in the eastern suburbs. As detailed in our Housing Strategy, feasibility of development is an issue in our LGA and further impacts on feasibility would stifle redevelopment. The costings in different LGAs was not readily apparent in the documentation on exhibition.

Council understands and supports the upfront consideration of environmental design that will reduce ongoing costs, however we do want to ensure that development is still viable in the Cumberland LGA and that the Department has undertaken the technical work to ensure this.

Council also notes that the proposed higher BASIX targets will not apply to small apartment buildings up to 5 storeys. It is clear from the economic assessment that enforcing BASIX targets would impact the feasibility of this type of development. In the interest of providing more sustainable development, it is recommended that a reduced target, rather than no target, should be set for this type of development and, as sustainable construction materials become more affordable, increase the targets. It is understood that all BASIX targets will be reassessed in 2025, and this approach is supported.

5. Draft Urban Design Guide

Council supports the provision of an urban design guide that will apply to 'urban design development' (developments of over 1 ha and relevant industrial development of 1ha and \$30 million CIV or where a DCP/Precinct Planned is required).

Application of the Guide to Smaller Sites and Sites With Multiple Buildings

Council notes that the since the DP SEPP EIE, a more specific criteria for application of the UDG has been set for sites 1ha or greater (among other criteria). Although a simpler criteria can be beneficial for clarity, it can also result in missed opportunities. For better design outcomes, Council could adopt a mechanism for applying the guide to select areas. For example, requirements for the application of the guide to be used within a certain distance of strategic and local centres for development triggering the ADG, regardless of lot size. It is

also recommended that the UDG also apply to the areas subject to design excellence provisions of an LEP/DCP and to application's proposing multiple buildings rather than only where the site is 1ha or greater. This would enable a holistic and transparent design review of centres, regardless of lot size.

Open Space Provision Benchmarks

Council supports the open space requirements and the clarity provided around open space provision in the urban design guide. Areas with densities of 50 dwellings per hectare or greater should have access to a small park (between .15 and .45ha) within 200m. Although the density target is lower than the draft Greener Places Design Guide at 60 dwellings per hectare, the open space provision is slightly less, between .15 and .5. Council supports these targets and suggests aligning the DP SEPP target with the higher target in the draft Greener Places Design Guide.

Relating to site acquisition, Council may not necessarily wish to acquire open space as offered by a developer (small, local, district and linear parks) and also acknowledges the approach of utilising easements across shared private/public open for public use. Another option for consideration is for developers to offer to enhance or extend existing open space in the area. This would consider not just access to open space, but also quality of open space. Collaboration between developers and nearby services could also be encouraged, such as schools or community centres, to deliver even better open space outcomes that are appropriate and support the local context.

Development Control Plans

Given the potential overlap of the UDG and the DCP, Councils should be provided with a transition period to ensure that the DCPs are amended accordingly, reducing inconsistencies and clarifying intent.

6. Apartment Design Guide

Outcomes Based Assessment

Council supports the DP SEPP outcomes-based approach to ensure proposed design interventions achieve the desired effect. Strict design criteria utilised in the current SEPP 65, does not fully consider site specific needs and actual desired outcome, or allow pivoting an intervention when a better alternative is identified. The proposed design flexibility will focus the development on achieving outcomes rather than standards. In order to provide this flexibility, it is important to retain the draft DP SEPP wording that alternate designs must be a neutral or better outcome than the relevant ADG design criteria.

There is an opportunity to assess and share successful designs, and to avoid poorer designs. A post-construction design appraisal would allow for evaluation of developments. Evaluation methodologies have been used by the Department of Premier and Cabinet (Program Evaluation Toolkit) and Infrastructure Australia (Guide to Program Appraisal 2021). Council

recommends project appraisal for urban design and apartment design projects and a database and regular local design forums set up by Council's, identifying successful and unsuccessful projects.

Roof Articulation

Council supports articulation of the skyline through podium and tower elements with varying designs. It is recommended that an ongoing issue of building height be resolved through the draft DP SEPP amendments by removing roof and roof related structures (such as lift overruns) from the definition of height of buildings in the Standard Instrument. This would create increased flexibility in line with the roof feature clause in the Standard Instrument for varied and interesting roof forms, instead of flat roof lines trying to fit under the height limit.

Floor to Floor Heights

The proposed floor to floor heights are supported by Council. Figure 1.2.8 appears to indicate that the floor to floor for residential is 2.7m, whereas this is the floor to ceiling height. This should be updated to 3.1m. Having adequate floor to floor heights is important in ensuring that buildings provide adequate amenity and flexibility of ground floor uses to mitigate against empty shop fronts, activate the street and are not excavated into the ground.

Relationship to the Street

An increased emphasis on the importance of a building and the sites relationship to the street is supported. Excavation of habitable residential ground floors or commercial areas should be strongly discouraged, except where specifically designed for that purpose (for example, supermarkets, storage and the like).

Deep Soil and Planning on Structure

In most of business zone where the built form is characterised by high rise development, the provision of deep soil zone that will receive direct solar access to maintain longevity of its plantings would be quite difficult to achieve. Given that the provisions of nil setbacks are quite common in business zones, planting on structure is considered as a reasonable alternative. To allow for planting the required tree canopy, planter boxes need to incorporate substantial soil volume. Consideration should be given on the location of planter boxes closer to the finished floor level that will ensure that the planting on structure is accessible, provides shading as required and not just as a tokenistic addition.

Communal Open Space (COS)

The new guide allows the reduction of COS to assist smaller development by providing communal spaces area based on each unit, instead of the percentage portion of the site area. However, with larger high-rise development, the measurement to achieve the minimum communal spaces is still based on the site area. For some smaller site areas, the development may result in more occupants than the available communal spaces. Location and accessibility of these spaces need to be provided equally and not allude to the use of rooftop spaces for private spaces.

As the new document will focus on provision of family friendly and work from home environments, play facilities should be incorporated in large communal spaces on the podium (such as developments with over 100 apartments).

Natural Cross Ventilation

Council supports the strong evidence base that has led to the better defined cross ventilation requirements in the draft DP SEPP.

Ventilation of common hallways is also strongly supported, as unventilated hallways have a detrimental impact on the amenity of peoples experience of their building due to trapped smells that build up in unventilated common areas. Ventilation of hallways has created numerous court appeals due to various court definitions of FSR for ventilated hallways. It is recommended that naturally cross ventilated hallways (with a defined minimum area, which can be as little as 6sqm) be excluded from FSR calculations and included as an amendment to the DP SEPP.

Balcony Areas

The revised methodology of calculating the primary useable area is strongly supported. 1m areas are often used for storage or opening doors to allow fresh air into apartments. Whilst this is valuable, the primary useable area is most important for residents. The configurations shown are also consistent with allowing solar access into both living areas and to the balcony.

Solar Access

The following design criteria should be amended to ensure applicant's do not interpret this as only 15 minutes of solar access to these areas is required within the entire two or three hour period. This could read as:

'For living rooms and private open spaces 'receiving direct sunlight' includes the following surfaces receiving direct sunlight for every 15 minute interval within the relevant minimum 2-3 hour solar access.'

For living rooms and private open spaces, 'receiving direct sunlight' includes the following surfaces receiving direct sunlight for at least 15 minutes:

- the floor of a private open space, or the face of its surrounding walls
- the glazed opening to a living space.

Environment

Noting the viability concerns raised above and subject to these being considered, Council supports the introduction of greater environmental controls, particularly relating to EV facilities within buildings which is consistent with Council's recently adopted Cumberland DCP 2021.

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 5:25 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: dubbo-regional-council-submission---design-and-place-sepp---department-of-planning-industry-and-environment_0.pdf

Submitted on Mon, 28/02/2022 - 17:23

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Steven

Last name

Jennings

I would like my submission to remain confidential

No

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Email

steven.jennings@dubbo.nsw.gov.au

Suburb/Town & Postcode

Dubbo 2830

Please provide your view on the project

I am just providing comments

Submission file

[dubbo-regional-council-submission---design-and-place-sepp---department-of-planning-industry-and-environment_0.pdf](#)

Submission

Please see attached submission.

I agree to the above statement

Yes

FILE11/63
ED22/28010
SJ/TJH

28 February 2022



Ms Paulina Wythes
Director, Planning Legislative Reform
Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124
planninglegislativereform@planning.nsw.gov.au

Dear Ms Wythes

SUBMISSION TO THE DESIGN AND PLACE SEPP PUBLIC EXHIBITION

Dubbo Regional Council thanks the Department of Planning and Environment for the opportunity to comment on the proposed Design and Place SEPP. Council recognises the importance of sustainable and resilient places that deliver good design, and in providing a framework that supports vibrant, connected and sustainable developments.

Council raises concerns about how the draft SEPP and associated guidelines would be achieved in the Dubbo Regional Local Government Area, and by extension other regional and rural regions. Council requests that the Department give further consideration to the intended outcomes to ensure that regional areas are not negatively impacted.

Council provides the following summary on the draft SEPP and associated guidelines:

- The majority of best practice examples are located in the metropolitan centres. A more diverse approach in providing examples would assist in achieving the goals of the UDG.
- Density, parking and transport requirements are more applicable in an urban setting, and do not account for typical development in rural and regional areas.
- Tree canopy requirements for new developments should take into consideration local climate issues
- The application of the UDG in the proposed Design and Place SEPP will inevitably disadvantage rural and regional areas.



All communications to: **CHIEF EXECUTIVE OFFICER**

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1. The Majority of Best Practice Examples are based in metropolitan centre

Council recognises that the best practice examples shown throughout the UDG are helpful in indicating the ways in which the proposed objectives can be achieved. Unfortunately, the examples provided are located in metropolitan centres, and little is shown in how these objectives can be achieved in regional and rural settings. Examples of this include:

- Of the 12 best practice examples utilised in the UDG, only two (p.58 & 83) are located outside of Sydney and Newcastle.
- The majority of images throughout the UDG are of metro and city areas.
- The majority of the figures used to demonstrate how to achieve objectives are based on densities and building types more common in metropolitan centres.

A more varied array of examples showing how the objectives of the UDG can be achieved in regional and rural settings would assist in achieving the goals of the Design and Place SEPP.

A number of the regional cities in NSW have Urban Release Areas, which will ultimately provide the vast majority of regional housing in the future. It is considered that the UDG should include specific information and examples of how Councils and industry can go about designing liveable, walkable and sustainable communities in the future, having regard to our regional location, property price points, housing needs and realities.

2. Definition of 'Urban Designer'

The proposed amendment to the Environmental Planning and Assessment Regulation (Design and Place) 2-21 includes the following definition:

Urban designer means the following-

- (a) a qualified town planner with at least 5 years' experience in precinct or master planning,*
- (b) a landscape architect with at least 5 years' experience in precinct or master planning,*
- (c) an architect with at least 5 years' experience in precinct or master planning,*

Whilst this definition of an urban designer may be appropriate in a metropolitan context, this will cause significant issues in regional areas with the availability of professionals and the industry expectation to deliver timely and professional master planning activities.

In addition, in a number of regional areas and in Council's experience, Land Surveyors, with appropriate experience and skills have undertaken master planning activities for sites. Whilst such professionals don't meet the qualification requirements in the definition, it is considered

that the definition should be altered to bring further flexibility regarding the professional based on their skills, experience and background in master planning activities.

This is also the case with landscape architects in the regional context where such professionals are difficult to access. The Department should give consideration to including other allied professionals in the landscape field that could fulfil the same functions as a landscape architect as envisaged in the SEPP.

3. Density controls

Council would like to bring attention to the Neighbourhood density design criteria stated in the Objective 3 of the UDG. We believe that the requirements are not feasible within the Dubbo region due to the current demands of housing. The existing layout of the region means that areas to be developed are located far more than the applicable walk times stated in the design guide. Further clarity is requested on density requirements to ensure new developments are provided with adequate pedestrian facilities.

4. Minimising parking is counter intuitive to the needs of regional areas

Minimising parking is listed as a key goal of the UGD under Objective 8. However, with the typical density and housing types in the region, minimising parking does not fit the needs of proposed neighbourhoods. Due to the existing sprawled nature of the region, minimising parking is unviable due to the extensive amount of vehicles that enter the CBD throughout the day.

It is considered that an integrated approach would be more appropriate so as to not discourage existing residents from utilising the CBD. However, Council still recognises that our future urban environments need to provide adequate facilities for a variety of active and passive transportation modes.

5. Public Transport

The public transport elements of the UDG assume that high frequency public transport options, including metro services, will be utilised. As an example, figures 11 & 12 on page 23 of the UDG show the typical neighbourhood in close proximity to multiple bus stations and a train station. This is not the case for most regional cities as typical densities only allow for low frequency public transport. The UDG should reflect typical public transport arrangements for regional towns as well as urban centres.

An additional note to be fixed – Objective 2.3 states that public homes in residential areas should be within 800 metres to public transport. This should read as 800 metres *walking distance* to public transport, so as to minimise confusion.

6. Lack of drought consideration

Council would like to bring attention to the tree canopy requirements of the stated in Objective 10 of the UDG. The requirements listed in this objective call for major amounts of tree canopy to help facilitate the use of walking and cycling as transport methods. Council understands green, cool and resilient NSW with sufficient tree canopy and native vegetation is essential to healthy, resilient and liveable communities, but the UDG should deliver urban tree canopy benchmarks that take into consideration local climatic factors and drought-tolerant species.

Council would be happy to further assist the Department in explaining our experiences in the recent drought of record and what impacts this can have on urban vegetation management and provision in this period and moving forward in to the future.

7. Application of the Urban Design Guide in the Design and Place SEPP

In addition to the above comments, Part 3 Division 1 clause 24 (2)(a) of the SEPP states that an alternative solution can be sought should it be more beneficial than the UDG. Alternative solutions may not be required if the UDG contains more examples that are applicable for regional and rural areas. Council is concerned that the city-centric focus of the UDG may cause alternative solutions to be consistently sought, slowing the development process and potentially not achieving the objectives adequately.

This is especially relevant in regional areas, which are experiencing significant increases in development activity and resource requirements.

8. Design Review Panel

The draft SEPP and the package of reforms has the role of a Design Review Panel as integral to the operation of the SEPP. It is unclear from the information provided in the public exhibition package if there will be a Design Review Panel for the Regions and whether Dubbo Regional Council would stand to benefit from any such Panel.

Whilst the intent of a Design Review Panel is overall supported, it is also unclear as to what financial responsibilities would lie with Local Government and how this would be administered by the Department. In an era where Councils are managing community and stakeholder expectations with diligent financial management, any further cost impost on Local Government cannot be absorbed.

Council would like to be further included in any discussions around the function, servicing and financial restrictions attached to any Design Review Panel for the Regions. In addition, the operation of a Design Review Panel should also be taken in the context of value adding to overall consideration and assessment and not unnecessarily adding time restrictions to processes that Councils are under ever increasing pressure to streamline.

Conclusion

Council thanks the Department for the opportunity to comment on the draft Design and Place SEPP. Council requests that the Department consider these concerns to assist Council in achieving the goals and visions for design and place in NSW.

If you require any further information, please contact the undersigned on (02) 6801 4000.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S. Jennings', written over a light blue rectangular background.

Steven Jennings
Manager Growth Planning

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 1:56 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: er-220228-basix-reform-submission_0.pdf

Submitted on Mon, 28/02/2022 - 13:53

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Elizabeth

Last name

Rankin

I would like my submission to remain confidential

No

Info

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Suburb/Town & Postcode

Moruya 2537

Please provide your view on the project

I support it

Submission file

[er-220228-basix-reform-submission_0.pdf](#)

Submission

As per the attached.

I agree to the above statement

Yes

28 February 2022

Ms Felicity Greenway
Executive Director, State Policy and Strategic Advice
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Ms Greenway

Proposed BASIX higher standards

Thank you for the opportunity to Eurobodalla Shire Council (Council) to make a submission on the NSW Government's proposed reforms to the BASIX standards.

Fundamentally Council supports the direction of the Government to introduce change however the consultation material is not presented in a way that allows direct comparison between the current situation and the proposed new BASIX.

We consider the proposal on exhibition to be an improvement on current standards, but not sufficiently ambitious or reflective of the importance of housing design and construction in the ability of our community to be resilient to the impacts of climate change, in the medium to long term. We encourage more ambition to improve the standard of our housing stock.

We focus our submission on the following areas that could be improved to deliver a more robust and accountable framework.

1. Requirement for greater clarity on how climate change projections have been factored into the new BASIX standards and the need for stronger and/or additional minimum building requirements to ensure resilience to climate change especially heat.
2. Standards relating to thermal performance during acute, extreme heat events should be included in the update of BASIX.
3. The framing of GHG savings under the proposed new standards is unclear and potentially misleading.
4. The cost-benefit analysis (CBA) of the proposal does not quantify "some of the benefits to health and wellbeing of occupants, and indirect effects on the energy system and public spending".
5. The new standards still allow homes to meet thermal performance standards by installation of grid-connected air conditioning

In 2022, Council will adopt its new *Climate Action Plan*, which will guide our efforts to reduce greenhouse gas emissions and increase our resilience to the impacts of climate change. Housing design and construction, along with subdivision design, is identified as a key area where changes to the NSW Government planning standards are urgently needed, particularly to strengthen the climate resilience of our housing stock and thus of our community.

Under the current NSW Planning Framework, BASIX is obviously a critical tool shaping the character of new development. We note that the uptake of voluntary schemes that are intended to improve housing standards, such as the Green Building Council Australia's Green Star rating scheme, is not occurring as rapidly as hoped (Commonwealth of Australia 2018).

Matters for consideration

1. *How have climate change projections for NSW been factored into the proposed new BASIX standards?*

We note analysis that shows that **most buildings which today pass the BASIX standards will fail current standards under projected climate change scenarios** (WSP 2021). The survey of Councils undertaken by WSP as part of the *Future Proofing Residential Development to Climate Change* project identified a range of deficiencies in current standards and tools used for modelling thermal performance of buildings such as:

- BASIX standards are outdated and not stringent enough – today's BASIX-compliant buildings fail under projections of our future climate.
- Climate data used in models like the *Nationwide House Energy Rating Scheme* (NatHERS) – which are used to model the thermal performance of buildings in order to meet BASIX standards – is not representative of current, let alone future climate (Commonwealth of Australia 2018). NatHERS uses historical data from 1990 to 2004, while the 10 hottest years on record have all occurred since 2004 and thus are not accounted for in the current tool (WSP 2021).
- The thermal performance metric in BASIX, and the National Construction Code (six-star minimum standard for NatHERS), balances winter and summer conditions (i.e. is based on average performance over the year) but does not look at performance in acute heat conditions. Climate change will drive supercharged summers and fading winters, so metrics that address building performance under acute heat are needed (Commonwealth of Australia 2018).
- NatHERS and BASIX, are driving greater reliance in modern homes on mechanical cooling to cope with heat. This is creating new homes with lower intrinsic heat resistance than older homes. Increasing people's dependence on air conditioning becomes hazardous when air conditioning fails during heatwaves, as can happen during grid load-shedding (Commonwealth of Australia 2018; Hatvani-Kovacs et al. 2018).

2. *Standards relating to thermal performance during acute, extreme heat events should be included in the update of BASIX. The present thermal performance standard is calculated as an annual average only.*

Neither the current BASIX nor the proposed changes, addresses building performance during heatwaves. Thermal performance is still assessed as an average figure over the year but not under extreme heat events. This is a major shortcoming of the proposal. The integration of standards relating to heat stress resistance is needed.

3. *The framing of GHG savings under the proposed new standards is unclear and potentially misleading. Total GHG savings appear relatively small, suggesting the changes should go further in the direction of improving energy and thermal performance standards.*

The estimated savings needs to be clarified for the community to assess the cumulative impact of the proposal, particularly to assess whether the level of ambition implied by the proposed changes is sufficient.

The benefits of more ambition are likely to be significantly higher than are currently presented by the documentation on exhibition.

BASIX would also be the most appropriate instrument to future proof housing stock to provide infrastructure to facilitate easy and cost-effective installation at a later date of electric vehicle charging capacity.

4. *The cost-benefit analysis (CBA) of the proposal does not quantify “some of the benefits to health and wellbeing of occupants, and indirect effects on the energy system and public spending”.*

This is a significant omission, which downplays the benefits of the proposed changes – and of more ambitious changes – for NSW residents and taxpayers.

- The CBA suggests that health costs associated with improved air quality (from reducing combustion of fossil fuels for electricity) and benefits from carbon abatement (in terms of avoided climate change) are “uncertain”.
- The CBA also omits any consideration of the costs experienced by current home owners during acute heat events, for instance by occupants of houses with poor thermal performance to seek refuge, in higher electricity loads, etc. Better thermally performing buildings, if designed to perform well during extreme events, will save households the costs associated with mitigating the impacts of heat.
- The CBA adopts an assumption that houses last 40 years, which is significantly less than the NSW average. As a result, future benefits may be under-estimated (although we note future benefits are heavily discounted by the CBA in any case).
- The CBA also assumes “that the additional compliance costs associated with the construction of a new dwelling are passed through in full to the consumer” (p9). Not all sustainability upgrades have to increase costs (light coloured roofs are the same cost as dark coloured roofs, for example), however if there are higher costs at

construction these do not automatically translate as higher home purchase cost for the next buyer.

Overall, the CBA seems to undervalue benefits from proposed improvements to energy use and thermal performance, at both the State (societal) and household (individual) level. This seems likely to have constrained the assessment of different options, particularly more ambitious options.

5. *The new standards still allow homes to meet thermal performance standards by installation of grid-connected air conditioning. In times of grid failure, these homes will actually be less resilient – and potentially dangerous – for occupants.*

Air conditioning can, and does, play a role in home cooling during hot weather. However, this should be in addition to the basic standards of home design, not a factor in meeting the standards. Air conditioning might also be considered maladaptation while the GHG emission factor of the NSW electricity grid is high and where it results in buildings that are unable to cope with extreme heat without air conditioning and thus create heat stress risks for occupants.

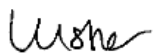
Conclusion

Overall, Eurobodalla Shire Council very much supports further improvements to strengthen BASIX and raise the standards of new buildings. This is a key issue that the NSW Government needs to lead on, since under the NSW Planning Framework councils have no opportunity to introduce higher standards even where we consider this will benefit our community. We consider the proposal on exhibition to be an improvement but not sufficiently ambitious or reflective of the importance of housing design and construction in the ability of our community to be resilient to the impacts of climate change, in the medium to long term.

Please do not hesitate to contact Liz Rankin, Council's Divisional Manager Strategic and Sustainable Growth on (02) 4474 1000 or by email elizabeth.rankin@esc.nsw.gov.au if you would like to discuss any matter contained in this submission.

We look forward to your response.

Yours sincerely



Lindsay Usher
Director
Planning and Sustainability Services

References

Commonwealth of Australia, 2018. "Current and Future Impacts of Climate Change on Housing, Buildings and Infrastructure." Report arising from the Senate inquiry into impacts of climate change on housing. Australian Senate Environment and Communications References Committee.

OEH 2015. "Heatwave: Climate Change Impact Snapshot." OEH 2015/0746. Sydney, Australia: NSW Office of Environment and Heritage and Adapt NSW.

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 4:07 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: submission-place-and-design-sepp.pdf

Submitted on Mon, 28/02/2022 - 16:04

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Edward

Last name

Saulig

I would like my submission to remain confidential

No

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Suburb/Town & Postcode

Wakeley NSW 2176

Please provide your view on the project

I support it

Submission file

[submission-place-and-design-sepp.pdf](#)

Submission

Fairfield City Council supports the initiatives within the draft SEPP (Design and Place) aimed at enhancing design and place outcomes across the State to bring about improved quality of spaces, community life and green environments.

Council seeks to again emphasise a number of important issues raised during the exhibition of the EIE in April 2021.

This submission focuses on:

- (1) the relationship of the Fairfield Local Strategic Planning Statement (LSPS) 2040 with the proposed SEPP, and
 - (2) significant deficiencies that are being delivered locally in relation to design and place outcomes under the regime of complying development associated with the SEPP (Exempt and Complying Development Codes) and under the SEPP (Affordable Rental Housing).
- (1) Fairfield Local Strategic Planning Statement (LSPS) 2040

Council previously advocated for the recognition of extensive work undertaken by NSW Councils in recent years with the preparation of LSPS's that respond at the local level to Planning Priorities and Actions contained in both the Regional and District Plans. LSPS actions will deliver various initiatives identified in these plans, including improvements to design and place at the local level through the preparation of design and place based studies and strategies.

The Fairfield LSPS 2040 came into force in March 2020 and was prepared as a result of specific actions contained in the Western City District Plan. Key planning priorities and actions in the Council endorsed LSPS relate to 'place and design' outcomes. In parallel to the preparation of the LSPS, Council obtained \$2.5 million in grant funding from DPIE under the LEP Accelerated LEP Program to implement a range of amendments to local planning controls. This work included the preparation of urban design studies, public domain plans and open space strategies to guide planning outcomes primarily in the eastern areas of the City in proximity to the above town centres and main public transport nodes.

A review of development standards (including floor space ratio and height of building) and urban design principles applying to development in the R3 Medium Density Residential Zone aims to both improve the quality of design and increase housing diversity in areas that are accessible to services, facilities and open space. Vibrancy in the town centres will be achieved through strategies that include the provision of active street frontages for mixed used development in designated areas/streets of town centres, supported by detailed public domain strategies.

Council's LEP Clause 6.12 Design Excellence aims to ensure that development exhibits design qualities that contribute to the natural, cultural, visual and built character values of Fairfield. It applies to development involving the construction of a new building or external alterations to an existing building on land in the R4 High Density Residential, B2 Local Centre, B3 Commercial Core, and B4 Mixed Use zones. The clause supplements common objectives within the draft Design and Place SEPP. The recognition of existing Council work that is not intended to be superseded by the SEPP (Design and Place) is welcomed.

(2) Detrimental Impacts of Complying Development on Place and Design

Council has previously raised the significant issue of complying development and secondary dwellings in Fairfield City in numerous meetings in relation to the Fairfield LSPS and the draft Local Housing Strategy. This form of development is having a detrimental effect on place and design outcomes across the City, particularly in the low density residential areas.

The Fairfield LSPS (p.36) highlights that the regime of complying development provided for under the SEPP (Exempt & Complying Development) and SEPP (Affordable Housing) has and continues to have the following impacts on the urban areas of Fairfield City.

"Future residential infill development is restricted in parts of the established areas due to constraints, including flooding, traffic and transport considerations. Out of centre lower density residential neighbourhoods, where there are limited constraints, will be able to accommodate modest levels of infill development in the form of duplexes and medium density townhouses/villas.

However, unsympathetic infill development should be avoided. A good example of this is the high numbers of unsympathetic secondary dwelling (granny flat) developments that have occurred under State Government planning rules in recent years.

While providing a form of affordable accommodation, the impacts associated with this housing type are many including increased site coverage and impervious surfaces, increased overland flooding, loss of vegetation and canopy cover, and inadequate on street car parking availability.

There are also additional pressures placed on public infrastructure and services such as childcare, schools, hospitals, open space and community facilities due to the increased population.

This is exacerbated by the policy applying to all residential land in Fairfield City (meaning that developments occur in an unplanned and ad hoc manner) and also the inability to obtain data concerning occupancy rates that is necessary for forward planning.

Council will need to work with the State Government for a more strategic approach to planning for secondary dwellings. This matter will be further investigated in the Local Housing Strategy".

Attachment A of this submission maps the 'uncontrolled' and 'unplanned' expansion of housing (secondary dwellings) across the Fairfield LGA. As part of the local housing strategy and funded under the Accelerated LEP Review, a recent study (Fairfield City Secondary Dwellings Study) commissioned by Council revealed that in the majority of cases, secondary dwellings are being utilised by landowners as source for rental income and not for meeting the housing needs of the existing occupants (i.e. housing for siblings or immediate relatives).

This pattern of development is slowly but surely undermining Council's efforts to undertake planning that will facilitate the strategic provision of future housing in the City supported by appropriate levels of infrastructure, community facilities, open space and access to public transport.

Moreover, the above detrimental impacts of this form of housing on the urban fabric of the City are being compounded by associated complying development approvals for outbuildings, studios, sheds, garages and cabanas being approved in low density residential areas of the City (at the same time as a secondary dwelling approval).

Attachment B to this submission provides further detailed examples and information relating to impacts of the above forms of complying development. Investigations by Council officers have found that these forms of complying development structures are also being utilised for the purposes low cost rental accommodation throughout the City.

In summary, the nature of complying development currently taking place across the urban areas of the Fairfield City is effectively undermining levels of current and future community health and wellbeing. This is due to such factors as the loss of tree canopy cover, soft landscaped areas and the uncontrolled increase in hard surface area coverage that will lead to increased stormwater run-off and flooding as well as exacerbating the impacts of the heat island effect.

Council requests that in finalising the SEPP (Design and Place) measures are incorporated (either within the proposed SEPP or current SEPPs) to address the significant and unmitigated detrimental impacts of complying development in areas such as Fairfield City.

Andrew Mooney
ACTING MANAGER STRATEGIC LAND USE PLANNING

I agree to the above statement

Yes



In reply please quote: 21/15583
Your Ref: Design & Place SEPP

Contact: Andrew Mooney on 9725 0214

28 February 2022

Department of Planning, Industry and Environment
NSW Planning Portal

Dear Sir/Madam,

DRAFT DESIGN AND PLACE SEPP – FAIRFIELD CITY COUNCIL SUBMISSION

Fairfield City Council supports the initiatives within the draft SEPP (Design and Place) aimed at enhancing design and place outcomes across the State to bring about improved quality of spaces, community life and green environments.

Council seeks to again emphasise a number of important issues raised during the exhibition of the EIE in April 2021.

This submission focuses on:

- the relationship of the Fairfield Local Strategic Planning Statement (LSPS) 2040 with the proposed SEPP,
- significant deficiencies that are being delivered locally in relation to design and place outcomes under the regime of complying development associated with the SEPP (Exempt and Complying Development Codes) and under the SEPP (Affordable Rental Housing).

Fairfield Local Strategic Planning Statement (LSPS) 2040

Council previously advocated for the recognition of extensive work undertaken by NSW Councils in recent years with the preparation of LSPS's that respond at the local level to Planning Priorities and Actions contained in both the Regional and District Plans. LSPS actions will deliver various initiatives identified in these plans, including improvements to design and place at the local level through the preparation of design and place based studies and strategies.

The Fairfield LSPS 2040 came into force in March 2020 and was prepared as a result of specific actions contained in the Western City District Plan. Key planning priorities and actions in the Council endorsed LSPS relate to 'place and design' outcomes. In parallel to the preparation of the LSPS, Council obtained \$2.5 million in grant funding from DPIE under the LEP Accelerated LEP Program to implement a range of amendments to local planning controls. This work included the preparation of urban design studies, public domain plans and open space strategies to guide planning outcomes primarily in the eastern areas of the City in proximity to the above town centres and main public transport nodes.

A review of development standards (including floor space ratio and height of building) and urban design principles applying to development in the R3 Medium Density Residential Zone aims to both improve the quality of design and increase housing diversity in areas that are accessible to services, facilities and open space. Vibrancy in the town centres will be achieved through strategies that include the provision of active street frontages for mixed used development in designated areas/streets of town centres, supported by detailed public domain strategies.

Council's LEP Clause 6.12 *Design Excellence* aims to ensure that development exhibits design qualities that contribute to the natural, cultural, visual and built character values of Fairfield. It applies to development involving the construction of a new building or external alterations to an existing building on land in the R4 High Density Residential, B2 Local Centre, B3 Commercial Core, and B4 Mixed Use zones. The clause supplements common objectives within the draft Design and Place SEPP. The recognition of existing Council work that is not intended to be superseded by the SEPP (Design and Place) is welcomed.

Detrimental Impacts of Complying Development on Place and Design

Council has previously raised the significant issue of complying development and secondary dwellings in Fairfield City in numerous meetings in relation to the Fairfield LSPS and the draft Local Housing Strategy. This form of development is having a detrimental effect on place and design outcomes across the City, particularly in the low density residential areas.

The Fairfield LSPS (p.36) highlights that the regime of complying development provided for under the SEPP (Exempt & Complying Development) and SEPP (Affordable Housing) has and continues to have the following impacts on the urban areas of Fairfield City.

“Future residential infill development is restricted in parts of the established areas due to constraints, including flooding, traffic and transport considerations. Out of centre lower density residential neighbourhoods, where there are limited constraints, will be able to accommodate modest levels of infill development in the form of duplexes and medium density townhouses/villas.

However, unsympathetic infill development should be avoided. A good example of this is the high numbers of unsympathetic secondary dwelling (granny flat) developments that have occurred under State Government planning rules in recent years.

While providing a form of affordable accommodation, the impacts associated with this housing type are many including increased site coverage and impervious surfaces, increased overland flooding, loss of vegetation and canopy cover, and inadequate on street car parking availability.

There are also additional pressures placed on public infrastructure and services such as childcare, schools, hospitals, open space and community facilities due to the increased population.

This is exacerbated by the policy applying to all residential land in Fairfield City (meaning that developments occur in an unplanned and ad hoc manner) and also the inability to obtain data concerning occupancy rates that is necessary for forward planning.

Council will need to work with the State Government for a more strategic approach to planning for secondary dwellings. This matter will be further investigated in the Local Housing Strategy”.

Attachment A of this submission maps the 'uncontrolled' and 'unplanned' expansion of housing (secondary dwellings) across the Fairfield LGA. As part of the local housing strategy and funded under the Accelerated LEP Review, a recent study (Fairfield City Secondary Dwellings Study) commissioned by Council revealed that in the majority of cases, secondary dwellings are being utilised by landowners as source for rental income and not for meeting the housing needs of the existing occupants (i.e. housing for siblings or immediate relatives).

This pattern of development is slowly but surely undermining Council's efforts to undertake planning that will facilitate the strategic provision of future housing in the City supported by appropriate levels of infrastructure, community facilities, open space and access to public transport.

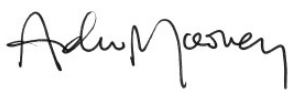
Moreover, the above detrimental impacts of this form of housing on the urban fabric of the City are being compounded by associated complying development approvals for outbuildings, studios, sheds, garages and cabanas being approved in low density residential areas of the City (at the same time as a secondary dwelling approval).

Attachment B to this submission provides further detailed examples and information relating to impacts of the above forms of complying development. Investigations by Council officers have found that these forms of complying development structures are also being utilised for the purposes low cost rental accommodation throughout the City.

In summary, the nature of complying development currently taking place across the urban areas of the Fairfield City is effectively undermining levels of current and future community health and wellbeing. This is due to such factors as the loss of tree canopy cover, soft landscaped areas and the uncontrolled increase in hard surface area coverage that will lead to increased stormwater run-off and flooding as well as exacerbating the impacts of the heat island effect.

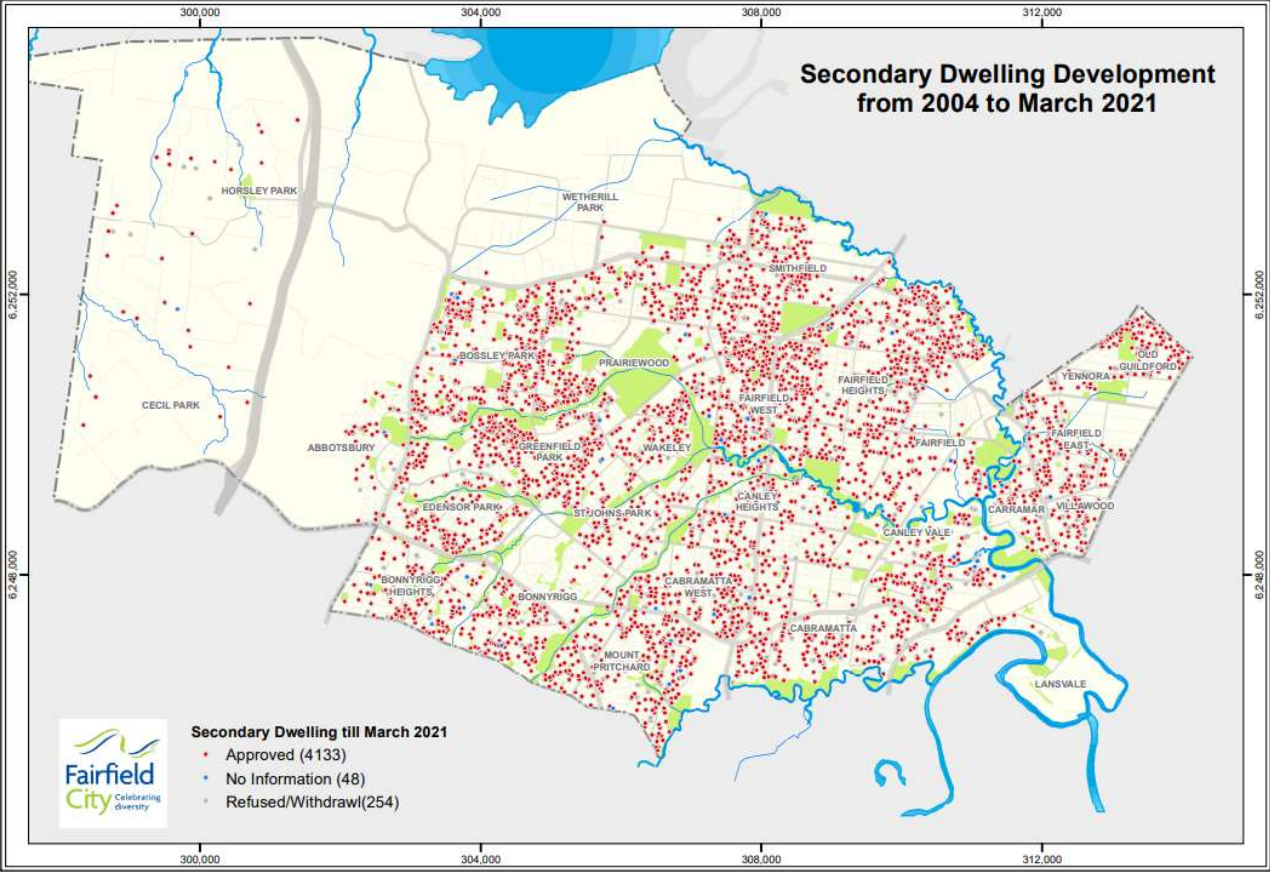
Council requests that in finalising the SEPP (Design and Place) measures are incorporated (either within the proposed SEPP or current SEPPs) to address the significant and unmitigated detrimental impacts of complying development in areas such as Fairfield City.

Thank you for the opportunity to provide comment on the SEPP (Design & Place) and please contact the undersigned on 9725 0214 if you require any further clarification in regard to the issues raised in this submission.


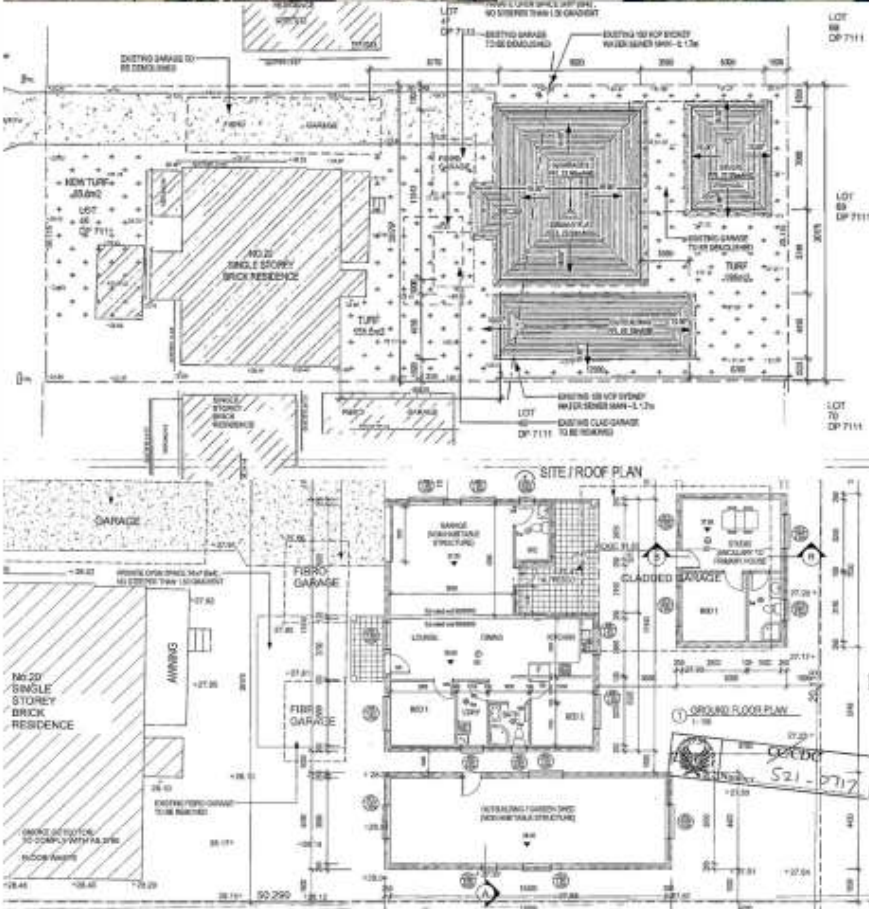


Andrew Mooney
ACTING MANAGER STRATEGIC LAND USE PLANNING


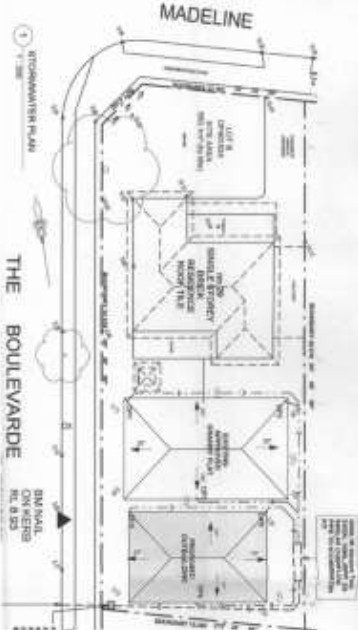
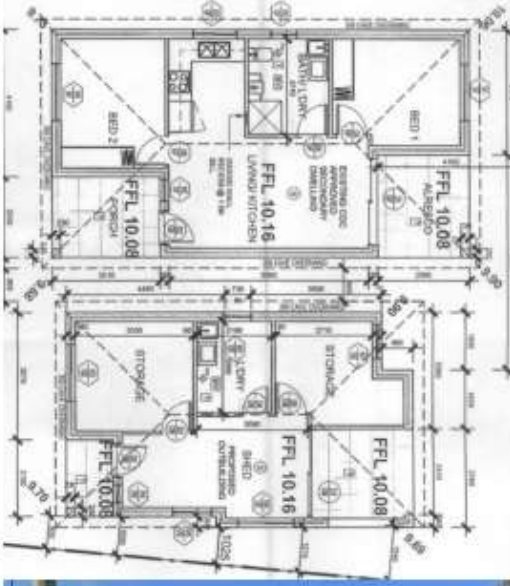

ATTACHMENT A



ATTACHMENT B

Examples of poor outcomes permitted under SEPP Exempt & Complying and SEPP Affordable Rental Housing		
Address	Description	Images and plans
20 Lovoni Street, Cabramatta	<p>Complying development certificate application within a R2 Low Density Residential zone.</p> <p>Application received approval for a detached secondary dwelling, garage attached to secondary dwelling containing a bathroom, studio and 'outbuilding'.</p> <p>Each of the structures would likely be illegally converted into separate dwellings. They will then likely be privately rented out by the owner.</p> <p>Outcome</p> <p>This would ultimately result in 5 separate dwellings on site:</p> <ol style="list-style-type: none"> 1. Primary dwelling 2. Secondary dwelling 3. Studio 4. Converted outbuilding 5. Converted garage <p>Hardstand / impervious surface almost 100% of the lot.</p> <p>Poor amenity and living outcomes for residents of the development, separation and privacy issues, car parking and access, and hard stand increasing stormwater run-off, increased heat island effect and inconsistent with the intent of Fairfield Local Strategic Planning Statement.</p> <p>Development Contributions are also only paid for the secondary dwelling, as the other structures are not intended to be separately habitable. However, with the larger population on the site and replicated over a larger number of sites through the City it would be creating an increased demand on local infrastructure items not funded for in the Section 7.11 Development Contributions Plan.</p>	 

Examples of poor outcomes permitted under SEPP Exempt & Complying and SEPP Affordable Rental Housing

Address	Description	Images and plans
<p>29 Madeline Street, Fairfield</p> <p>Complying development certificate application within a R2 Low Density Residential zone.</p> <p>Application received approval for a detached two bedroom secondary dwelling and "detached outbuilding".</p> <p>It is clear that the "outbuilding" is a variant of the secondary dwelling with the internal layout easily converted to a bathroom and kitchen.</p> <p>Outcome This would ultimately result in 3 separate dwellings on site:</p> <ol style="list-style-type: none"> 1. Primary dwelling 2. Secondary dwelling 3. Converted outbuilding <p>Hardstand / impervious surface at least 70% of the lot.</p> <p>Poor amenity and living outcomes for residents of the development, separation and privacy issues, car parking and access, and hard stand increasing stormwater run-off, increased heat island effect and inconsistent with the intent of Fairfield Local Strategic Planning Statement.</p> <p>Development Contributions are also only paid for the secondary dwelling, as the other structures are not intended to be separately habitable. However, with the larger population on the site and replicated over a larger number of sites through the City it would be creating an increased demand on local infrastructure items not funded for in the Section 7.11 Development Contributions Plan.</p>		   

Examples of poor outcomes permitted under SEPP Exempt & Complying and SEPP Affordable Rental Housing

Address	Description	Images and plans
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Various 'narrow lot' areas throughout the City.

Background

Fairfield has large areas of the City that consist of 'narrow lots'. These lots generally range between 6.8 metres and 7.5 metres in width and vary in area from 200m² to 300m². Many of the lots were sold as groups of 2, 3 or 4 post World War 1 & 2. This resulted in 1 dwelling house being constructed over 2, 3 or 4 lots.

Developers then purchase these dwellings to develop a house on each lot.

The issue arises with the SEPP Exempt and Complying Codes which permits 'studios' to be developed on lots of at least 200m² to a maximum floor area of 20m².

The studio are ultimately used as defacto secondary dwellings for these small narrow lots. See numerous examples attached.

Outcome

This would ultimately result in many dwellings on site.

Hardstand / impervious surface up to 100% of the lot.

Poor amenity and living outcomes for residents of the development, separation and privacy issues, car parking and access, and hard stand increasing stormwater run-off, increased heat island and inconsistent with the intent of Fairfield Local Strategic Planning Statement.

Development Contributions are also only paid for the primary dwellings, as the other structures are not intended to be separately habitable. However, with the larger population on the site and replicated over a larger number of sites it would be creating an increased demand on local infrastructure items not funded for in the Section 7.11 Development Contributions Plan.



Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 4:02 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: georges-river-council-submission-to-design-and-place-sepp.pdf

Submitted on Mon, 28/02/2022 - 16:01

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Anne

Last name

Qin

I would like my submission to remain confidential

No

Info

Email

aqin@georgesriver.nsw.gov.au

Suburb/Town & Postcode

Hurstville 2220

Please provide your view on the project

I am just providing comments

Submission file

[georges-river-council-submission-to-design-and-place-sepp.pdf](#)

Submission

Please find attached for Georges River Council's submission to draft Design and Place SEPP and the supporting exhibition package.

I agree to the above statement

Yes

Contact: Ms Anne Qin
Telephone: (02) 9330 6266
File Reference: D22/28925

28 February 2022

Ms Abbie Galvin
Government Architect
Government Architect NSW

Via: NSW Planning Portal

Dear Ms Galvin

Georges River Council Submission – Draft Design and Place SEPP Exhibition Package

Thank you for the opportunity to provide feedback on the draft Design and Place State Environmental Planning Policy ('SEPP') exhibition package.

Georges River Council ('Council') welcomes the new SEPP and its aim in fostering a well-designed built environment which is responsive to the ongoing impacts of climate change. The introduction of the new Urban Design Guide is highly valued, especially the implementation of benchmarks in relation to the provision of tree canopy cover and public open space. The benefits of promoting design to the forefront of the development process are also appreciated by Council.

In our review of the draft SEPP and its supporting Guides, Council has identified a number of areas that would benefit from further consideration and clarification. These are provided in **Attachment 1** and are summarised as follows:

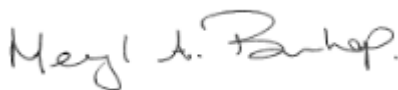
- Ambiguous wording of 'non-discretionary development standards' clause preventing the consent authority from enforcing compliance
- Request to explore alternative options to mandating Design Review Panels
- Uncertainty of Apartment Design Guide (ADG) controls leading to increased pressure to insert additional DCP controls
- Alternative design solutions leading to inconsistent interpretations of the ADG's Objectives

- Insufficient DA assessment timeframes to assess DAs that rely on the objectives-based application of the ADG
- Reduction in the provision of outdoor communal open space causing flow-on effects including increased pressure on public open space, reduction in green infrastructure and the elimination of future opportunities for roof mounted solar panels to be installed
- Lack of restriction on the use of deep soil alternatives such as planting on structures, leading to issues associated with stormwater run-off, flooding and urban heat island effects
- Insufficient guidance on the size and other necessary provisions for family-friendly apartments
- Inconsistency between diagrams portrayed within the ADG and its Design Criteria
- Lack of details on how the usage of alternative solutions in lieu of Design Criteria in the ADG will be monitored
- Insufficient clarification on the impact of the Urban Design Guide's (UDG's) minimum gross residential densities requirements on councils' existing minimum lot sizes
- Insufficient clarification on the impact of the UDG's public open space requirements on comprehensive LEPs and council-initiated planning proposals that propose precinct-wide upzonings
- Insufficient clarification on the application of the new S9.1 Ministerial Direction and the types of LEP amendments that are exempt from an assessment against the UDG
- Insufficient clarification on how planning authorities can engage meaningfully with the Traditional Custodians of Country
- Lack of sustainability expertise in the users of the merit-based alternative to BASIX

Where there is no comment, it can be assumed that Council has no substantial concerns with what is being proposed and can be taken as general support.

If you require any further explanation of the issues raised in the submission, please do not hesitate to contact Anne Qin, Urban Designer / Strategic Planner on 9330 6266.

Yours faithfully



Meryl Bishop
Director Environment and Planning



Attachment 1 – Georges River Council Submission

Draft Design and Place State Environmental Planning Policy ('SEPP')

Council's submission has been categorised under a number of headings of consideration, these being the draft Design and Place SEPP, the revised Apartment Design Guide ('ADG'), the new Urban Design Guide ('UDG'), the new S9.1 Ministerial Direction and BASIX.

Each heading is supported by a set of comments which outline Council's concern and feedback and a recommendation for DPIE to consider in the finalisation of the draft SEPP and the supporting guides.

Design and Place SEPP

Issue #1: Ambiguous wording of 'non-discretionary development standards' clause

There is concern regarding the wording of Clause 32(3) "If the standards are complied with, the consent authority cannot require more onerous standards for the matters." The proposed wording prevents the consent authority from requiring more onerous standards for the matters prescribed. The Clause also does not appear to require developments to comply with the prescribed development standards and instead allows alternative solutions in place of complying with car parking rates, apartment sizes and ceiling heights.

Furthermore, the explanatory note within the draft ADG specifies that a development cannot be refused if these standards are complied with. This presents the likely possibility that a development may be approved even if it does not comply with the non-discretionary development standards. Council is concerned that this will lead to apartments with significantly reduced occupant amenity with reduced apartment sizes, ceiling heights and car parking. This concern is exacerbated by the wording of Clause 30(3)(a) where the consent authority must apply the design criteria **flexibly**.

Recommendation:

Clause 32 should be reworded to enforce compliance with these non-discretionary development standards, in addition to preventing the consent authority from requiring more onerous standards for the matters of car parking rates, apartment sizes and ceiling heights.

Issue #2: Request to explore alternative options to mandating Design Review Panels

The benefit of bringing design into the forefront of the development application process by introducing it at the pre-DA stage is recognised. However, the mandate for every council to establish a Design Review Panel (DRP) will create a burden for many councils, including Georges River Council. Council recently dissolved its DRP due to three crucial factors: –

1. Intensive resources associated with the running and coordinating of each DRP meeting. The ongoing administrative tasks required was equivalent to one full time Council staff member, notwithstanding the additional time development assessment planners were required to spend to accompany the Panel members on site visits and to be present for the day long DRP meeting.
2. The quality of design advice given by the former DRP was poor due to the Panel's unwillingness to be educated in the nuanced local controls and issues that are unique to the Georges River LGA. As a consequence, the design advice given was often inconsistent with the strategic vision of the locality and encouraged the variation of LEP development standards such as building height without consideration of the precedent that would be established. Little to no regard was also given towards DCP controls such as site consolidation requirements.
3. Due to the inconsistent advice provided by the former DRP which frequently encouraged the variation of LEP and DCP controls, the Georges River Local Planning Panel often dismissed the credibility of the DRP's comments. This is attributed to the inadequate justification being provided by the DRP for varying the controls.

In moving forward with implementing the mandatory DRP process, Council requests that two alternative options be considered to ensure consistent, reliable and high-quality design advice is provided as part of the pre-DA process. The two options are detailed in the *Recommendation* below.

Recommendation:

- *Option 1 – a number of district-based DRPs may be established by the State Government in a similar format to the district-based Planning Panels that are currently in place for assessing significant DAs. To ensure local issues and nuances are fully understood, Council requests that council planners and/or design professionals are included as key stakeholders within these district-based DRPs. For example, each DRP should include one council officer at the Panel meeting to represent the respective LGA where the pre-DA is located.*
- *Option 2 – the establishment of a DRP is not mandated but instead, mandate the design review process for pre-DAs. The creation of a DRP is not the only means to address design upfront in the preparation of a DA. For example, Council has moved away from the DRP process and further strengthened the importance of design by employing dedicated urban designers and landscape architects to support the DA team, as well as introducing a general design excellence clause within the Georges River Local Environmental Plan 2021 to deliver the highest standard of sustainable architecture and urban design.*

Revised Apartment Design Guide

General comment:

The aim of fostering well-designed built environments is applauded given the increasing need to design buildings and places that are responsive to the ongoing impacts of climate change and emerging workplace trends. However, the adoption of a 'principles-based approach' will require a significant shift in attitude and practise among the development industry most of whom unfortunately are in the business of only maximising the number of apartments on site to maximise returns with little regard to liveability, sustainability or climate change. Until a shift in attitude from the development industry occurs, setting appropriate controls is essential rather than focusing only on principles.

The principles-based approach aims to provide flexibility. However, any attempts to provide flexibility in the application of the ADG should not undermine performance.

Issue #3: Increased reliance on DCP controls vs application of Design Guidance

Whilst it is acknowledged that the acceptance of alternative design solutions will provide a greater degree of flexibility to enable site-specific design responses, Council anticipates that the development industry will demand more certainty in planning controls at the local level to compensate for the open-ended nature of the revised ADG. Subsequently, Council is concerned that additional pressure will be placed on DCPs to provide alternative prescriptive controls to the ADG's Design Criteria.

Furthermore, some of the existing ADG requirements have been removed from the revised version. For example, the maximum building depth Design Criteria is considered essential in ensuring the building envelope does not become excessively bulky and to minimise issues such as poor cross ventilation, inadequate solar access and overshadowing impacts. The *conceptual* natural cross ventilation diagrams included in the ADG are unlikely to work for single-aspect apartments, especially in the context of minimal building separation. The minimum performance requirement should recommend utilising tools like 3D Computational Fluid Dynamics (CFD) to demonstrate/measure natural ventilation in single-aspect apartments.

In response to the absence of maximum building depth requirements within the revised ADG, Council will be required to insert a new control into the DCP to regulate building depths and other aspects of the building envelope. However, the risk of creating potential conflicts with the ADG's Design Guidance is increased with the number of additional DCP controls that councils will need to insert. It is unclear how these conflicts shall be treated by councils during the DA assessment process and which would have more weight – the ADG's Design Guidance or DCP controls.

Recommendation:

- *Retain the existing maximum building depth Design Criteria and provide clarification within the ADG regarding the relationship and/or hierarchy between DCP controls and the ADG's Design Guidance; and*
- *Insert Design Criteria to require 3D Computational Fluid Dynamics (CFD) to demonstrate natural ventilation in single-aspect apartments.*

Issue #4: Alternative design solutions leading to inconsistent interpretations of the ADG's Objectives

The objectives-based application of the revised ADG is supported in principle but the promotion of alternative design solutions relies heavily on the consistent interpretation and enforcement of the ADG's Objectives. The application of the ADG through alternative solutions on a site-by-site basis will inevitably result in undesirable precedents being established through the way Objectives are interpreted and implemented.

This issue is exacerbated by the existing appeals process to the Land and Environment Court (LEC) where decisions are made in accordance with established planning principles. There is no guarantee that the interpretation of a particular Objective and an associated alternative solution will not be cemented as a LEC planning principle, which may be contrary to the way the Objective is being applied by local councils. Council is concerned this will significantly undermine the intended flexibility of the revised ADG.

Recommendation:

Council requests further guidelines to be published on the application of alternate design solutions to ensure a consistent approach is adopted by all consent authorities.

Issue #5: Insufficient timeframe to assess DAs that rely on the objectives-based application of the ADG

Under the proposed SEPP, the focus on alternative solutions reduces the specificity and clarity of the ADG and specialised design advice is only provided at the pre-DA stage. Council is concerned that there will be no guarantee the finalised DA will be consistent with all of the ADG Objectives when it is submitted to council.

The existing timeframe specified by the *Development Assessment – Best Practice Guide for Councils* requires assessment to be completed within 30 days. This does not provide sufficient time for a DA planner to adequately assess and uphold the SEPP's Design Principles when a proposal relies heavily on alternative solutions. Additionally, the increased pressure placed on DA planners is further exacerbated by the reality that many DA planners lack the specialised expertise in design and need to rely on internal referrals for input on design, which adds further strain on achieving the assessment timeframe.

Recommendation:

The assessment timeframe should be increased to reflect the additional complexity for DA planners when assessing developments that rely on alternative solutions to achieve the ADG's Objectives.

Issue #6: Reduction in provision of communal open space

The revised ADG proposes a notable reduction in the minimum communal open space requirement. A comparison between the proposed and existing communal open space requirements has been carried out on an existing DA within the Georges River LGA. This DA comprises 26 units on a 1,424sqm site. Under the revised ADG, 8sqm per dwelling of communal open space is required, resulting in 208sqm of communal open space to be

provided on the site compared to the existing ADG requirement of 356sqm. This will result in a reduction of over 41% in the total communal open space provided.

The significant reduction in the provision of communal open space is an undesirable development outcome for the LGA due to the lack of accessible public open space within the LGA's high density areas. There are no existing mechanisms or proposals to acquire land to provide additional public open space in these areas; thereby the residents within the LGA's high density areas need to rely on the communal open space provided within their developments for recreation and relaxation. The proposed reduction in communal open space will significantly compromise the amenity of high density living within the Georges River LGA and other similar urban areas across Greater Sydney where access to public open space is limited.

The draft ADG also proposes to enable the provision of indoor communal open space and does not require communal open space to be co-located with deep soil. The facilities that could be accommodated within the indoor communal open space include shared kitchens, pantries, laundries, storage space etc. Council is concerned that this will further reduce the usable recreational space and negatively impact on the streetscape character by taking away the requirement for landscaping to be provided within the communal open space. Furthermore, these developments do not provide any visual relief from urbanity and only function as passive spaces, leading to additional pressure on the limited public open spaces to provide the room for activities like kicking a ball.

It should also be noted that by encouraging communal open space to be on roof tops, the ability to install roof mounted solar panels on high density developments is lost. This is already evident in recent residential flat buildings across the LGA where the majority of the communal open space has been provided on the roof tops. There is concern that this approach is inconsistent with the Federal Government's agreed Paris Agreement target as well as Council's own commitment to achieve net zero community emissions by 2050.

Recommendation:

- *Review the communal open space requirement based on location, context and scale. It is also requested that the existing requirement of minimum 25% communal open space is retained for existing urban areas where access to public open space is limited or considered to be inadequate when compared to the benchmarks proposed by the Urban Design Guide; and*
- *Introduce requirement for a minimum 50% of the communal open space to be provided at ground level and as outdoor space, especially in light of the demand for roof mounted solar panels to be installed retrospectively as part of the community journey towards net zero by 2050; and*
- *Review requirements for the indoor communal space to ensure it is complementary to the outdoor communal space.*

Issue #7: No restriction on the use of deep soil alternatives

The benefits of providing deep soil are not isolated to improving landscaping and residential amenity. As acknowledged by the revised ADG, deep soil is also vital in assisting with stormwater infiltration, reducing run-off and mitigating the likelihood of flooding. The allowance

for local controls to take precedence in specifying deep soil targets is very much welcomed by Council.

However, there is concern regarding the open-ended allowance for the use of alternative options for green cover such as planting on structures where it is not possible to provide sufficient deep soil. This suggests that all of the required deep soil zone can be swapped out for planting on structures as no maximum limit has been given. In existing mixed use areas (i.e. high streets) where landscaping and tree planting are already minimal due to the conflicting need to provide shopfront awnings and on-street car parking, this allowance will further exacerbate the loss of tree canopy in the densest parts of the Georges River LGA.

It is through the loss of large canopy trees on development sites that has caused the LGA to experience a marked decrease in green cover – Council's tree canopy mapping recorded a canopy coverage of 29.17% across the LGA, whereas DPIE's mapping recorded it as 22.63% in 2019; a decrease of 6.54% in less than 12 months. The loss of vegetation through urban intensification has seen a considerable increase in temperature due to the urban heat island effect. This is contrary to the objectives of increasing urban tree canopy, reducing heatwaves and extreme heat established under *A Metropolis of Three Cities and the NSW Premiers priority to enhance the Greater Sydney urban tree canopy by 40%*.

It is also worth noting that planting on structures is not a viable long-term solution to providing canopy coverage in lieu of deep soil zones. In many strata developments with roof top planting, such as within the Kogarah Strategic Centre, owners' corporations have made the decision to remove all planting on structures due to issues with inadequate waterproofing causing leakages and other maintenance issues for the property owners. Furthermore, planting on structures does not allow sufficient soil depths and therefore cannot accommodate trees with extensive tree canopy.

Recommendation

To ensure crucial deep soil zones are retained in mixed use areas, it is recommended that the ADG specify that all deep soil (as per the current ADG definition) be provided at ground level. All green infrastructure provided as planting on structures should be part of communal or private open space and not deep soil zones. This will enable a minimum amount of deep soil to be provided for genuine tree canopy and to alleviate issues associated with stormwater run-off, flooding and urban heat island effects.

Issue #8: Insufficient guidance on size of family-friendly apartments

The new Design Guidance pertaining to family-friendly apartments (FFAs) is supported by Council in principle, in light of the existing issue of overcrowding in the LGA's high density areas due to the absence of FFAs despite more and more young families now living in apartments.

However, the definition of FFAs is too lenient, particularly the broad-brush criterion of merely being 'greater than minimum apartment sizes'. The example illustrated in Figure 2.3.2 shows a 1-bedroom FFA possessing the floor area of a typical 3-bedroom apartment. There is a difference of 40sqm floor area between the minimum apartment size of a 1-bedroom and a 3-bedroom under the ADG. Therefore, it is insufficient to request a FFA to be greater than the

minimum apartment sizes without specifying a minimum benchmark. Additional considerations such as increased demand for storage (both inside and outside of the FFA) and the provision of at least one bathtub should also be stipulated.

Furthermore, a dedicated working from home (WFH) space in the form of a 'study nook' should be mandated as an essential component of a FFA. The proposed Design Guidance encourages the provision of a bedroom with sufficient floor space to accommodate furniture for a study desk. However, there is concern for the potential conflicts between rest and work schedules when a bedroom needs to cater to more than one use (e.g. conflict between a child's bedtime and the parent's work hours).

Recommendation:

A stronger criterion for the minimum size of FFAs should be specified by the ADG, including the mandatory requirement for a dedicated WFH space to be provided. This should be supplemented by guidance relating to more storage space and other necessities for young families such as larger bathrooms with bathtubs.

Issue #9: Inconsistency between diagram and Design Criteria

The floor-to-floor heights diagram in Figure 1.2.8 illustrates a 2.7m floor-to-floor height but this cannot be achieved if the minimum residential ceiling height must be 2.7m.

Recommendation:

The diagram should be amended to show a 3.1m floor-to-floor height.

Issue #10: Monitoring framework for alternative solutions

After the commencement of the SEPP and the revised ADG, it is unclear whether a monitoring system will be implemented to identify the Design Criteria that have been consistently varied and replaced with alternative solutions. Clause 4.6 variations to councils' LEPs are currently being monitored by DPIE via a register being maintained by Council. The same monitoring and reporting system should be implemented to track the effectiveness of the proposed Design Criteria and whether the alternative solutions are genuine improvements.

Recommendation:

A monitoring system should be introduced to identify and track Design Criteria that have been consistently varied. Councils are currently reporting Clause 4.6 variations to assist with the 5-yearly review of LEPs. A similar system should be implemented for the ADG Design Criteria and the alternative solutions proposed by developments.

New Urban Design Guide

Issue #11: Impact of minimum gross residential densities on existing minimum lot sizes

The need for Design Criteria relating to minimum gross residential densities is recognised for greenfield developments. However, there is concern that the implementation of this minimum density will be used by DPIE in the Gateway Determination process to force the reduction of Council's existing minimum lot size requirements. The lower density threshold of 15 dwellings per hectare equates to approximately 667sqm per lot. This is denser than the existing minimum lot size of 700sqm in the foreshore localities of the Georges River LGA. Properties

in these areas generally require larger lot sizes because of factors such as the requirement for more landscaping to be provided, more generous traditional subdivision patterns due to topography constraints, and buildings needing increased setbacks to encourage sharing of views to the water.

Given that the proposed S9.1 Ministerial Direction requires all planning proposals to demonstrate consistency with the Objectives of the UDG, it is unclear whether the minimum gross residential density Design Criteria will be employed as a means to enforce the reduction of existing minimum lot sizes when housekeeping LEP amendments are prepared for the foreshore localities.

Furthermore, clarification is also required regarding secondary dwellings and whether this development typology will be included within the minimum gross residential densities so that each residential allotment is recognised as possessing the capacity for two dwellings.

Recommendation:

- *The minimum gross residential density Design Criteria should not be mandated for all types of planning proposals. Instead, council-led planning proposals should be given the opportunity to justify the appropriate residential density in light of constraints including but not limited to site's context, the character of the surrounding locality, historic subdivision patterns, environmental constraints and hazards such as bushfire and flooding.*
- *Clarification is requested regarding the application of the minimum gross residential densities and whether its calculations include the development potential for secondary dwellings.*

Issue #12: Application of the public open space provision Design Criteria

Council welcomes the introduction of the Design Criteria relating to public open space, in particular, the benchmarks for the various park sizes, the net dwelling density that will be supported and the walkable catchment serviced by each park.

However, Council is concerned that these benchmarks will be applied to existing urban areas for Council-initiated planning proposals and Council-led master plans. In recent master plans (e.g. the Beverly Hills Town Centre Master Plan), Council has been met with fierce community opposition to any form of land acquisition to create new public open space. There is no guarantee that the prescribed benchmarks in the Design Criteria can be fulfilled through Council-initiated upzonings.

Recommendation:

- *The Design Criteria for the minimum provision of open spaces should not be mandated for all types of planning proposals, especially in existing urban areas where insufficient open space is an existing issue. Instead, council-led planning proposals should be exempt from complying with the Design Criteria in existing urban areas to ensure housing growth is not prohibited due to the existing deficiency in the amount of public open space.*

- *Further clarification is requested regarding the application of the Design Criteria relating to public open space provision for comprehensive LEPs and Council-initiated planning proposals that propose precinct-wide upzonings.*

Ministerial Direction

Issue #13: Consistency of housekeeping LEP amendments with UDG

At the 'Question and Answers' webinar session hosted by DPIE on 8 February 2022, it was noted that the draft SEPP does not explicitly state the need for comprehensive LEPs to comply with the UDG. However, this appears to be contradictory to the Ministerial Direction which requires all planning proposals to demonstrate consistency with the Objectives of the UDG. Further clarification is requested regarding the application of the proposed Ministerial Direction to LGA-wide housekeeping LEPs, particularly ones that have no impact on residential density, connectivity or open space; for example, introducing an additional local provision pertaining to the management of the probable maximum flood (PMF) event.

Recommendation:

It is requested the draft SEPP be amended to explicitly nominate the types of LEP amendments that are exempt from an assessment against the UDG.

Issue #14: Uncertainty caused by incomplete Connecting with Country framework

Council welcomes the long overdue embedment of the Aboriginal perspective within planning and development in NSW. However, in the absence of a finalised Connecting with Country framework, further clarification is requested on the framework's implementation and how planning authorities can adequately respond to the Ministerial Direction which requires a planning proposal to demonstrate "how it responds to Country and how it has been informed by contributions from First Nations stakeholders of the land, where they have been provided".

It is unclear whether councils will need to set up their own panel of First Nations stakeholders and how this will be resourced. Council's Aboriginal Advisory Committee currently plays an active role in contributing to the development of a variety of policies and strategies relating to community development. However, this Committee has acknowledged the deficiency in their expertise concerning environmental and planning matters and expressed reluctance in commenting on development and planning matters.

Recommendation:

Clarification is sought regarding the framework's implementation and how planning authorities can adequately respond to the Ministerial Direction. Furthermore, it is requested that DPIE provide local councils with access to additional resources and technical expertise to enable meaningful engagement with the Traditional Custodians of Country as part of the precinct planning process.

BASIX

Issue #15: Lack of sustainability expertise in users of merit-based alternative to BASIX

Council is concerned by the introduction of a merit assessment process as the alternative to BASIX without the involvement of assessors who are qualified in the field of sustainability standards relating to energy, water, thermal comforts and embodied energy in materials. Accredited professionals who will be using the process such as registered architects and chartered engineers, as well as the building certifiers who will be enforcing compliance, do not always possess expertise in environmental sustainability. This merit assessment process is likely to become fraught with compliance issues; similar to how people view local tree replacement requirements as they will both be as equally as difficult to enforce due to the absence of specialised expertise by both the users and enforcers of this process.

Recommendation:

Restrict the application of the merit-based alternative to BASIX so it is only accessible to ESD professionals, for example, Australian Building Sustainability Association accredited assessors. This will ensure the proposed environmental sustainability outcomes are viable and can be realistically achieved.

Submitted on Fri, 25/02/2022 - 09:48

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

1.1 NAME

First name

David

Last name

Kiernan

I would like my submission to remain confidential

No

1.2 INFO

Email

david.kiernan@goulburn.nsw.gov.au

Suburb/Town & Postcode

Goulburn, 2580

Please provide your view on the project

I object to it

Submission file

[goulburn-mulwaree-dp-sepp-exhibition-submission.pdf](#)

Submission

Please find attached the Exhibition response to the Design and Place SEPP from Goulburn Mulwaree Council.

I agree to the above statement

Yes

Goulburn Mulwaree Council Exhibition Response to the Design and Place SEPP Public Exhibition

Name: David Kiernan
Position: Senior Strategic Planner, Goulburn Mulwaree Council
Phone: 02 4823 4424
Email: David.kiernan@goulburn.nsw.gov.au

Submission Summary

- 1 hectare threshold for application of the Ministerial Direction to planning proposal's is unduly small for regional areas
- Prescribed residential density requirements are unachievable in regional areas, particularly relating to R5 large lot residential zones and undesirable for heritage conservation areas.
- Clarification required around the applicability of strategies adopted prior to the Design and Place SEPP when seeking to justify inconsistencies with the Direction.
- Not clear what level of inconsistency is acceptable when assessing the study which justifies departure in relation to Clause 7b of the Ministerial Direction.
- Disproportionate to apply the Ministerial Direction to planning proposal's only dealing with minor additional permitted uses.
- Adverse impacts on regional developers due to significant additional time and cost burdens.
- Too much weight place on pre-lodgment engagement without such engagement being mandatory.
- Lack of staff in regional councils with the required specialist skills to complete design verification statements for council-led planning proposals.
- General discouragement of Council's to prepare their own planning proposals due to additional cost, time and staff resourcing implications.
- Additional costs and staff burdens on regional councils from the establishment and operation of design review panels

The application of the Design & Place SEPP

Goulburn Mulwaree Council (GMC) has significant concerns relating to the threshold to trigger the application of the Design and Place SEPP (DP SEPP), particularly as it relates to planning proposals in regional areas.

Planning proposals must address the Design Principles and Considerations Ministerial Direction (the Direction). This direction applies on affected land greater than 1 hectare within existing or proposed residential, commercial, mixed use or industrial zones and requires consistency with the SEPP and Urban Design Guide (UDG).

The Draft SEPP excludes RU1, RU2, RU3 and RU4 Zones from the requirement to apply the DP SEPP (amongst others) for development applications. It would appear however that such exclusions would not apply to the application of the SEPP to planning proposals. This creates a situation where nearly all planning proposals dealt with by GMC would be subject to the requirements of the DP SEPP, which in turn requires consistency with the Urban Design Guide

and requires referral to a design review panel. This presents a number of concerns for a regional council such as Goulburn Mulwaree.

1 hectare site area threshold

GMC's Urban and Fringe Housing Strategy (UFHS) (adopted in 2020) identifies large areas of rural land to the south of the urban area to accommodate 'lifestyle lots'. This has been endorsed by Council and DPE. The requirement for these lots in the UFHS is minimum lot sizes of 2 hectares. Due to the minimum lot size requirement all planning proposals which seek to meet the opportunities for large lot residential development must address the requirements of the Direction and consequently the design principles and considerations of the DP SEPP, objectives of the UDG and integrate advice from a design review panel. In particular the Direction requires a planning proposal to "*give effect to any relevant residential density, connectivity and open space criteria and guidance as referenced in the Urban Design Guide*"

Some of these requirements are considered inappropriate and unachievable in regional areas, particularly in relation to the R5 Large Lot Residential opportunity areas within the UFHS.

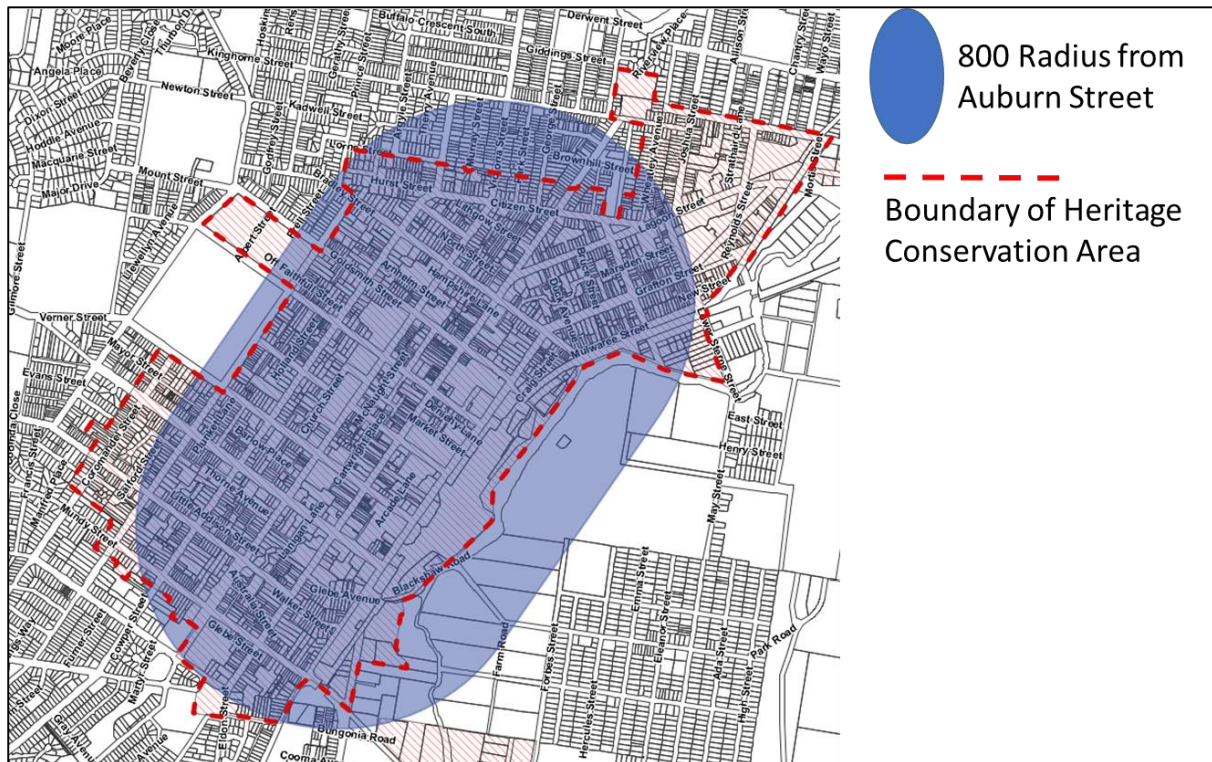
Residential Density

The UDG, Objective 3 Neighbourhood Density Design Criteria requires a minimum density of 30 dwellings per hectare (dph) within a 5 minute walk (approx. 400m) of local shops and a 10 minute walk (approx. 800m) of regional town centres. Alternatively a minimum average gross density of 15 dph if not included in the previous list.

A minimum average density of 15dph in a precinct identified for rezoning to R5 Large Lot Residential with a 2 hectare minimum lot size is not achievable. Whilst it is appreciated that a wider catchment can be provided to assess the minimum density requirement, extending the catchment over the precinct (all proposed as 2ha minimum lots) would still fail to achieve the density standard. The standard would be difficult, if not unachievable, even where the catchment has been extended to encompass the Goulburn urban area.

The density requirement of 30dph within a 10 minute walk (800m) of regional centres also raises concerns regarding the achievability and potential impacts such a requirement may have on the historic character of Goulburn. **Figure 1** illustrates an 800m radius from the Goulburn CBD which is the focus of retail and service provision and the extent of the heritage conservation area. As **Figure 1** illustrates most of the 800m radii encompasses the heritage conservation area where average density currently stands at approximately 10dph. An expected threefold increase in density within the heritage conservation area would change the low density character which defines the streetscape and place undue pressure on the demolition of heritage items and/or over development of heritage lots to the overall detriment of Goulburn's historic character.

Figure 1: 800m Radius from Auburn Street & Heritage Conservation Area



Connectivity

The UDG, Objective 5, Walkable Neighbourhoods Design Criteria requires all homes to be within a 15 to 20 minute walk of a collection of local shops, a primary school, public transport, a supermarket or grocery store.

Whilst it is not defined in the UDG, a 20 minute walk translates to approximately a 1500m (1.5km) distance. This presents particular problems for the R5 large lot residential areas identified in the UFHS to the south of the Goulburn Urban Area. **Figure 2** below illustrates a 1500m radius from a central point of three current planning proposals in the Brisbane Grove and Mountain Ash Precincts. It should be noted that none of the listed amenities are present within a 1500m radius of the current planning proposals or identified precincts. It is not practical or commercially viable to make such provision in these rural areas considering the low densities required by the UFHS.

Figure 2: 1500m radius from central point of three current R5 planning proposals



Open Space

The UDG, Objective 5, Public Open Space Accessibility Design Criteria requires all new residential development to be within prescribed distances of different open space typologies.

This presents similar problems raised in the comments on connectivity above in that this criteria is unachievable in the identified R5 large lot residential areas. **Figure 2** above illustrates a 1500m radius from three planning proposals currently being progressed. There are no areas of public open space within these radii. The provision of additional open space to remedy this deficiency is not practical when the low density of the proposed subdivisions are considered. Any such provision is likely to be under-utilised and a cost burden to council through long term maintenance. It is also considered that such provision is less relevant to large lot residential which by their nature have large lot sizes for personal recreation.

Addressing inconsistencies

Inconsistencies are permissible where justified by a strategy (such as the UFHS) which gives consideration to the objectives of the Direction. Such a route to justify inconsistency would be the expected avenue in such a circumstance, however it is not clear whether the UFHS could be referenced in this respect. The UFHS was endorsed in 2020 prior to the introduction of the DP SEPP and related documents and therefore has not overtly given consideration to the objective of this direction. **Clarification is required as the applicability of DPE endorsed strategies adopted prior to the DP SEPP when seeking to justify inconsistencies with the Direction.**

If the UFHS cannot be used to justify the inconsistencies then the alternative option is to utilise Clause 7b of the Direction- justified by a study prepared in support of the planning proposal which gives consideration to the objective of this direction.

The studies to justify inconsistency with the Directions requirements are likely to primarily focus on all the reasons why the scheme can't meet the standards and it is not clear what type/level of justification is required and at what point such a justification departs too far from the requirements of the Direction, DP SEPP and UDG to be unacceptable. This is particularly the case where R5 large lot residential cannot meet a significant range of standards, particularly density, connectivity and open space.

Additional Permitted Uses

The Direction applies to planning proposals that will affect land greater than 1 hectare in area within an existing or proposed residential, commercial, mixed or industrial zone. This would apply not only to rezoning planning proposals but also to planning proposals for additional permitted uses. These types of planning proposals can be very minor in their scope and are often accompanied by very little supporting information with no indicative layout plan usually provided. It seems disproportionate to require the proposal to address the requirements of the DP SEPP and to be assessed by the design review panel, when the output of this process is unlikely to materially change the proposal. The cost/benefit ratio of triggering the DP SEPP for additional permitted uses planning proposals is not proportionate.

Goulburn Mulwaree Council consider that the current threshold of 1ha to trigger the requirements of the SEPP is far too low for regional areas where low density development not only currently prevails but is also incorporated into endorsed housing strategies. Such a trigger raises design criteria which are not achievable nor desirable in many regional areas with significant resources required to continually justify how a scheme which accords with an endorsed housing strategy fails to meet the requirements of the UDG, particularly relating to density, connectivity and open space. Consideration should also be given to excluding certain low density zones such as C-zones, rural zones and R5 Large Lot Residential zones, akin to the exclusions provided for development applications.

Resource & Skill Constraints

The introduction of the DP SEPP introduces a number of additional requirements on both proponents and Councils, with particularly significant impacts on regional councils and developers. The impacts are highlighted below and these should be considered and addressed prior to the introduction of the DP SEPP.

Regional Developers

Regional developers tend to be smaller scale organisations than their metropolitan counterparts with tighter budgets and more limited staffing levels. The DP SEPP places significant additional burdens upon these smaller private developers including the preparation of a variety of technical information, including the design verification statement, prior to any indication from the Council on the suitability of a proposed scheme.

Figure 3 of the Design Review Panel Manual illustrates the design and approvals process which proponents/applicants are expected to follow. This process is predominately weighted

towards the pre-lodgment phase of a planning proposal or development application. This is a significant additional process which requires specialised skills to prepare the design verification statement and subsequent design review report. It is entirely possible that an applicant/proponent goes through this process prior to lodgment only to find the scheme is in principle unacceptable to the council. This could lead to work which is abortive, time consuming and costly.

Pre-lodgment discussions with Council are the most obvious solution to such a situation, however, pre-lodgment is not a mandatory requirement and in fact usually costs a developer to engage councils in pre-lodgment discussions which can serve to discourage early engagement.

Availability of necessary skills

As identified above, the vast majority of planning proposals at GMC will exceed the 1ha threshold and trigger the application of the Direction which in turn requires preparation of a Design Verification Statement and referral to a Design Review Panel. This also applies to the provision and/or enhancement of open space over 1000m².

Design Verification Statements must be prepared by qualified architects, urban designers and/or landscape architects, depending on the scope of the proposal. Depending on the proposal, all three specialist skill areas maybe needed and more than one design verification statement could be required.

This presents particular difficulty for regional councils preparing their own council-led planning proposals or providing new areas of open space. These planning proposals often relate to instigating and enabling renewal/regeneration in areas with lower land values and developer interest than maybe the case in Metro areas or meeting a locally identified need for open space.

The range of skills specified are not necessarily available to all regional councils where staff levels are generally lower than metro councils and the range of skills available to draw upon can be more limited. Architects and landscape architects are particularly rare in regional councils and most regional council-led proposals will need to commission the necessary skills on a case by case basis. This would not only be costly but also consume the time of regular staff undertaking a procurement and recruitment process.

There are concerns that these additional skill requirements alongside the additional regulatory burdens placed upon councils from the DP SEPP would discourage councils from undertaking their own planning proposals or providing new areas of open space. This would lead to less council-led planning proposals and the suite of benefits which can be derived from them in regional areas.

Goulburn Mulwaree Council request consideration for the removal of the requirement for the Direction to apply to the council-led planning proposals. This would provide more flexibility and encouragement to councils to undertake council-led planning proposals which have public benefit whilst utilising council's limited resources more effectively.

Design Review Panels

Setting up Panels

The DP SEPP and associated regulations introduces a mandatory requirement for all councils to establish a design review panel to review qualifying planning proposals and development applications.

A recent DP SEPP webinar revealed that only 24% of regional councils in NSW currently have an established design review panel. This reveals that regional councils are unprepared for this additional mandatory requirement. It is appreciated that transitional provisions are included in the amended legislation but even with this provision regional councils are going to struggle to establish and fund design review panels by the end of 2022.

The constitution of a design review panel, as guided by the Design Review Panel Manual, is a time hungry and involved process which the majority of regional councils need to undertake before the end of the year. Establishing a design review panel requires the appointment of between 7 to 10 specialists (to ensure a consistent pool of panelists) with the requisite experience and expertise. This involves many internal council processes in relation to recruitment, procurement, funding, contracts etc. In addition, panel members require training and an induction which again takes staff time and resourcing.

Staff and resourcing

The Design Review Panel Manual sets out Council's responsibilities in the operation of design review panels and includes:

- Presence and involvement of council technical advisory staff in the panel process with training and induction provided and time allowed for their participation;
- Provision of two rooms to conduct the panel;
- Preparation of a standard information pack for panelists;
- The need for a design review panel coordinator to organise meetings, distribute information packs, confirm attendance, coordinate site visits and organise any required catering, and
- Reimbursement of panelist expenses.

All of the additional processes and responsibilities are required to be resourced from existing council budgets and existing staff levels which in most regional councils are already stretched, with many regional councils having only one or two planning officers.

It is appreciated that councils are able to charge the proponent for the review through fees set by the EP & A Regulation but the Design Review Panel Manual clearly stipulates:

"The fee paid by the proponent will not cover all the costs of establishing and managing a design review panel"

It is therefore apparent that there will be additional costs and staff resourcing burdens placed upon council's in the mandatory operation of Design Review Panels. This is particularly concerning considering approximately 2 to 3 panel meetings would be required per development scheme. There is also concern that these additional costs would be higher in regional areas than metro areas due to higher expenses reimbursement costs due to increased travel distance and overnight accommodation being required.

Where a design review panel is required for a council-led planning proposal the costs to council are exacerbated even further as the cost will not be subsidised by fees paid by a proponent. This could further discourage councils from undertaking their own planning proposals to the detriment of regional areas.



Goulburn Mulwaree Council request DPE provide additional support in establishing design review panels such as the constitution of regional or sub-regional panels shared between adjoining councils and paid for by the State. Alternatively to allow councils access to the NSW State Design Review Panel by amending their remit from State Significant Development to also include development triggered by the DP SEPP.

Conclusion

Overall Goulburn Mulwaree Council consider that the Direction, DP SEPP and UDG should consider regional variation in the Direction's threshold as it applies to Planning proposals. A lower trigger threshold would take into account the lower densities which prevail in regional areas and the inconsistencies with the UDG. Consideration should also be given to excluding certain low density zones and removing council-led planning proposals from triggering the DP SEPP.

Clarification is required as to whether a strategy adopted prior to the introduction of the DP SEPP can be relied upon to justify inconsistencies with the Direction.

Greater consideration should be given to the relationship of the DP SEPP with planning proposals, particularly relating to Design Review Panels.

The Department of Planning and Environment are also requested to provide additional support, particularly financial, for the establishment, operation and staff resourcing involved with design review panels.

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 5:21 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: hornsby-shire-council---submission-to-dpe---design-place-sepp.pdf

Submitted on Mon, 28/02/2022 - 17:17

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Fintan

Last name

Langan

I would like my submission to remain confidential

No

Info

Email

flangan@hornsby.nsw.gov.au

Suburb/Town & Postcode

Hornsby 2077

Please provide your view on the project

I am just providing comments

Submission file

[hornsby-shire-council---submission-to-dpe---design-place-sepp.pdf](#)

Submission

Please see submission the on Design and Place SEPP 2021 exhibition from Hornsby Shire Council.

Warm Regards,
Fintan

I agree to the above statement

Yes



28 February 2022

NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Submitted via the NSW Planning Portal

Dear Sir/Madam

The Design and Place SEPP 2021 and BASIX Higher Standards

Thank you for the opportunity to comment on the new *Design and Place State Environmental Planning Policy 2021* (DP SEPP), BASIX Higher Standards and supporting documents.

It is understood that the new Design and Place SEPP aims to deliver good design in NSW by putting sustainability, resilience and quality of places at the forefront of development and that the increase in BASIX Standards is proposed to help build more comfortable homes, cut energy costs and contribute to the target of net zero homes by 2050.

The comments contained in this letter are officer-level comments only as the matter has not been reported to the elected Council for a formal view or resolution due to the timing of the exhibition period and local council elections. For completeness, a copy of Council's previous submission on the Explanation of the Intended Effects for the Design and Place SEPP is attached below.

Council's officers have reviewed the following publicly exhibited documents as part of the Design and Place SEPP, including BASIX Higher Standards:

- Draft *Design and Place State Environmental Planning Policy 2021* (Design and Place SEPP)
- Proposed changes to the *Environment and Planning Assessment Regulation 2021* (EPA Regulations)
- Proposed Ministerial direction under section 9.1 of the *Environmental Planning and Assessment Act 1979* (9.1 Direction)
- Revised Apartment Design Guide (ADG)
- Proposed Urban Design Guide (UDG)
- Proposed BASIX updates and BASIX sandbox tool
- Design Review Panel Manual for Local Government (DRPM)
- Design & Place - Cost Benefit Analysis
- Proposed changes for BASIX Higher Standards
- BASIX Higher Standards - Cost Benefit Analysis
- BASIX Higher Standards – FAQs

Council's concerns and feedback on both Design and Place SEPP and Higher BASIX Standards are provided below. (Please note Council has also provided a separate submission on the current BASIX Higher Standards exhibition).

1. General comments

Although the intention of the Design and Place SEPP and Higher BASIX Standards is welcomed, Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies. Design excellence is a key priority of the Hornsby Local Strategic Planning Statement and Council has recently progressed amendments to the Hornsby Local Environmental Plan 2013 to strengthen its Design Excellence provisions.

New State policies should not override Council's controls and preclude Council from applying higher than minimum standards. Council should be able to apply local development standards which respect the unique environmental characteristics of an area and are based on the needs and expectations of the community and future residents of new development.

2. Draft Design and Place SEPP

The key principles outlined in the Design and Place SEPP are generally supported, as they assist in integrating good design and place considerations in state policy. However, a principle-based approach still must be supported by prescriptive measures and minimum standards which can be used as a benchmark to ensure that the principles can be implemented meaningfully. When assessing development applications, planners rely on prescriptive controls to enforce planning criteria. The proposed matters of consideration need to include objective standards that can be applied when assessing development applications for residential buildings.

Climate resilience

The aims, as outlined in Clause 3, and intent of the Design and Place SEPP are clear and generally supported but it is recommended that "to build climate resilience" should be included as an additional aim of the policy. Although 'climate resilience' is identified as a design consideration under Objective 4 of the Urban Design Guide, highlighting it as a key aim of the policy will show the intent of the Design and Place SEPP is to begin planning for more places that are able to withstand and thrive in future climatic conditions.

Blue-green infrastructure

The emphasis on quality 'green infrastructure' throughout the documentation is welcomed, however greater consideration of 'blue-green infrastructure' in the Apartment and Urban Design Guides, as well as the Design and Place SEPP more broadly, is recommended. Integrating dialogue on planning and design elements that are continually 'siloe'd' may provide greater assistance in integrating through planning, design and implementation processes.

Water Sensitive Urban Design (WSUD)

The exhibited documents consistently identify WSUD as a mechanism to improve water quality and urban ecology on subject sites which supported, however it is recommended that further consideration is given to ameliorating downstream impacts on water and biodiversity. Due to the direct connection to downstream water systems via stormwater infrastructure, it is essential that water management on-site is prioritised to minimise negative influences on urban and natural areas away from the site.

Development control plans for Urban Design Developments

The requirements, as outlined in Clause 25, for a development consent not to be granted to an urban design development unless a Development Control Plan (DCP) applies to the land is confusing and convoluted. As most Councils already have DCPs in place that would apply to all land within the LGA, regardless of urban design development or otherwise, the clause would seem redundant. Clarification is sought for the following:

- Is the intention of this clause that a site-specific DCP is prepared for all urban design development sites?
- Could an existing DCP be used to meet the requirement of this clause?

Refinement of the wording is recommended prior to finalisation of the SEPP.

Language and definitions

Language - It is understood that the proposed application of the new Urban Design Guide (UDG) and Apartment Design Guide (ADG) is outlined under Clause 24 and Clause 30 of the draft Design and Place SEPP respectively. In referencing the application of the UDG, Clause 24 states:

(2) Development may meet the objectives of the Urban Design Guide by—

*(a) meeting the applicable design criteria set out in the Urban Design Guide, **to the extent possible**, or,*

In referencing the application of the ADG, Clause 30 states:

(2) Development may meet the objectives of the Apartment Design Guide by—

*(a) meeting the applicable design criteria, **to the extent possible**, and the design guidance set out in the Apartment Design Guide, or*

*(b) an alternative solution that the consent authority **considers achieves a neutral or more beneficial outcome** than meeting the design criteria and design guidance set out in the Apartment Design Guide.*

Concern is raised with the use of 'to the extent possible' in both clauses. The intention of the Design and Place SEPP is for developments to meet the applicable design criteria and design guidance or propose an alternative solution. It is recommended that that this wording is removed prior to finalisation to not allow developments to not meet the design criteria/guidance.

It is also recommended that the use of the wording '*achieves a neutral or more beneficial outcome*' in Clause 30 be reviewed prior to finalisation. The use of 'neutral' emphasises a contradictory outcome for a development to provide an alternative solution that is on par, or a better, solution.

Definitions – Concern is raised with the reference to a 'qualified landscape architect' in Clause 17 of the Design and Place SEPP. Currently, Clause 17(a)(iii) states the consent authority must be satisfied of the following:

*(a) for development involving new public space – the public space is –
(iii) designed by a **qualified landscape architect**,*

However, a definition outlining what constitutes "a qualified landscape architect" is not provide in the definitions of Design and Place SEPP or the referred Standard Instrument. It is recommended that at a minimum, the definition for a 'qualified landscape architect' should mean a Registered Landscape Architect (RLA) as determined by the Australian Institute of Landscape Architects (AILA).

Implementation of the Design and Place SEPP

Training – Given the extent and complexity of the reforms proposed by the State Government, training in the form of online workshops and Q&A sessions during the implementation of the Design and Place SEPP framework for local councils (i.e. statutory planners, urban designers, landscape architects, etc.) would assist understanding and application in the transition.

Transitional period – The proposed 6-month transitional period from the making of the Design and Place SEPP, until commencement is supported. This 6-month period is essential for Councils to understand the requirements of the new SEPP in its final form, and to update and establish systems and processes, including establishment of a Design Review Panel, DCP review, and updating of forms, templates, guides and 10.7 certificates.

3. Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021

Design Verification Statement & Qualification Requirements

As outlined in the proposed Design and Place SEPP framework, changes under the Environmental Planning & Assessment Amendment (Design and Place) Regulation 2021 (EP&A Regulations 2021) will require Design Verification Statements and Design Review requirements as part of development applications. It is proposed that the Design Verification Statements are to be prepared by certain specific professionals' addressing and illustrating how the objectives of the UDG and/or ADG have been met.

Clause 57 of the EP&A Regulation 2021 states that a design verification statement for a development where the UDG applies must 'be prepared by an urban designer'. According to the EP&A Amendment (Design and Place) Regulation 2021, an 'urban designer' means the following:

- (a) a qualified town planner with at least 5 years' experience in precinct or master planning,
- (b) a landscape architect with at least 5 years' experience in precinct or master planning,
- (c) an architect with at least 5 years' experience in precinct or master planning.

Unlike architects, there is no register for town planners and it is recommended that the wording for a qualified town planners experience be amended as it may be difficult to verify 'experience in precinct or master planning'.

Clause 57A of the EP&A (Design and Place) Regulation 2021 states that development applications that require review by a design review panel must provide a design verification statement that incorporates the design review panels advice and explain how the development is consistent with the advice. Further clarification if this requires a pre-lodgement application to obtain this advice, or additional time is provided to amend the design and/or statement, is recommended.

Net Zero Statement

Clause 57D of the EP&A (Design and Place) Regulation 2021 proposes that non-residential buildings classes will require a "net zero statement" that demonstrates the net zero readiness of a building. The provision for net-zero readiness is a welcomed measure, which should lead to a higher design weighting for all-electric buildings in principle. However, concern is raised that the proposed requirements for residential development do not include such a requirement, which may lead to high-cost outlays to transition gas to electricity services to attain net zero status. It is recommended that the requirement for a 'net zero statement' is extended *to all residential and non-residential developments*.

Charging facilities for electric vehicles

Clause 99 of the EP&A (Design and Place) Regulation 2021 requires buildings infrastructure to be electric vehicles charging ready is welcomed and supported. Setting provisions that require new

developments to be future proofed for electric vehicles will assist in the transition to net zero and reduce overall costs for current and future residents.

Design Review Panel

Clause 268B and 268C of the EP&A (Design and Place) Regulation 2021 states that the Minister may constitute a design review panel for a local government area and the panel members are to be appointed by the Minister. Clarification is sought regarding the implications this may have for an existing Design Panel and what level of input, if any, Council may have in the selection of the panel's members. Council already has an operational Design Excellence Review Panel and has selected its existing panel members based on local knowledge of the area and Council's LEP/DCP controls which is essential to be able to provide design advice.

Clause 268D requires that a Design Review Panel must provide advice for development within 14 days of a request from a person seeking to make a DA or consent authority. Concern is raised with this timeframe requirement as Design Panel meetings much longer lead times to undertake a preliminary assessment of the proposal, comprehend the key issues, undertake a site inspection, convene a meeting and provide written feedback.

Additional concerns with the Design Review Panel Manual are discussed further below.

4. Proposed direction by the Minister under section 9.1 of the Environmental Planning and Assessment Act 1979 (9.1 Direction)

It is understood the proposed Ministerial Direction will apply to planning proposals for land greater than 1 hectare in area and within an existing or proposed residential, commercial, mixed use or industrial zone or any other zone in which residential development is permitted or proposed to be permitted.

Concern is raised with the provisions of 5(d) requiring the planning proposal to be referred to the relevant review panel, i.e. the Design Review Panel, for advice concerning the design response. Council currently refers planning proposals to a Local Planning Panel (LPP) that considers the strategic merit and context of the proposed amendments to an LEP and does not generally consider detailed building design required at development application stage. Although an Urban Design Study may be submitted with a planning proposal, it shows indicative development outcomes that would be enabled by the proposed amendments. Further, a planning proposal cannot be tied to particular development outcomes or design on a site.

It is recommended that the Department consider and clarify which Panel a planning proposal should be referred to, to ensure only one Panel referral and that that such Panel be tasked under the Direction to consider the design principles, considerations and objectives of the Design and Place SEPP rather than design criteria and guidance.

Concern is raised with the provisions of Clause 6(a) requiring planning proposals to minimum residential density. A blanket residential density target for all 1ha sites could provide a planning proposal justification to seek an inappropriate rezoning or amendments to development standards leading to developments that are incompatible with existing and future local character or are inconsistent with Council's LSPS and Housing Strategy.

It is recommended that the reference to a minimum residential density be removed prior to finalisation as Councils are best placed to determine appropriate residential densities through Local Housing Strategies.

5. The revised Apartment Design Guide (ADG)

It is understood the proposed Apartment Design Guide (ADG) is a resource to improve the planning and design of residential apartment development in NSW and will supersede the 2015 version. It is also understood the new ADG only applies to residential flat buildings (R3 and R4 zoned land in the Hornsby LEP 2013), shop-top housing (RU5, R4, B1, B2, B4, B5, B6 and IN4 zoned land in the Hornsby LEP 2013) and the residential component of mixed-use developments (B4 zoned land in the Hornsby LEP 2013) where these buildings are 3 or more storeys and have 4 or more dwellings, and where the development consists of the:

- erection of a new building
- substantial redevelopment or refurbishment of an existing building
- conversion of an existing building to a residential flat building.

Feedback on the objectives, design criteria and design guidance of the ADG is provided in the table below:

PART 1 – DESIGNING FOR THE SITE	
1.2 Built form and siting	<ul style="list-style-type: none">– The built form and siting design criteria are supported as they are consistent with the provisions of the current 2015 ADG.– Separation distances are also consistent with current separation distances within the 2015 ADG and are supported.– The increased floor-to-floor heights for ground floor non-residential uses and first floor residential uses are supported in principle, however an unintended consequence may result in a yield reduction in rezoned mixed-use precincts.
1.3 Site access and address	<ul style="list-style-type: none">– Encouraging direct street access to ground floor apartments may lead to less landscaping for certain suburban residential flat building developments and is not supported.– It is noted that Council's experience has shown that following final occupation that landscaping is often removed from front setback areas that are in private ownership, resulting in less landscaping available to provide canopy trees and dense landscaping. It is recommended that front setback areas are required to remain in common ownership to limit impacts on landscaping.
1.4 Relationship to the street	<ul style="list-style-type: none">– It is noted that there is a requirement for utilities and building services to be located in the basement 'wherever possible'. It is recommended that this language is amended to locating the structures in the basement 'unless it can be demonstrated that such location is not practical' to strengthen the intent of the requirement.
1.5 Green infrastructure	<ul style="list-style-type: none">– The proposed design criteria for an increase in the minimum deep soil zones (% of the site area), along with the supporting note that allows local controls to take precedence where their requirements are greater than ADG targets is welcomed and supported as this allow Council to retain local character maintain its bushland context.

	<ul style="list-style-type: none"> – Concern is raised with the wording of the design guidance for deep soil planting and basement level car parking. While the draft ADG states that basement car parking should be consolidated 'beneath footprints to allow for maximum deep soil', design guidance for setbacks in Section 1.2 of the ADG does not restrict basement setbacks. Although deep soil zones are achievable with soil depths outlined in Table 1.5.4 (page 31), it is recommended that basement setbacks are provided to ensure natural deep soil zones are provided to the boundary. It is also recommended that deep soil provisions should also seek to limit the sealing of soil with hard surfaces to improve soil health. – The proposed design criteria outlining a new minimum canopy target (% of the site area) is also welcomed and supported as this will promote more canopy trees on landscape plans.
1.6 Parking	<ul style="list-style-type: none"> – The proposed non-discretionary development standards and design guidance for parking are generally supported but concern is raised with the lack of a non-discretionary development standards or design criteria for all car parking and EV infrastructure related to a development to be provided off-street and integrated wholly within development sites. Council's experience has shown that proponents will generally not incorporate additional provisions unless required as a development standard to minimise costs. – The emphasis on sustainable transport options, as well as the increase in bicycle parking rates, is welcomed and supported. However, it is recommended that these increased parking rates are included as design criteria rather than design guidance to ensure adherence by proponents. – Concern is raised with inconsistencies between the <i>Objective 8 - Parking is minimised, adaptable and integrated</i> in the Urban Design Guide and the design guidance of the ADG for on- and off-street parking. It is recommended that the type and number of parking spaces for private developments should be appropriate to the land use within a LGA, align DCP parking rates and limit overflow parking spilling onto public space to reduce on-going resource impacts to local councils.
PART 2 – BUILDING DESIGN	
2.1 Common circulation	<ul style="list-style-type: none"> – The retention of the provision to have a maximum of 8 units located off a single core is supported. – Concern is raised with the alternative design response as it is ambiguous and arguably easy to achieve defeating the purpose of having strict design criteria. In Council's experience, proponents prioritise maximum yield rather than achieving good amenity/architectural outcomes. Allowing open interpretation to this provision generally results in poor planning outcomes.

2.2 Communal spaces	<ul style="list-style-type: none"> – The requirement for 8m² of communal open space to be provided per dwelling rather than a standardised 25% of the dwelling is supported as it may be difficult to achieve on smaller sites. – Concern is raised with the provision capping communal open space 'up to 25 per cent of the site area' as larger developments generally have the ability to accommodate larger communal open space areas.
2.3 Apartment mix and diversity	<ul style="list-style-type: none"> – The design guidance for a development with more than 20 dwellings to provide a minimum of 3 different dwelling types so that 'no less than 10% of the total number of dwellings are one type' and 'no more than 50% of the total number of dwellings are studio or 1-bedroom units (combined)' is supported as Council's Development Control Plan prescribes a similar development control. However, it is recommended that the apartment mix provision is incorporated as a non-discretionary development standard to ensure appropriate application. – The provision to 'provide 20% of 2-, 3-, and 4-bedroom apartments as family-friendly apartments' is supported as majority of apartment developments in Hornsby Shire are within existing family dominate areas. However, it is recommended that the family-friendly provision is incorporated as a non-discretionary development standard to ensure appropriate application. – The provision of one 7m² study room per apartment is supported in principle, however it should be a mandatory requirement to provide a study room/nook in a post-COVID world. Further, the proposed 7m² may not be feasible and it is recommended that a minimum 4m² study nook may be more suitable.
2.4 Apartment configuration	<ul style="list-style-type: none"> – The introduction of non-discretionary development standards is supported, however it is recommended that the proposed minimum internal area for 1-, 2- and 3-bedroom apartments be increased to accommodate study rooms/nooks. Council's experience shows that applications for this dwelling typology are designed to minimum standards to maximise yield and profit. – Concern is raised with the proposed 'alternative design responses' as the ability to provide adequate amenity could easily be compromised during the approval process.
2.5 Private open space and balconies	<ul style="list-style-type: none"> – The proposed design criteria for private open space and balconies are consistent with current 2015 ADG standards and is supported.
2.6 Sunlight, daylight, shade and thermal comfort	<ul style="list-style-type: none"> – The proposed design criteria for sunlight, daylight, shade and thermal comfort are consistent with current 2015 ADG standards and is supported. In particular, the introduction of sunshade requirements is a positive as it is an existing

	<p>requirement under Council's Design Excellence requirements and is often an oversight by proponents.</p> <ul style="list-style-type: none"> – The proposed clarification outlined in design guidance for design criteria is supported. For example, clarification for shading control and façade calculations is welcomed as it may reduce the potential for Land and Environment Court appeals due to non-specific wording. – It is recommended that design criteria is provided for apartments to be limited to single aspects of North, East and West aspects to minimise inequitable thermal comfort and solar access. Alternatively, design criteria for the maximum percentage of south facing single aspect apartments is recommended.
2.7 Natural ventilation	<ul style="list-style-type: none"> – The proposed design criteria for natural ventilation are consistent with current 2015 ADG standards and is generally supported. – Concern is raised with the proposed design criteria for 'natural cross-ventilation is provided for at least 60% of apartments in the first 9 storeys of a building' as all apartments should be provided with suitable natural ventilation to improve thermal comfort and achieve equitable outcomes.
2.8 Acoustic privacy, noise and pollution	<ul style="list-style-type: none"> – The proposed design criteria for acoustic privacy, noise and pollution are generally consistent with current 2015 ADG standards and is supported.
2.9 Visual amenity	<ul style="list-style-type: none"> – It is acknowledged that separation distances have been removed from this section and incorporated into 1.2 Built form and siting of the new ADG. – Concern is raised with the proposed design solution for limiting privacy impacts by 'raising apartments or private open space above public space or communal open space' as neighbouring sites that have not been designed with similar principles, or are of lower density, may not have sufficient privacy screening and could increase overlooking and amenity impacts.
2.10 Storage	<ul style="list-style-type: none"> – The proposed storage rates are consistent with current 2015 ADG standards and is supported.
2.11 Building articulation	<ul style="list-style-type: none"> – It is recommended that a clause/design criteria is included in this section that requires proponents to consider and retain any local articulation controls for built form to encourage consistent local character of buildings.
PART 3 – ENVIRONMENTAL CONSIDERATIONS	
3.1 Energy efficiency 3.2 Water 3.3 Waste	<ul style="list-style-type: none"> – Whilst it is encouraging to see design guidance on environmental performance, without specific targets such as solar and EV connections being included as design criteria or included within the BASIX requirements, Council's experience

3.4 Materials and maintenance	<p>has shown that proponents will not incorporate these measures to minimise costs.</p> <ul style="list-style-type: none"> – To assist in minimising the use of potable water and increase the use of alternative water sources, it is recommended that the provision for additional water infrastructure that can accommodate alternative water sources is included as a design criteria requirement.
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6. The new Urban Design Guide (UDG)

It is acknowledged that the proposed Urban Design Guide (UDG) is a resource to improve the planning and design of urban environments across NSW by outlining key objectives, design criteria and design guidance that align with the 5 Design and Place SEPP principles. It is understood that the requirements outlined in the draft UDG only applies to urban design proposals and development of 1Ha or greater in size.

Overall, the draft UDG provides some strong principles and objectives that are vital in the delivery of quality open space and urban areas and are generally supported. The concept of a place-based approach is a positive inclusion in urban design planning, and planning legislation more broadly. However, the limited scope of developments of 1ha or greater in size would not be applicable to many developments in Hornsby Shire and it is recommended that consideration be given to expanding the application criteria to a wider range of developments.

Feedback and recommendations on the objectives, design criteria and design and assessment guidance of the draft UDG is provided in the table below:

URBAN STRUCTURE	
Objective 1: Projects start with nature, culture and public space <ul style="list-style-type: none"> – It is recommended that additional wording is provided to emphasises that biodiversity, bushland and waterways need to be protected, as well as regenerated, to assist in limiting damage to these sensitive ecosystems. 	
1.2 Identify, integrate and support the topography and landscape of the site in the structure of renewed or new places	<ul style="list-style-type: none"> – It is recommended that additional wording relating to the requirement of buffer zones to “protect “ecological areas” may assist in appropriately protecting sensitive ecosystems.
Objective 4: Place-based risks are mitigated and ecological values sustained to ensure resilient communities <ul style="list-style-type: none"> – It is recommended that additional wording is provided to emphasises that biodiversity, bushland and waterways need to be protected, as well as regenerated, to assist in limiting damage to these sensitive ecosystems. 	
4.1 Address, mitigate and respond to risks	<ul style="list-style-type: none"> – It is recommended that the design guidance should further specify both ‘current risks’ and ‘future risks’ when referring to risks, as many hazards associated with climate change are continuing to arise and may worsen overtime. – It is recommended that the design guidance should also reference Coastal Management Programs and associated

	coastal hazard mapping to ensure completeness when addressing risks.
4.3 Protect natural ecology as a system	<ul style="list-style-type: none"> – The reference to the importance of ‘buffer zones’ within the design guidance is welcomed and supported, as buffer zones help to provide an increased level of protection for sensitive ecosystems.
MOVEMENT AND CONNECTION	
<p>It is acknowledged that ‘movement and connection’ is a fundamental yet complex part of urban design, as it provides the overall transport infrastructure accommodating different modes of movement, connecting areas, and providing access to developments.</p> <p>Concerns are raised with proposed ‘Movement and Connection’ section as several elements and key sub elements are not well articulated and provide a narrow view on this complicated element of urban design. It is recommended that this section of the UDG be expanded with more specific categories to provide a clear strategic transport planning framework and guidance principles to practitioners on the following elements:</p> <ul style="list-style-type: none"> – <i>Movement Network</i>: provide principles informing the overall form and layout of public streets, roads and paths, with key references to ‘A Practitioners Guide to Movement and Place’ prepared by the Government Architect NSW and Transport for NSW. – <i>Pedestrian Priority Streets</i>: provide guiding principles for planning and managing streets that generally have a high number of pedestrians and cyclists, including minimising traffic conflicts. – <i>Active Transport Paths</i>: provide guiding principles for planning and managing active transport paths or other mobility aid vehicles within streets or public and semi-public spaces, including appropriate management of shared paths and crossover areas. – <i>Movement Corridors and Local Roads</i>: provide guiding principles for planning and managing movement corridors and local roads, including assessing movement corridors and local roads within the context of the ‘NSW Practitioners Guide to Movement and Place’. – <i>Public Transport on Public Roads</i>: provide principles and guidelines for practitioners relating to planning for convenient access to public transport on roads, including planning and implementation of public transport infrastructure and services in conjunction with land use strategies to maximise access and patronage. – <i>On-street car parking areas</i>: provide guiding principles for planning and managing on-street car parking areas, including key criteria to minimise individual car use and incentivise modal share and alternative transport options. – <i>Off-street private and public car parking areas</i>: provide guiding principles for planning and managing off-street car parking areas, including a focus on aligning land use strategies and plans and provide appropriate parking rates to the land use and proximity to public transport options. 	
<p>Objective 8: Parking is minimised, adaptable and integrated</p> <ul style="list-style-type: none"> – As noted in the feedback on Section 1.6 Parking of the ADG, concern is raised with inconsistencies between Objective 8 and the design guidance of the ADG. The type and number of parking spaces for private developments should be appropriate to the land use within a LGA and should limit overflow parking spilling onto public space. It is recommended that the provision of parking rates be provided in accordance with local council rates. 	

8.1 Integrate parking into urban form	<ul style="list-style-type: none"> – Some of the design guidance provided is confusing and contradictory. It is recommended that wording be reviewed prior to finalisation.
8.2 Minimise parking, manage demand and explore strategies to accommodate new technologies	<ul style="list-style-type: none"> – The design guidance to “consider maximising the efficiency of on-street parking through management strategies such as residential parking permits” is not supported as all parking spaces for private developments should be provided off-street. – It is recommended that the percentage of car share parking should be increased to further incentivise modal share use.
NATURAL SYSTEM	
<p>This section on ‘Natural Systems’ does not adequately address the importance of protecting natural system or enhancing biodiversity through the proposed objectives, design criteria, design guidance or assessment guidance. It is recommended that additional objectives are included to ensure that natural systems are protected and enhanced when considering urban design elements.</p>	
<p>Objective 9: Landscape features and microclimates enhance human health and biodiversity</p> <ul style="list-style-type: none"> – The purpose of this objective is unclear, as it does not identify design guidance for the protection of natural systems or the enhancement of biodiversity, but rather the experience and comfort of people. It is recommended that purpose of this objective is reviewed prior to finalisation, with consideration of an additional objective (as outlined above) to address protection of natural systems. 	
<p>Objective 10: Tree canopy supports sustainable, liveable and cool neighbourhoods</p>	
10.1 Enhance urban tree canopy	<ul style="list-style-type: none"> – To improve resilience in urban tree canopies, it is recommended that additional design guidance promote diversity in species selection and climate resilient species. Concern is raised that if urban tree canopies are limited to a small range of tree species, it may increase susceptibility to pest, disease or changing climatic conditions.
10.3 Provide an interconnected soil network	<ul style="list-style-type: none"> – It is recommended that additional design guidance should note “reduce cut and fill” to assist in providing an interconnected soil network.
10.4 Place trees to allow for maximum canopy growth	<ul style="list-style-type: none"> – Concern is raised with the proposed wording of the design guidance noting the “use of tree canopy to frame significant views”, as this may have the unintended consequence of tree removal to achieve this goal. It is recommended that this design guidance is reviewed or removed prior to finalisation.
10.5 Ensure a diversity of street types enable tree planting	<ul style="list-style-type: none"> – Concern is raised with the proposed design guidance outlining an indicative 2m width (Verge 2) for a typical existing 15m wide road reserve as it would not enable sufficient space for both canopy tree planting and paths. It is recommended that the indicative width be increased to 3m, with the indicative width for Verge 1 reduced from 5m to 4m to offset.

PUBLIC SPACE

Objective 12: Projects start with nature, culture and public space

- Concern is raised with the proposed design criteria that states the delivery of “a minimum of 15% of the net developable land (NDL) as freely accessible public open space” is only applicable to developments over 5ha. This may result in increased pressure on existing public open space provisions as developments under 5ha threshold will generally rely on the delivery of access to public open space requirements on these existing provisions. It is recommended that requirement for provision of additional new public open space be included for all development between 1 and 5ha, so that there is appropriate capacity for increased population and public open space patronage.

BUILT FORM

Objective 18: Built form enlivens the ground plane and activates and frames public space

18.5 Consider the impacts of material choices

- It is recommended that additional design guidance should be included to consider the embodied energy in materials. This may assist in achieving a net zero target by 2050.

Objective 19: Developments use resources efficiently, reduce embodied emissions, and consider onsite energy production

- It is recommended that additional key importance points should be included on reducing operational greenhouse gas emissions and using water wisely, which may assist in building climate resilient developments. It is recommended that additional passive design guidance such as passive solar design and cross ventilation, may also assist in improving the thermal comfort of buildings and further reduce onsite energy use and production. More specific assessment guidance may assist in achieving the goals of this objective.

7. Proposed changes to BASIX Standards

To meet Hornsby Shire Council's and the NSW Government target of net zero by 2050, all homes will be required to be all-electric and powered using renewable energy, as new houses and apartments built now will continue to operate for the next 60 years.

With global temperatures projected to rise by 2.5°C this century, residential buildings and homes will need to become more resilient to withstand hotter temperatures, drier climates and more extreme weather events. This anticipated change in climate is a key consideration for all levels of government, and commitments are being made at local and international levels to address the impacts of climate change.

The homes we build today need to be designed to be energy and water efficient, thermally comfortable, safe to live in and inexpensive to cool, to ensure that everyone has equitable access to a cool home as our climate warms.

Accordingly, the proposed changes to BASIX Standards outlined in the publicly exhibited documents, which include higher energy and thermal comfort standards for residential properties, the development of a new BASIX materials index, and the introduction of an embodied carbon emissions target which is separate to the existing operational energy carbon emissions target, is welcomed and supported in principle.

Further feedback and recommendations on the proposed BASIX standards are provided below.

Historical climate data

Concern is raised with the climate files used in the BASIX analysis, as they do not incorporate future climate projections. It is acknowledged that using the existing NatHERS climate data may assist in harmonising BASIX and relevant parts of National Construction Code (NCC), developments built today should be ready for future climate projections to ensure the appropriateness and safety of building and site design in the next 60 years at minimum.

It is recommended that climate files used in NatHERS, BASIX or any other modelling tool eligible for use under the Design and Place SEPP to be grounded on future climate projections to ensure all residential developments approved today are appropriate for the future climate.

Water savings provisions

The update to BASIX standards does not include an increase in water savings provisions. Although it is understood that a review of water savings provisions will be undertaken in 2023, it is a missed opportunity to strengthen water savings standards during the current proposed Design and Place SEPP implementation.

It is also recommended that an opportunity to mandate the installation of a third water pipe for non-potable/treated water in all dwelling typologies, including apartments developments, may assist in future proofing developments from the threat of water scarcity.

Thermal comfort and energy efficient standards

The proposed thermal comfort and energy efficiency standards across the various dwelling types and heights are unequal, resulting in lower BASIX standards for residents of larger format housing types. For example, different thermal comfort standards are applicable for detached/semi-detached compared to multi-unit dwellings of 6 storeys or higher. Further, the proposed increase in BASIX standards would not be applicable to 'small apartments' of up to 5 storeys.

Concern is raised with this exception to the increase in standards as the development of 'small apartments' are proposed to increase in Hornsby over the next several years. It is recommended that all dwelling typologies should be equally energy efficient and provide the same thermal comfort standards to ensure adequate, safe and affordable housing standards for all, irrespective of dwelling type or size.

Proposed BASIX targets

The proposed increase in BASIX standards is welcomed and supported, however a more ambitious BASIX target should be considered. With current developments lasting 30-50 years, it is recommended that new developments should be net zero ready now to future proof builds and achieve positive environmental outcomes.

Training and implementation

It is acknowledged that the new Merit Assessment Pathway (MAP) will provide flexibility to use other methods to assess the sustainability compliance of a residential design within the scope of the new BASIX standards. To assist in the implementation of MAP, it is recommended that appropriate training through online workshops and training sessions are provided to local council assessing officers to ensure understanding and application of the MAP process.

Transition to net zero – It is recommended that the NSW Government begin the process of phasing out the reliance on gas and gas infrastructure in new developments and move to all electric homes to assist in the transition to net zero now. Concern is raised that locking in gas infrastructure on new developments will be expensive to retrofit particularly in multi-unit apartments, posing a great challenge of reaching net zero by 2050.

8. Design Review Panel Manual (DRPM)

Design excellence is a key priority of the Hornsby Local Strategic Planning Statement and Council has recently progressed amendments to the Hornsby Local Environmental Plan 2013 to strengthen its Design Excellence provisions. Further, Hornsby Shire Council has been operating a Design Excellence Panel for a several years for medium to high density developments to ensure the objectives of design excellence in Hornsby Shire are achieved.

Existing Design Panels (not constituted under SEPP 65)

The operation of Hornsby Council's Design Excellence Panel would be generally consistent with the provisions of the new DRPM. As discussed under the EP&A (Design and Place) Regulations 2021 section of this submission, concern is raised with the establishment of a new or additional Design Panel as Council already has an operational Design Review Panel which has selected its members based on their planning expertise within the Hornsby Local Area and essential knowledge of Council's LEP/DCP.

Selection of Design Panel members

Section 2.2 Roles and responsibilities outlines that the panel members are engaged by local council, however Clause 268C of the EP&A Regulations note that the design panel members must be appointed by the Minister. Clarification on whether Council has input into the selection of panel members is needed prior to finalisation. As noted above, Council already has an operational Design Review Panel which has selected its existing panel members based on local knowledge of the area and Council's LEP/DCP controls which is essential to be able to provide design advice.

Costs and timeframes

It is noted that *Section 2.3 Costs* outlines the fees Council can charge the proponent will be set by the EP&A Regulation, however the fee paid by the proponent will not cover all the costs of establishing and managing a design review panel. Further, *Section 1.1 When does design review by a local panel take place?* notes that most projects will require 2 or 3 design review panel sessions for assessment. Concern is raised that a significant time and cost burden will be placed on Council to arrange and assess each time a project is considered by the panel. It is recommended that the costs Council can charge a proponent should cover the costs of the panel.

Further clarification required

Clarification is sought for the following:

- Does the Minister have to constitute a Design Review Panel?
- Can Council continue the assessment of existing and current application as outlined in Council's Design Excellence provisions utilising its existing Design Excellence Review Panel?
- What is the timeline for the implementation of a Panel if an existing one cannot be utilised for the purpose of the SEPP?

9. Cost Benefit Analysis

Overall, the Cost Benefit Analysis (CBA) for the Design and Place SEPP provides an easy and standardised way in determining minimum residential sustainability standards. However, the following concerns and recommendations are provided to strengthen the current CBA:

- Apart from health benefits due to air quality, the inclusion other health benefit merits such as people living comfortably, safely, and the ability to be productive as climate change increases is recommended. It is noted that homes which are inadequately built for future climate scenarios may

result in an increase cost to society due to heat affected illnesses and a decrease in productivity, especially for the most vulnerable in our community.

- It is also recommended that the cost of inaction to meet the net zero targets be included in any CBA analysis, as it may help to provide a stronger business case to further increase stringency in thermal comfort, energy efficiency, water efficiency and embodied emissions reductions.

Thank you again for the opportunity to comment on the Design and Place SEPP and supporting documents. Should you require any clarification in relation to any of the matters raised, please contact Fintan Langan, Principal Strategic Planner, on 9847 6686 during business hours.

Yours faithfully

A handwritten signature in black ink, appearing to read 'K Vickery', written in a cursive style.

Katherine Vickery
Manager, Strategic Land Use Planning Branch

TRIM Reference: F2004/07599-02

Attachments:

1. Submission on Explanation of Indented Effect for a new Design and Place SEPP – 28 April 2021



28 April 2021

NSW Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Sir/Madam

Explanation of Intended Effect for a new Design and Place SEPP

Thank you for the opportunity to comment on the Explanation of Intended Effect (EIE) for a new *Design and Place State Environmental Planning Policy (Design and Place SEPP)*.

Council acknowledges the importance of well-designed development to enhance the surrounding environment and support the well-being of people and the community. Following a review of the EIE, Council's concerns and feedback is outlined below (please note that the comments contained within this letter are technical officer-level comments only as the matter has not been reported to the elected Council).

Design Excellence through local controls

Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies. Design excellence is a key priority of the Hornsby Local Strategic Planning Statement and Council has recently progressed amendments to the *Hornsby Local Environmental Plan 2013* to strengthen its Design Excellence provisions.

New State policies should not override Council's controls and preclude Council from applying higher than minimum standards. Council should be able to apply local development standards which respect the unique environmental characteristics of an area and are based on the needs and expectations of the community and future residents of new development.

Notwithstanding, Council's feedback on the proposed State policy and associated documents are as follows:

1. Design and Place SEPP

The concept of combining both SEPP 65 – Design Quality of Residential Apartment Development and SEPP BASIX is supported. This will encourage the consideration of sustainable design outcomes for new residential development. Further comment regarding the new Design and Place SEPP is provided below:

a. Principle based approach

The overarching principles of the Design and Place SEPP are generally supported to better integrate good design and place considerations into state policy. However, a principle-based approach still must be supported by prescriptive measures which can be used as a benchmark to ensure that the principles can be implemented meaningfully. When assessing development applications, planners rely on prescriptive controls to enforce planning criteria. The proposed matters of consideration need to include objective standards that can be applied when assessing development applications for residential buildings.

b. Principle 4 – Design sustainable and greener places

Council supports the inclusion of Principle 4 'Design sustainable and greener places for the wellbeing of people and the environment'. However, the SEPP should go further to support ecological planning and the refinement of green infrastructure planning and design.

Further, it is recommended that water be elevated to the Principle level in the Design and Place SEPP. In March 2020, Council adopted the Water Sensitive Hornsby Strategy which acknowledges the importance of having water central to design and place management. Elevation of water as a focus in the Design and Place SEPP will greatly enhance our ability to realise a transition to be a water sensitive city.

c. Mandatory matters for consideration

The proposed matters for consideration headings that are set out in the EIE need to include more detail and prescriptive controls where necessary so that they can be enforced when assessing development applications. Although difficult to comment on due to the lack of detail, the following concerns are raised.

- **Point 1 – Cultural and built heritage**

Add natural heritage to “cultural and built heritage” because areas of biodiversity also need to be “celebrated, conserved and protected” and this needs to be considered as part of designing places with beauty and character.

- **Point 7 – Green infrastructure**

Remove “where possible” from “The precinct retains, where possible, and provides additional green infrastructure...”, so that the retention of existing green infrastructure (e.g. biodiversity) is included as a mandatory matter of consideration for new residential developments.

- **Point 10 - Density**

Density ranges should not be specified in a State policy which presents a one-size-fits all approach to precinct planning. Council's should be able to assign appropriate density controls which suit existing and desire future local character through a place-based approach with consultation with the local community. Further, requiring achievement of a density range implies that a minimum density would be a mandatory matter for consideration, undermining design excellence objectives and other principles of the SEPP.

- **Point 12 – Transport and parking**

The proposed car parking rates continue to be based on the RMS Guide to Traffic Generating Development (2002) which is a dated document that should be revised and reissued if it is to be relied upon for car parking standards.

The objective of a reduction in car parking rates for sites with good proximity to public transport is supported and is embodied in the Hornsby Development Control Plan with the inclusion of separate rates of car parking dependent on proximity to railway stations. However, the RMS rates are significantly lower than those required by Council and the application of the RMS parking rates in the absence of local parking studies will further increase pressure on off-street parking.

d. Car Parking

Clause 30 of SEPP 65 specifies those non-discretionary standards that cannot be used as grounds for refusal which is proposed to be transitioned into the new Design Place and SEPP. One of these standards is car parking rates. Council does not support including car parking rates as a standard that cannot be used to refuse an application under the new Design and Place SEPP. Council should be able to refuse an application on the

grounds that it does not comply with local minimum car parking requirements and is not supported by a local parking study.

2. Revised Apartment Design Guideline

a. Apartment size and mix

There appear to be no changes proposed to apartment size requirements to acknowledge the need for larger apartment sizes that accommodate families, nor a requirement for a mix of 1, 2 or 3+ bedrooms.

b. Private Open Space

There are no changes proposed to the required total area of private open space however there is a proposed increase of the minimum depth of private open space. Following from the recent COVID-19 restrictions, we realise the importance of having ample private open space as people have been required to spend more time at home than ever before. Accordingly, the sliding scale for the provision of open space in the revised Apartment Design Guideline (ADG) should be increased to require the minimum area to start from 10m² and minimum dimension to be 2.5m to provide for the amenity of future residents.

Alternatively, Council should not be precluded from setting local development standards higher than the minimum based on the needs and expectations of the community and future residents of new development.

c. Deep soil zones

The proposed increased percentage of the site to contain a deep soil zone is supported. However, there also needs to be an increase in the minimum dimension for deep soil zones to accommodate planting within side setbacks where a minimum dimension of 4 metres is appropriate.

d. Waste

The ADG should consider adequate waste storage area /removal and how apartment occupants are to dispose or store their bulky goods to prevent issues associated with strata and/or illegal dumping. Waste disposal needs to form an early part of the design process to ensure truck access for collection and remove the need for bin collection storage areas within the front setback. If it is not included upfront it will continue to be an afterthought with streetscape and amenity issues.

e. Architectural design

The recognition of passive architectural design is a good step and the recognition that a reliance on mechanical ventilation has a detrimental impact on the environment is positive. Passive design should be incentivised where possible. The alternative assessment tool appears to allow this. This is especially relevant in some of the newer subdivisions in the north-west and south-west Sydney which don't appear to be very sustainable.

3. New Urban Design Guide – Design considerations

The introduction of a new Urban Design Guide is supported as it will provide a planning framework to support planning for significant developments and precincts. However, the statutory weight of the Guide is unclear and concern is raised as to whether it may limit place-based planning and the ability of Council to tailor precinct planning for our local area.

It is suggested that Part 2 – Structure under section B.3.4 Design considerations (page B10) is amended to remove “where possible” from the following sentence, *“Landforms, water, and nature are fundamental elements in urban settlements that should be designed in, or around, and restored where possible.”* The protection of environmental and biodiversity features needs to be considered as a key part of the design process, not an optional consideration.

4. SEPP BASIX

a. BASIX tool

Council supports the revision of the BASIX tool, including the biannual tool updates (page 36) to allow for flexibility of the use of other tools to model residential building performance to deliver low-emission outcomes which align with NSW Government emission targets. However, modelling tools must be based on future climate projections, not historical climate data, due to significant impacts on thermal comfort expected in the medium-term future. Sustainability targets (Figure C1) should also be revised on a regular basis and the frequency of its revision must be made explicit. The revision of BASIX should involve consultation with local government and the home building industry, in particular to understand what existing assessment methods are commonly used in the industry.

b. Home energy performance and green infrastructure

Council supports the examination of other impacts on the natural environment that could be assessed at a building lot scale, i.e. embodied energy, green infrastructure and stormwater run-off. Additionally, green infrastructure could include green roofs/walls, indigenous plants and novel habitat features. The City of Melbourne's Green Factor Tool provides good guidance for implementing green infrastructure into building design.

However, concern is raised with allowing thermal comfort to be traded off by increasing energy performance (P. C7) as this is not considered to be climate resilient, i.e. our homes need to be thermally safe in the event of a blackout during a heatwave.

c. Water usage

Currently BASIX regulates some, but not all of the impacts of residential development on the environment. At a building-lot scale, the use of water should be better regulated for new residential developments and the integration of requirements for specific water fixtures and rainwater tanks should be considered to better conserve water and utilise stormwater runoff.

d. BASIX Certificate

It is noted that a more flexible approach to undertaking sustainable assessments for BASIX is to be encouraged under the Design and Place SEPP. Although this approach is generally supported, some concern is raised regarding how the use of alternative tools by accredited certifiers will be enforced (i.e will they be required to submit their accreditation through the updated BASIX tool or will compliance with BASIX requirements be assessed as part of the development application/ complying development certificate process?).

I trust these comments are beneficial to the Department in developing the draft Design and Place SEPP. However, it is difficult to provide feedback without specific detail and Council would appreciate the opportunity for further comment when a draft SEPP is released.

Should you have any further enquiries concerning this matter, please contact Katherine Vickery, Manager, Strategic Land use Planning on 9847 6744.

Yours faithfully



Katherine Vickery

Manager, Strategic Land Use Planning Branch

Submitted on Tue, 22/02/2022 - 15:18

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

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First name

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I would like my submission to remain confidential

No

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Suburb/Town & Postcode

Hunters Hill 2515

Please provide your view on the project

I am just providing comments

Submission file

[hunters-hill-council-submission_design-place-sepp.pdf](#)

Submission

Submission attached

I agree to the above statement

Yes



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22 February 2021

Submission to the Department of Planning, Industry and Environment (DPIE) on the draft Design and Place SEPP and Guides

On-line submission: <https://www.planningportal.nsw.gov.au>

Introduction

The Design and Place SEPP forms part of the NSW Government's broader suite of reforms to deliver a better planning system for NSW. It is supported by a revised Apartment Design Guide (ADG), a new Urban Design Guide (UDG) and a new Design Review Guide (DRG). Council welcomes the opportunity to comment on the draft legislation and guides.

Council supports many of the proposed amendments, including:

- amendments to various statutory instruments into a single Design and Place SEPP and Design Guidance documents to streamline the process.
- raising the requirement for qualified designers; and the involvement of good designers at the early stages of design.
- the application of the Design and Place SEPP to open space and precinct-scale planning to ensure baseline metrics whilst retaining a place-based response in accordance with State and local planning.
- improvements to design standards and guidance.
- increasing the amount of deep soil area from 7% to 10% for sites less than 1500sqm and 15% for sites larger than 1500sqm.
- measures to reduce private vehicle usage such as the review of parking space requirements, incorporation of electric vehicle charging stations/spaces and car share provisions.
- ensuring that apartment buildings provide appropriate spaces for bicycle and mobility storage to encourage further uptake of active transport use.
- elevating the role and provision of local green infrastructure at the strategic planning and development assessment phase.

Council makes the following comments on aspects of the draft legislation and guides.

Design & Place SEPP, and Regulations

The Section 9.1 Ministerial Directive

A new Section 9.1 Ministerial Directive has introduced changes to give effect to planning proposals. The Design & Place SEPP proposes applicability to planning proposals on sites larger than 1 ha, including land being converted to non-rural land or where built form controls are proposed to be changed.

Clause 6 of the Ministerial Direction states; *'A planning proposal must, in relation to land to which this direction applies: (a) give effect to any relevant residential density, connectivity and open space criteria as referenced in the Urban Design Guide.'*

Clause 6 effectively over-rides all LEPs concerning density and makes it a requirement that all LEPs respond to the residential densities specified in the Urban Design Guide. Clause 7 does allow Council to request a deviation from the prescribed density, but only by agreement with the DPE. Hunters Hill is concerned about imposition of density controls and requests that councils are best placed to determine the density requirements for their local areas, particularly following the local strategic planning work that is being undertaken at the local level. The SEPP should complement local place-based planning not replace it.

Recommendation

1. That the Ministerial Direction be amended to allow councils to determine the residential density appropriate to a place based on local strategic planning work

The aim of the SEPP and implementing a place-based approach through State-wide legislation & guides

Council contends that in moving to a place-based approach through state-wide planning controls and legislation locally place-based controls are eroded. The imposition of state-wide controls overrules the specifics of place and local character. Councils have developed Local Strategic Planning Statements and Housing Strategies (based on State regional plans) that articulate future character for their LGAs.

Council supports the emphasis of good design as being an appropriate response to the careful analysis of the specific characteristics of a place, however, Council questions if state-wide guides and legislation are the best means of achieving a place-based approach.

Recommendation

2. State wide controls should be removed and density targets be determined through place based, local strategic planning.

Apartment Design Guide (ADG)

Council makes the following comments:

Renewable Energy

There is opportunity to ensure new development reduces energy consumption and supports renewable energy generation, therefore reducing emissions. It is considered that the ADG and UDG do not contain stringent requirements to support renewable energy.

Recommendations

3. That the ADG contain specific performance-based criteria for the provision of renewable energy in new residential flat buildings.
4. The 20 percent target within the UDG be explored to see if a more ambitious target could be achieved when considering the scale of development to which the UDG applies.
5. That a clear guideline for minimum renewable energy requirements be developed for residential apartment buildings to make a significant contribution to reaching a net-zero emissions target.

Urban Design Guide (UDG)

Minimum neighbourhood density requirements

Council makes the following comments:

The UDG includes design criteria for minimum densities. The criteria states,

'Minimum gross residential densities of 30 dwellings per hectare are provided:

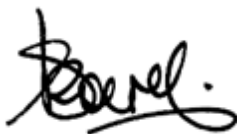
- in and around activity centres within 5 minutes walk of neighbourhood shops, neighbourhood centres or local centres*
- within 10 minutes walk of strategic and metropolitan centres, regional towns and cities*
- within 10 minutes walk of high-frequency public transport.'*

The minimum average gross residential density is 15 dwellings per hectare if not called out in the neighbourhood catchments above.

Recommendation

6. Council recommends the removal of this criteria. The inclusion of this criteria appears to be at odds with a place-based approach and is a blanket density requirement, irrespective of the local character. Council recommends that local government are best placed to set density requirements through local strategic planning and the Local Environmental Planning process.

Your sincerely



Steve Kourepis
Director Planning and Regulatory

Public Exhibition for Draft State Environmental Planning Policy (Design and Place) 2021 and Supporting Guides

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Please consider this Inner West Council's (IWC) **final** submission to the Draft State Environmental Planning Policy (Design and Place) 2021 (the SEPP) and supporting guides. We thank the Department for the opportunity to comment on the proposal and hope our insights are beneficial to the Department's understanding of their impacts. This submission replaces Council's draft submission which was lodged on 28 February 2022.

In summary, IWC strongly supports the development of the SEPP, the integration of the BASIX SEPP and SEPP 65 and the creation of new supporting guides. However, several issues and recommendations are raised with elements of the SEPP and supporting guides.

Further detail on Council's views on the proposed SEPP and supporting guides are detailed under the relevant headings.

State Environment Planning Policy (Design and Place) 2021

IWC strongly supports the development of the SEPP and the integration of the BASIX SEPP and SEPP 65. Overall IWC supports the design principles of the SEPP, however the wording of the design principles and design considerations are too open to interpretation and their application too discretionary. It is important that there are clear, strong, and measurable principles developed to deliver tangible and desirable outcomes. The SEPP needs to give sufficient weight to the objectives, design criteria and design guidance within the ADG and UDG, and a clearer nexus between the principles in the SEPP and the objectives of the ADG and UDG needs to be provided.

PART 1 Preliminary A definition of 'substantial' in relation to developments and refurbishments in Clause 5(1)(a)(ii) should be provided.

PART 2 Design principles and design considerations While IWC appreciates the intention of using a principles-based approach in the proposed SEPP, as written, the design principles are too general, particularly in comparison to the 9 Principles in Schedule 1 of SEPP 65.

Clause 13(2) states that a development is consistent with the design principles if the relevant design considerations have been '*taken into account*'. The wording implies that proponents and consent authorities only must 'consider' the design considerations, rather than ensure consistency with them. The design considerations themselves are somewhat general and open to interpretation.

It is recommended that the design considerations are mandatory matters for consideration in determining whether the design principles have been achieved. Or that the design considerations 'sub-category' is removed altogether and integrated into the principles themselves.

Council generally supports the City of Sydney's concerns in relation to the principles.

Principle 1: Deliver beauty and amenity to create a sense of belonging for people

'Beauty' is a highly subjective term which is difficult to objectively assess. Some defining characteristics of what makes beautiful places may need to be outlined. The associated

design considerations such as appropriate scale, siting and detailing are not necessarily metrics for determining 'beauty'.

Principle 2: Deliver inviting public spaces and enhanced public life to create engaged communities

Council supports this principle and its intended effect.

Principle 3: Promote productive and connected places to enable communities to thrive

Council is aware of the risks this creates when pram and wheelchair users are forced into the street because bins have formed an impassable barrier. Clause 19 should be amended to include the following additional design consideration to address frequent complaints from people trying to negotiate kerbs lined with bins. **'(f) Ensures safe transit for pedestrians and users of wheeled devices by minimising presentation or storage of domestic and commercial bins in public spaces'**.

Principle 4: Deliver sustainable and greener places to ensure the well-being of people and the environment

Clause 21(b) should be amended to ensure that development *'is designed to minimise waste and maximise recovery from associated demolition, construction and during ongoing use of the development, including by choice and reuse of building materials'* and an additional clause should be added addressing ongoing waste.

Separation of construction/demolition waste from operational waste should be required as they are different in nature/duration and reinforce essential requirements for space and access to achieve desired outcomes. Clause 21 should be amended to include the following design consideration. **'(e) Is designed to minimise waste and maximise recovery from ongoing use of the development, including by ensuring adequate space and access for the separation, storage and collection of operational waste streams'**.

Reduction of carbon emissions from recycling and resource recovery is key to achieve net zero emissions. This has been demonstrated in several studies and reports from State and Federal government indicating that organics diversion from landfill is paramount. Although the generation of methane (21 times more potent than carbon) occurs off-site, methane generation indirectly from developments must be taken into consideration for a true zero carbon commitment. It is recommended that Clause 22(c) should be amended to ensure that development "minimises greenhouse gas emissions as part of the goal of achieving net zero emissions by 2050, including by incorporating the following:

- i. Passive design
- ii. Energy efficiency
- iii. The use of renewable energy
- iv. Resource recovery principles**

Further information to support i. to iv. above for development of 5 storeys or less are included in the draft Low Carbon Precinct Study at Appendix 2, prepared by WSP for Inner West Council.

Principle 5: Deliver resilient, diverse places for enduring communities

Council supports this principle and its intended effect. Buildings and places should be designed to be robust (have longevity) but adaptable.

PART 3
Assessment of
development

Clauses 24(2)(a) and 30(2)(a) must remove the words *'....to the extent possible'*.

Clauses 24(2)(a) and 30(2)(a) state that development may meet the objectives of the UDG and ADG if it meets the design criteria *and* design guidance. There are number of instances where the design guidance contradicts the design criteria in the ADG – most notably under the alternative design solutions, and as such it is not clear how compliance with both the design criteria and guidance could be achieved and satisfy this clause.

Clauses 24(2)(b) and 30(2)(b) continue to say that the objectives to the UDG and ADG can also be met through alternative solutions. It is unclear whether this is referring to the outlined 'alternative *design* solutions' in the UDG and ADG which are found under the umbrella heading of 'design guidance'.

Clauses 24(3)(a) and 30(3)(a) state that the design criteria and guidance must be applied flexibly. This wording almost implies that it is expected that there are going to be non-compliances, significantly undermining their purpose and weight.

Council strongly supports including additional non-discretionary controls including, sunlight, ventilation, and communal open space in Clause 32.

PART 4
Design review

Clause 34 should be amended to clarify that it also applies to Section 4.55(2) modifications.

Clause 36 should be amended to clarify that the design verification statement or design review report must satisfy the relevant objectives have been achieved.

Apartment Design Guide

Council is generally supportive of the new Apartment Design Guide (ADG), particularly the increased emphasis on deep soil zones, tree canopy cover, flexible housing, and more sustainable modes of transport.

A comprehensive and clear numbering system for the design criteria and design guidance must be included for ease of reference for applicants and the consent authority.

Council has a fundamental issue with including 'alternative design responses' within the design guidance. These outline clear pathways for variations to the design criteria and guidance, with 'tests' that are either too narrowly defined or subjective. If alternative design responses are to be pursued, the wording needs to be more robust.

1.2 Built form and siting

Presently Part 2F of the ADG includes a consideration for an additional 3m boundary setback between a zone change from apartment buildings to a lower density area. This consideration should be retained within the new ADG to ensure an appropriate transition to lower density areas. The consideration could specify lower density **residential** areas.

Figure 1.2.4 references 'adequate separation distances to the *boundary* in accordance with the design criteria' however the design criteria references *building* separation only, not boundary setbacks. While the intent of this is understood, it could be reworded to ensure greater consistency.

Table 1.2.2 states that the recommended floor to floor height of ground floor non-residential uses is 4.2m however the design criteria in Part 2.4 only requires 3.3m. While it is understood that 4.2m is aspirational, it is highly unlikely to encourage a development to provide 4.2m ceiling heights. This could be perceived as inconsistent, and its usefulness questioned.

This part of the ADG only refers to shared boundaries, it is recommended that clarification should be provided for instances where a boundary is shared with a laneway. In these instances, a setback would normally be measured from the centre of the laneway.

1.3 Site access and address

Include design guidance that ensures waste storage areas are not located immediately adjacent to main entrances or within main lobbies to minimise the impacts of odour and waste transfer on residents.

Include design guidance that ensures the prioritisation of passive means to achieve accessibility such as ramps and discourage mechanical means such as platform lifts. Chair lifts are prone to failure, vandalism and can be intimidating to groups not familiar with using them such as persons with strollers or with bicycles.

Include design guidance requiring a proponent to provide evidence documenting whether a substation will or will not be required for the development to ensure it is integrated into the building at the design stage and before it is lodged for assessment.

'Noisy roads' are mentioned in this part however no definition of them is found in the glossary.

1.5 Green infrastructure

In general, the increased deep soil targets and dimensions are supported.

Table 1.5.1 should be revised to read 'minimum dimension **of deep soil**'.

The 'out clause' found in the second paragraph of the note under Table 1.5.1 and on Page 32 needs to be reworded. It may encourage developments with larger basements in order to gain a concession to the deep soil requirements. There are instances where a mixed-use building could provide sufficient deep soil with an appropriate design, however the guidance as worded would dissuade such a design being pursued. Furthermore, it would prevent the consent authority considering the appropriateness of a design in relation to deep soil cover for a mixed-use development.

Green cover should not be seen as a comparative option to the benefits of layered canopy cover.

Include design guidance for the required coverage or minimum dimension of the 'green cover' for developments that cannot achieve the deep soil requirements. At the very minimum, the same amount and minimum dimension of deep soil should be required for the green cover.

Include design guidance requiring appropriate location of tree plantings to ensure they can thrive. The guidance should reference overshadowing/access to daylight. Where living areas and deep soil areas are located on the northern side, it raises a potential conflict between the planting of larger trees and solar access and views. In addition, given the Federal Government's mandate to have PV arrays installed in residential areas by 2050, this also raises a potential conflict with the planting of larger trees and shading.

The proposed deep soil zones do not adequately allow for the future growth of medium to large trees (as listed under Table 1.5.1). On sites <1,500sqm, 3m is not considered to be sufficient especially if it is on a frontage where street trees may be present, there may not be sufficient space. A greater distance is recommended.

While it is welcomed that Council's deep soil requirements will prevail if they are greater than the ADG, it must be clarified if Council's minimum deep soil dimension also prevail.

Council supports basement carparks being consolidated beneath building. This should be enforced to allow for maximum unencumbered deep soil areas.

Concern is raised with Table 1.5.3. that the planting rates for smaller lots are insufficient. An extra row on the table should be incorporated to include one tree for every 200-250sqm.

Tree canopy spreads for the categories of small, medium, and large are considered reasonable. It would be beneficial to include discussion about setbacks and sufficient above ground spaces as these are very important.

Figure 1.5.4 should be drawn more realistically as it represents an archaic view of a tree's root system and may give a false representation. In addition, it reinforces how building/infrastructure designers perceive trees.

'Sustainable planting' needs to be defined.

1.6 Parking

While Objective 1.6.1 is strongly supported, it should not include the words '*where appropriate*'.

Objective 1.6.2 should be amended to read '*support cycling for transport with bicycle parking in suitably located areas*'.

Add in an objective along the lines of '**Cap parking supply and allow flexibility for reduced provision by setting all car parking rates as maximums**'. This approach has already been adopted by some Sydney councils and is supported by the draft TfNSW Future Transport Paper - Parking in Cities.

Similarly, the non-discretionary development standard should replace the word 'minimum' provision with 'maximum' provision.

The wording relating to reducing parking should be stronger. There are many reasons for reducing onsite parking, and the key ones should be listed, including (but not limited to):

- minimise negative impacts on building design
- maximise floorspace devoted to active uses to create a consolidated urban form and enhance viability of centres
- improve affordability of housing & workplaces
- minimise traffic generation
- allow adaptive re-use of heritage buildings
- maximise deep soil planting areas
- minimise impacts on groundwater
- reduce paved areas to avoid heat island effect & minimise flooding
- encourage use of active and public transport
- reduce greenhouse emissions.

Include design guidance that encourages shared use of parking between developments (where the opportunity arises) and encouraging decoupled & detached parking arrangements.

Include design guidance about allocating car parking space to give priority to bikes, mobility parking, environmental vehicles, drop-off/pick-up over long-stay conventional private vehicles.

Bicycle parking at ground level/at grade should be firmly prioritised in the guidance. Bicycle parking on basement level 1 or level 1 should only be considered where it can be demonstrated that parking cannot be located at ground level. Locating bicycle parking at ground level encourages bicycle use and prevents the need to use a lift for access.

Include guidance that prioritises passive means for accessing bicycle storage – for example avoiding reliance on platform lifts or lifts.

The number of hanging bicycle racks should be limited.

Currently bicycle parking at ground level is presently included in gross floor area calculations. It is recommended that the definition of 'gross floor area' in the Standard Instrument be amended to exclude a portion of the required bicycle parking so as not to discourage proponents.

Include design guidance for the convenient recharging of electric bikes and other mobility devices.

The alternative design response for offsetting private car parking with car sharing spaces is problematic. For car share businesses to remain viable, they need the general public to be able to access their cars. It cannot be assumed providers will take up the spaces. To prevent crime this also needs to be able to occur without a non-resident being required to go through the building to access the car. Kerb side spaces are also not acceptable, as this essentially privatises the public road space. Any offsetting of private car parking with car share will need to be provided in highly visible and accessible areas within the development footprint.

2.1 Common circulation

Design Criteria 2 of Object 4F-1 of the current ADG limits the number of units per lift to 40, this should be included in the new ADG.

The design criteria states that the number of units accessed from a single core is 8 however the design guidance says 12 is also acceptable (as reflected in the current ADG). The alternative design response 'test' in this instance is weak as it involves achieving things that are either required by other parts of the ADG (sunlight, natural cross vent) or are too subjective ('ample' daylight and ventilation in corridors).

Daylight and natural ventilation should be at the very least design criteria, not design guidance.

2.2 Communal spaces

Amenity and solar access requirements should be provided for indoor communal spaces.

2.3 Apartment mix and diversity

The proposed apartment mix design guidance limits any one apartment size to a minimum 10%. This would permit buildings with up to 80% 2-bedroom units which is contrary to the objective of achieving a range of sizes and types of apartments.

While there is an emphasis on 'current market demands' for determining apartment mix – this should not be at the expense of future demand by focusing on one apartment type.

Include guidance requiring lightweight non-structural walls to be identified on architectural drawings.

Include guidance requiring 'family friendly apartments' to be identified on architectural drawings.

Require family friendly common circulation spaces for service family friendly apartments.

Consideration of requiring a minimum amount of outdoor spaces specifically designed for children. For example, the London Plan 2011 requires, a minimum 10sqm of dedicated outdoor play space per child, and the Toronto Planning for Children 2017 – a minimum 25% of required communal open space should be designed for children.

Studies should have maximum, not minimum size of 7sqm to prevent studies being sold and used as bedrooms. This has implications on parking requirements, apartment mix and Section 7.11 Contributions, amongst other things.

A proportion of the units that are required to be incorporate Liveable Housing Design silver performance level universal design should be gold performance level, as the silver level is very basic. This is becoming increasingly important with an aging population.

2.4 Apartment configuration

Apartment sizes are non-discretionary development standards in the SEPP however an alternative design response pathway for smaller apartments is outlined in the ADG. The alternative design response 'test' involves compliance with other parts of the ADG which in most instances would be required anyway (sunlight, natural cross vent and storage) or are too subjective ('efficient' apartment planning).

Furthermore, offsetting less than minimum apartment sizes with increased private open space and 'high-quality' communal open spaces that exceed the minimums are too open to exploitation. A nominal increase in an apartments private open space and buildings communal open space could be used to justify a comparatively more substantial reduction in apartment size.

Include design guidance that discourages excessively long hallways. It is Council's experience that poorly configured floor plates frequently result in long meandering hallways to connect the living area to the central core.

2.5 Private open space and balconies

Figure 2.5.2 should be reflected more clearly in the design guidance. It is unclear what proportion of a balcony can have a minimum dimension of 1m and still contribute to the balcony size. It is unclear whether the proportions in Figure 2.5.2 are minimums or if they reflect a 'typical' acceptable configuration.

It is unclear why furniture arrangement is included as a factor to dictate balcony sizes. This facilitates situations where designing private open spaces below the minimum size is justified by furniture arrangements. The ability to put tables and chairs on a balcony is only one benefit of a private open space and other benefits should be providing outlook, solar access and ventilation are equally as important if not more.

A limit on how many balconies are wintergardens is recommended. This would compel the design of more appropriately configured layouts and located private open spaces.

2.6 Sunlight, daylight, shade and thermal comfort

The design guidance needs to specify between what hours of the day and year neighbouring PV panels should receive 4 hours of sunlight.

Include design guidance specifying that solar access requirements to living rooms cannot solely be achieved through skylights.

The alternative design response states that achieving solar access may not be possible '*where the local street grid or subdivision pattern limits potential sunlight access to a building*'. Concerns are raised that this is very open to interpretation. Further clarification and detail needs to be provided on the factors that may limit potential sunlight.

Provide design precedents and built form typology examples for solar access, based on contextual considerations to aid in the design process and encourage innovation.

2.7 Natural ventilation

The design guidance on Page 65 states to avoid lightwells as the primary source of air for habitable rooms however Part 2.6 states that openings onto lightwells must be restricted to non-habitable rooms.

Include design guidance requiring all habitable rooms to be serviced by an operable window in addition to any door.

2.8 Acoustic privacy, noise and pollution

The design guidance on Page 69 states to '*locate non-residential buildings so they provide an acoustic barrier*'. It is unclear when/how this would be required as the ADG does not apply to non-residential buildings.

The design guidance on Page 70 '*minimise noise impacts from the floor of apartments above or next door*' is difficult to demonstrate, assess or enforce.

Include design guidance that discourages bedrooms and bathrooms with windows opening-up into common corridors.

Include design guidance requiring mandatory vertically discharged mechanical ventilation for all ground level commercial tenancies in mixed-use and shop-top housing developments to 'future-proof' them for food and drink uses and protect the public and units above from odour and noise impacts.

2.9 Visual amenity

Objective 2.9 should also mention '***suitable orientation of windows***'.

2.11 Building articulation

The design guidance on Page 82 should specify that the retention of buildings should only be encouraged if they are 'contributory'. As it reads now, all buildings are encouraged to be retained.

3.1 Energy efficiency

Include design guidance about how sustainable construction methods and materials can be demonstrated at the assessment stage.

Please refer to Council's Local Carbon Precinct Study found in Appendix 2.

3.2 Water

Include design guidance about how water minimisation such as use of potable water can be demonstrated at the assessment stage.

3.3 Waste

Considering the guide is high level and the longevity of the document, it is relevant to include the concept of 'waste' as a 'resource'. 'Source separation' is required for the efficient management of resources. Inclusion of the word 'sustainable' in the 'waste management' sphere is also recommended. It's not only about managing waste to keep a safe and healthy environment, but also about ensuring that waste has a value, which in turn will drive the Circular Economy (alignment with State and Federal Direction) and ensure waste minimisation. Recycling should be mandatory. As such, it is recommended that the introduction should be amended to read as follows:

'Sustainable waste management is relevant throughout the life cycle of a development and best considered early in the design process. Best practice waste management involves source separation to allow for better use of resources and minimisation of waste disposal. The effective management of resources from domestic and commercial waste contributes to residents' and neighbours' visual and physical amenity and limits potential harmful environmental impacts.'

Objective 3.3.1 should be amended to read as follows: *'minimise waste storage and **collection** impacts on streetscape, buildings entries and amenity to residents and **neighbourhood**'.*

Objective 3.3.2 should be amended to read as follows: *'Minimise **occupants**' waste to landfill by providing safe, **and** convenient **and co-located** onsite organic and inorganic waste and recycling facilities **for occupants**.'*

For safety reasons, bin chute rooms should only be accessible for cleaning staff and not residents.

The image on Page 90 appears to show residential and commercial bins in the same room contrary to the design guidance.

For safety reasons, a dedicated bulky waste storage room should be required. Consider amending the relevant design guidance to read as follows: *'Allocate **separate, self-contained** communal space, **either a room or caged area**, for residents to temporarily store unwanted bulky items such as furniture, appliances and mattresses awaiting disposal through council's clean-up service, or to be available for re-use by other residents.'*

As compaction causes bins to split at a far greater rate resulting in financial and materials wastage, include note that compaction systems may not be permitted by some Councils.

Waste collection from basements incurs potential for damage to parked cars and infrastructure, adds safety risks for waste crews, takes additional time, and adds health and amenity problems. It also requires ceiling heights of 4.5m, which are very contentious for some developers, as well as a host of other requirements including gradient, load-bearing, turning opportunities and overhead space that is free of utilities. Provide design guidance as follows:

'Most residential apartment buildings of 3 or more storeys will be required to have on-site collection. Locate collection infrastructure for council waste collection services wholly within the property, and within close proximity to the onsite loading dock to permit unobstructed access for contractors.

And;

'Where on-site collection is required, design to allow for on-site access by the type of collection vehicles required to serve the site. Collection vehicles must be able to enter and exit the site in a forward direction, with clear driver sight lines of footpaths and roadways.'

Urban Design Guide

Council is generally supportive of the new Urban Design Guide (UDG), particularly the increased emphasis on site analysis and tree canopy cover.

It needs to be clearer what constitutes a 'site specific DCP' for triggering the application of the UDG. Council has a number of existing and upcoming master-planned infill precincts which have their own DCPs which contain site-specific controls. Council supports the application of the UDG to this kind of development, however the achievement of the 15% public open space in these circumstances would rely substantially on Council to provide the land and upgrade it, which is beyond the means of most councils including Inner West, without strong mandatory value capture mechanisms, beyond the current or proposed contributions framework.

It is unclear what weight the Assessment Guidance has. It clearly sits below Design Guidance on the 'line of sight' diagram (Figure 2, Page 8) but are located within the Design Criteria blue-coloured 'box-out' which implies that they have greater weight than the Design Guidance. The Assessment Guidance is presented as matters for consideration for consent authorities which would not provide adequate weight for requiring changes.

The layout of structure of the UDG is markedly different from the ADG. For example, while both documents use blue-coloured 'box-outs' at the beginning of each section, this contains the Design Criteria and Design Guidance in the UDG, but contains the Objectives in the ADG. The Objective in the UDG forms the heading of the relevant section. Furthermore, the Design Guidance is numbered in the UDG but not numbered in the ADG. It is strongly recommended that the formatting and layout of these two documents are more consistent.

Council has a fundamental issue with including 'alternative design responses' within the design guidance. These outline clear pathways for variations to the design criteria and guidance, with 'tests' that are either too narrowly defined or subjective. If alternative design responses are to be pursued, the wording needs to be more robust.

Objective 3	<p>The Design Criteria states that a minimum density of 30 dwellings/ha is required within 5 minutes' walk of neighbourhood shops. It is not clear how many neighbourhood shops this is requiring. Is a single café sufficient to justify 30 dwellings/ha?</p> <p>Design Guidance 3.2 requires locating residential areas and other sensitive uses away from noisy and busy transport corridors. This would be difficult to achieve in many instances. Further guidance should be provided on what is required when this cannot be achieved.</p> <p>Design Guidance 3.3 states that there is a need for a mix of housing types to reflect the future needs of communities, however the ADG states using 'current market demands' to determine apartment mix (Part 2.3). Council agrees that there is a need for housing mix to reflect the needs of communities into the future.</p>
Objective 5	<p>Council raises issue with defining 'walkable neighbourhoods' if they are within a 20 minute walk to shops and services. 10 minutes is generally the maximum time a person will be willing to walk before opting to drive.</p>
Objective 8	<p>It is unclear how a 'collection of local shops' will be quantified.</p> <p>It is recommended that the 'design guidance' in this section are changed to 'design criteria'.</p>
Objective 10	<p>Design Guidance 8.2 requires 2% of car spaces to include EV-charging equipment. This is significantly lower than the requirements of the ADG and should be increased.</p> <p>Council strongly supports the tree canopy targets and welcomes the inclusion of the development category canopy targets as a useful and instructive tool.</p>
Objective 12	<p>It is recommended that there is a requirement that requires all powerlines to be located below ground to ensure the to obtain the maximum benefit from street trees.</p> <p>The Alternative Design Solutions state that the 15% open space criteria may be partially met through existing open space outside the development boundary. Further guidance needs to be provided such as how to determine whether there is a shortfall or oversupply of open space within a reasonable distance to the development.</p> <p>The minimum 15% of open space appears to be developed on the basis of greenfield sites. Given that masterplanned areas will also fall under the UDG (as they should) this will result in a minimum 15% open space requirement for development in inner city areas. Where a contiguous large scale redevelopment is undertaken by landholders or developers, this requirement is supported, as the open space can be funded through the redevelopment, and directly benefits the new residents, workers and visitors, which also increases the value of the development.</p> <p>However, where councils prepare a planning proposal and masterplan for an existing developed area, (for instance to rejuvenate and densify a centre), the intended result is infill development carried out by or on behalf of private landholders. Council is not the beneficiary of the uplift in value. Further, with increasing limitations on opportunities for councils (ie the community) to share in the gains from planning uplift, councils will not be in a financial position to acquire this amount of land for public open space, with the situation further exacerbated by land price increases. This means the only option would be to require very small public open space areas in each development. When re-development in one of our master-planned infill precincts occurs on sites with frontages as low as 8 – 12m, it is obvious that the resultant open space areas will not provide quality functional open space for the community, and would likely prevent redevelopment altogether.</p> <p>To address this issue, there needs to be mechanisms to enable council and the community to gain a greater share of the planning (i.e., unearned) uplift.</p>

Design Review Panel Manual

The Design Review Panel Manual (the manual) suggests that an application may need to be reviewed by the panel in 2-3 design review sessions, but the EP&A Regulations only permit a one-off fee of (max) \$3000. Given the potential resource implications to Council it is recommended that this fee be payable for 'each occasion' that the application is referred.

Clause 258 refers to a fee applicable where there is a design verification statement (max) \$760 but there appears to be no fee applicable for Council and the panel reviewing the required 'Design Review Report' (part 4.2 of the manual).

Part 2.6 of the manual refers to training of the panel members. Further clarification on such training is sought, who would be delivering it, any templates available etc.

Recommend that there be a separate advice template for Planning Proposals and Development Control Plans.

Clarification is sought on when a Design Review Report is required given there appears to be some inconsistencies between the draft EP&A Regulations and the manual.

Recommend a template also be provided for a Design Verification Statement.

Clause 143A of the EP&A Regulations is proposed to be amended to require the Design Verification Statement to be submitted to the Certifier. Concern is raised that such document could be inconsistent with the approved development if modifications were made via condition or during a court appeal. This is also applicable to Clause 154A.

Clarification is sought on whether the Minister will delegate powers under Part 16B of the EP&A Regulations for Council's to constitute a design review panel.

Clause 268D refers to a panel providing advice 'within 14 days of a request from a person seeking to make a development application' suggesting that upon lodgement, a panel meeting and advice needs to be provided within 14 days. This is not achievable. This clause should be amended to require the advice within 14 days of the panel meeting consistent with the manual.

Appendix One – Inner West Council submission BASIX Higher Standards

On 25 February 2022, IWC lodged a submission to the BASIX Higher Standards. Council's submission is included below:

- Council supports the increased minimum thermal performance standards for all residential building types to 7 stars. Higher standards are necessary to support NSW's transition to Net Zero by 2050.
 - While the exhibited material refers to the NSW Government's commitment to reach Net Zero, it does not provide a trajectory to Net Zero by a certain date. It is imperative that DPIE establishes a pathway with clear steps and milestones to achieve zero energy ready buildings before 2050. Providing a trajectory to net zero would also make it clearer whether these proposed standards are appropriate for reaching the net zero goal.
 - The exhibited Thermal Comfort targets in BASIX use 2015 climate data. Use of historical climate data is not supported. There are already robust models for future climate. Given how long development built today will last, the NatHERS engine, used to estimate BASIX heating and cooling loads, must be updated to use future climate projections (CSIRO Climate File for 2050 or 2070).
 - The update to the Emissions Factor for grid electricity is supported. However the use of a 10-year averaged emissions factor will result in an inequitable effort required for buildings to meet the standard, depending on when in the next 10 years the housing is built. The 10-year averaging of the emissions factor will also result in housing built between 2022 and 2026 incorrectly deemed as being compliant. The Emissions Factor should be updated to be representative of the current energy mix, and continue to be updated annually based on the National Greenhouse Emissions Reporting (NGERs) data when it is made available.
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- Greater transparency is required as to how the new standards have been calculated. It is unclear what proportion of the increased standard is a result of greater stringency in building design and what proportion is due to the change in the grid Emissions Factor. If the increased standard is mostly due to the change in the Emissions Factor, then any required increases in stringency would be limited, therefore rendering the new standard effectively meaningless.
 - The language used and illustrative plans included in the exhibition material focus on gas-reliant solutions. The final BASIX guidance documentation should promote electric solutions to demonstrate the importance of transitioning to all electric homes as a means to reduce emissions. Electrification should be highlighted in any language and imagery as being preferable to gas-reliant solutions.
Gas-reliant solutions should be strongly disincentivised through BASIX, so as to avoid the installation of gas infrastructure now which will need to be removed and retrofitted to accommodate all electric homes in the future. This removal and retrofitting will be especially difficult and expensive for multi-unit dwellings, and therefore gas should be excluded from multi-unit development.
 - The assumptions and calculations used in the cost benefit analysis which informed the decision not to increase the stringency for thermal performance or energy standards for residential development under 6 storeys need to be made clearer. Council is concerned by the statement in the exhibited documents that *"The cost-benefit analysis does not quantify some of the benefits to health and wellbeing of occupants, and indirect effects on the energy system and public spending."* These omissions in the calculations suggest that while the full costs of increasing standards for buildings under 6 storeys may have been included, the full benefits have not. The cost benefit analysis needs to account for the health benefit of people living comfortably and safely, the cost to society of heat affected unwellness (including death) and loss of productivity, the cost of inaction if urgent greenhouse gas reductions are not achieved (including the cost of offsetting all carbon emissions from the residential sector).
Also, the lack of incorporation of a resilience framework means that the impact on residents who cannot afford to run air-conditioning, or on residents during power failures appears not to have been considered.
Good design must include the consideration of health and safety outcomes for building users. Future Proofing Residential Development to Climate Change (WSP Australia Pty Limited (WSP) for Waverley Council 2021) found that under a 2030 climate for local government areas in the eastern areas of the Eastern City District, cooling loads for low rise (up to 3 storey) residential development would increase from 25mj/m² (under current BASIX standards) to 40 mj/m², while mid-rise (4-5 storeys) apartment cooling loads would increase from 21.2 Mj/m² to 34.9Mj/m². Residents of low- to mid-rise buildings will be unfairly disadvantaged into the future because without any increase in the stringency for thermal performance or energy standards for this scale of development, their housing will be inefficient, uncomfortable and unsafe to inhabit in the near future.
Most development within the Inner West LGA, as in many other LGAs in Sydney, will be under 6 storeys and therefore improving thermal comfort for these dwelling types cannot be ignored. All dwelling types (i.e. detached dwellings with any floor area, and multi-unit dwellings with any number of storeys) should have the same greenhouse gas reduction targets to ensure equity in the quality of housing offered to all residents.
Further to the distinction between development above or below 5 storeys, it is not clear whether the 5 storey and under category includes multi-dwelling housing, such as townhouses. Do the standards for these types of dwellings change?
 - Inner West Council has engaged WSP to complete a Low Carbon Precinct Study, with the final study due in March. The study assesses various low carbon interventions and scenarios to best support "low carbon precinct development", specifically relating to development typologies of under 6 storeys. Cost benefit analysis of different interventions and scenarios, such as full electrification of residential developments, has been completed by Common Capital. Inner West Council will append the final study to this submission at a later date.
 - Councils must be able to set higher targets in identified low carbon precincts within their LGAs. Councils should not have to make trade-offs (i.e. offer incentives) in order to deliver strategic planning commitments in the Eastern City District Plan.
 - That the BASIX tool must mandate LED lighting only with best practice lighting controls, and that fluorescent, incandescent and halogen lamps are removed from the tool. This is especially important for apartment common areas.
 - Council supports the inclusion of embodied energy target as part of the proposed BASIX standards, as long as it is separate to the existing operational energy carbon emissions target. The embodied energy target should be complemented with a trajectory to provide clear policy direction; implementation testing; and enable new industries that supply low embodied energy materials to mature.
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- A program of auditing should be developed and implemented to ensure that actual performance matches modelled performance for developments that have come through both the BASIX assessment and merit assessment pathways.
 - Council supports the approach proposed in the draft Design and Place SEPP policy clause 28 that includes the requirement for BASIX standards to be reviewed in 2025 and every three years thereafter.
 - Crucially, the NSW Government must provide adequate training to local government assessors, certifiers, accredited assessors and accredited professionals to support the successful application of, and compliance with, any new standards.
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Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 12:41 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: 20220228-haac-submission-on-design-and-place-sepp-copy.pdf

Submitted on Mon, 28/02/2022 - 12:38

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Jon

Last name

Atkins

I would like my submission to remain confidential

No

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Suburb/Town & Postcode

Marrickville 2204

Please provide your view on the project

I am just providing comments

Submission file

[20220228-haac-submission-on-design-and-place-sepp-copy.pdf](#)

Submission

Please refer to Housing and Affordability Advisory Committee's submission attached. This is a copy the the initial file sent before the connection was broken.

I agree to the above statement

Yes

Inner West Council

Housing and Affordability Advisory Committee

Submission to

Department of Planning, Industry & Environment

on

Draft Design and Place SEPP and supporting guides and documents

Disclaimer: This submission reflects the views of HAAC members only,
not the Inner West Council.

Authors: Assoc. Prof. Louise Crabtree-Hayes with assistance from Dr Hazel Blunden, Queenie Tran, David Collins-White, Paul Adabie and Liza Sloan

Thanks to Jon Atkins

28th February 2022

Housing Affordability Advisory Committee

The Housing Affordability Advisory Committee (HAAC) is a standing committee of the Inner West Council.

Members are drawn from the community and act in a voluntary capacity. The current membership is David Collins-White (Chairperson), Dr Hazel Blunden (Deputy Chairperson), Paul Adabie, Assoc. Prof. Louise Crabtree-Hayes, Rachael Haggett, Liza Sloan and Queenie Tran. This submission reflects the views of HAAC members only and does not represent the views of the Inner West Council.

HAAC submission on Draft Place and Design SEPP

Introduction

The Housing and Affordability Advisory Committee (HAAC) would like to thank the Department of Planning, Industry & Environment (DPIE) for the opportunity of commenting on the draft Design and Place State Environmental Planning Policy 2021 (**draft DP SEPP**) and supporting guides and documents.

The draft DP SEPP aims to support the planning principle of ‘design and place’, which in turn is intended to promote quality design for new developments, public spaces and the environment, as well as to create “healthy, sustainable, prosperous and supportive design for people, the community and Country”.

The DP SEPP policy package comprises:

- The proposed [draft Design and Place State Environmental Planning Policy 2021](#) (draft DP SEPP)
- Proposed changes to the [Environment and Planning Assessment Regulation 2021](#) (EPA Regulation)
- Proposed direction by the Minister under section 9.1 of the [Environmental Planning and Assessment Act 1979](#) (9.1 Direction).

The policy package is also supported by:

- The revised [Apartment Design Guide](#) (ADG)
- The proposed new [Urban Design Guide](#) (UDG)
- Updates to [residential sustainability](#) (BASIX)
- [BASIX sandbox tool](#)
- [Design Review Panel Manual for Local Government](#) (DRPM)
- Design & Place - [Cost Benefit Analysis](#) (Summary)

Focus of the submission

As our primary concern is to address the ongoing lack of affordable and appropriate housing in the Inner West region, particularly for very low to moderate income households, our submission focuses on the implications of the proposed Design and Place SEPP in that context. We note the SEPP includes a design principal of promoting ‘productive and connected places to focus on design quality and enable community to thrive’ and a design consideration of ‘vibrant and affordable neighbourhoods’. We also note the aspects of the draft DP SEPP that focus on design and resource efficiency and emissions reductions.

In relation to affordability, we note that section 18(b) suggests the consent authority must, in relation to urban design developments, consider whether the development contributes to the housing needs of the local population. We would argue that ‘housing needs’ requires a proportion of affordable housing. In particular, within the Greater Sydney Region, targets generally in the range of 5–10% of new residential floor space are viable and should be delivered (*Greater Sydney Region Plan*, Objective 11). In areas outside precincts associated to schemes requiring affordable housing contributions, for example, Affordable Housing Contributions Schemes, developments should be assessed in terms of their contribution to achieving the recognised 5-10% affordable housing target.

Further, parts 23(b) and (c) suggest a consent authority must consider that developments include different lot widths and sizes to support diverse residential accommodation types and appropriate residential density close to proposed or existing amenities. Dwelling size and location also contributes to affordability.

We have two overarching concerns.

Firstly, the current and intensifying context of climate change and responding to COVID must bear on design principles, especially with regards to housing for lower income households. Challenges such as climate change and COVID speak directly to the need for habitable and equitable living environments, given the increased prevalence of working from home and issues such as air quality, weather extremes, and pathogen control.

Lower income households spend more of their time in the home, so poor design more significantly impacts these households. Further, historical housing construction and market dynamics are such that low-cost rentals are often poorer quality homes. This means that 'cheap' low-quality housing may be the only housing that is available (although it is usually still not affordable) and may create or exacerbate health and wellbeing issues amongst lower income households. This is a pattern that the ADG has the capacity—and arguably the responsibility—to prevent in future housing stock.

Lower income people typically pay higher proportions of their income on energy bills (as these are largely unavoidable costs). Living in poorly designed housing including rental dwellings that are harder to heat and/or cool decreases energy efficiency. Basics such as being able to maintain a liveable home environment without high energy bills are fundamental to equitable cities in a changing climate as well as impacting on housing affordability.

Climate change also drives the requirements for issues such as greater canopy cover and deep soil targets, which seem basic to building the resilience of the built environment to warmer conditions and providing equitable and amenable spaces.

Secondly, the proposed ADG clauses include many vague and generalized statements rather than prescriptive requirements. These have the potential to generate additional administrative burdens in the assessment and approval process due to greater uncertainty and dispute, which would translate into extended timeframes for the delivery of affordable housing.

The proposed changes to the DP SEPP, EPA, and ADG may be perceived as cutting red tape and a welcome improvement to the assessment and approval process to increase residential dwelling development activity. However, in providing unclear, general principles that obscure basic amenity principles, it provides a short-sighted response to the problem as such uncertainty will create further delays and potentially poorer outcomes.

1. Proposed Design and Place State Environmental Planning Policy 2021

The draft DP SEPP introduces new 'design principles' and 'design considerations' which are too general and do not clearly align with the ADG design objectives. This means the nexus and consistency between the draft DP SEPP and ADG will be broken, introducing scope for discrepancy, confusion, and consequent delays to delivery. It is also questionable whether the ADG will maintain its current legislative strength and achieve its purpose as the formal status of the ADG within the planning system is not provided.

We are concerned about the introduction of flexibility via proposed s24 clause whereby the development may meet the objectives of the Urban Design Guide by (a) meeting the applicable design criteria set out in the Urban Design Guide, to the extent possible, or (b) an alternative solution that the consent authority considers achieves a neutral or more beneficial outcome than

meeting the design criteria set out in the Urban Design Guide. This introduces scope for criteria to not be met and quality to subsequently fall, which may especially happen as a way to make homes 'affordable'.

This is deeply problematic from an equity perspective, as lower income households can least afford to compensate for poor design, whether through dwelling modifications or energy efficiency measures. Likewise, while 'alternative solutions' will be allowable we are concerned by their potential adverse impacts if these lead to reduced quality as a cost-saving measure, even though the clause is ostensibly drafted to prevent this. Without clear regulation, there is latitude for inferior 'alternative solutions' to be deemed 'neutral' to sidestep the design criteria.

We also highlight the related issue of subjective requirements in the SEPP, such as 'beauty', which are not clear in the overall design quality consideration. This again will cause delays in delivering new dwellings and developments if disputed.

2. Proposed changes to the Environment and Planning Assessment Regulation 2021

We note that under the proposed changes to the EPA Regulation, certain development applications including residential apartments must now go to a Design Review Panel and that design review panels must be constituted, and members appointed, by the Minister. While we note that the Minister must 'consult with the council for the local government area, including in relation to the members of the panel' (s. 268B (2)) before constituting it, the Minister 'may abolish a design review panel at any time and for any reason' (s268B (3)). This is concerning as it has the potential to further erode local council input into design decisions.

We also note that design review panels must review against the draft DP SEPP's design principles and not ADG objectives. We are also concerned that this may erode quality and lead to confusion amongst applicants.

3. Revised Apartment Design Guide

The revised ADG introduces several issues of concern regarding the maintenance of quality in housing. The overall framing has shifted towards flexibility and a vagueness that will lead to delays and/or poor design (i.e. living) outcomes. The guide's objectives have been reduced from 80 to 36, with the resultant objectives appearing very condensed and improperly drafted, and many being unclear. The general language is more 'open', with suggestions – for example – to 'maximise' or 'optimise' solar access rather than 'provide adequate' solar access. Such softening of language may lead to lesser outcomes in terms of basics such as sunlight and ventilation. Similarly, there is a provision for 'alternative solutions' where stated objectives cannot be met, or when an outcome 'cannot be avoided', which will result in reliance on specialist technical reports that again builds on uncertainty to downgrade quality, create delays and reliance on reports that may not be assessable by Councils.

Liveability: indoor environments and climate control

There are some core liveability concerns raised by the proposed ADG. Given that lower income households are more likely to be in smaller dwelling, in particular apartments, and/or spend greater amounts of time at home, high quality indoor environments that can be kept habitable at low cost are especially important in the context of affordable housing. Energy efficiency standards have a large impact on utility bills for lower income households.

It is concerning that the new deep soils and canopy clauses are 'targets' rather than requirements and the deep soil targets are less than recommended by other State Government documents (e.g., Greener Neighbourhoods). This has implications for urban heat and amenity, which are

demonstrated to more significantly impact lower income neighbourhoods and households due to needing to use more heating/cooling devices in inefficiently designed dwellings in hot, treeless suburbs.

The ADG proposes that habitable room depths may be made deeper and kitchen ceilings could be lower. Given that kitchens generate heat, deeper habitable rooms with lower ceilings represent the very real risk of generating heat traps within apartments. Again, workarounds would be expensive and would most likely rely on air-conditioning, which is costly and contributes to both local external heat and emissions production.

While the provision of study rooms of 7m² is a welcome acknowledgement of the need for work from home spaces, there is concern about these becoming unhealthy work spaces if adequate ventilation is not required.

Similarly, the natural ventilation window measurement is too complex and the natural cross ventilation control unworkable. It does not take heed of noisy environments in which opening windows might not be possible or desirable. Also, the definition of natural cross ventilation encourages air path through an open gallery, rather than considering or including bedrooms or study rooms. Given the likely persistence of warmer nights and impacts on sleep, as well as work from home arrangements, greater requirement for adequate ventilation is required.

The new shading control is unworkable and the extension of sunlight hours to start at 8am is unacceptable, as such light in winter is minimal and will not warm spaces adequately.

Liveability: liveable/universal/adaptable design and healthy ageing in place

The draft guidelines for liveable design are at odds with the reality of Australia's ageing population.

Design should maximise residents' autonomy and quality of life, be adaptable to changing circumstances and foster social interaction. Changing circumstances include significant demographic trends such as a rapidly ageing population.

The NSW Ageing Strategy 2016-2020 states that in 2011, more than one million people in NSW were aged 65 and over, and more than 1.3 million were aged between 50 to 64. By 2031, around 20 per cent of NSW, or 1.8 million people, will be aged 65 and over, and more than 1.5 million will be aged 50 to 64. Together, more than one in three NSW residents will be aged 50 or above by 2031.

The adoption of Silver Livable Design guidelines seems an obvious feature to enable people to age in place and remain living in their home for as long as possible and reduce demand for residential aged care. It seems ill-conceived to limit the guidelines to just 20% of stock. Further, these are guidelines only – there is a notable lack of design criteria for universal / adaptable housing.

The suggestion for 20% of dwellings to be Silver LHA aligns with council DCPs, which typically require 10-20% adaptable units. However, given that the requirements for adaptable units and Silver LHA are quite similar, this is unlikely to increase the number of adaptable or universal units as proposals would usually count adaptable and universal units for both categories rather than certify them independently.

In addition, design features that are specifically address the changing needs of an ageing population need to be recognised. In particular, an appropriate percentage of apartments should incorporate the following design features:

- Be responsive to reduced mobility and common health problems, for example, level entries, wider doors & hallways, safe bathrooms and flooring, kitchen with switches, cupboards & windows within easy reach

- Guest area to cater for a family member or care-worker to stay for short periods
- Storage space for equipment
- Built-in cabling to minimise cost of installing 'smart' technology
- Spaces for electric scooters to facilitate sitting and socialising

Inclusion of the above design features would add significantly to healthy ageing in place, that is, places where older people can live on their own throughout the changes and challenges of later life with a sense of autonomy and purpose and connection with the local community.

Implications for diverse housing cohorts

Lastly, we note that there is a lack of clarity in the application of ADG across other housing types such as seniors and disability housing. The SEPP clause that explicitly deals with boarding houses has been removed. This would imply that 'New Generation Boarding House' (NGBH) developments may come under the auspice of the ADG. Some of the existing micro apartments built as NGBH are already highly questionable in terms of floor space and amenity, so there is concern the removal of the exclusion will lead to further erosion of dwelling quality in future stock.

Recommendations

HAAC submits the following recommendations to help fulfill the aims of the draft Design and Place SEPP:

- Explicit affordable housing targets of 5-10%, in keeping with the *Greater Sydney Region Plan*, Objective 11, should be included
- Greater consistency and connection between the draft DP SEPP and ADG
- Specification of design requirements and compulsory minima rather than vague statements of 'optimisation' etc.
- Removal or revision of proposed s24 clause regarding flexibility to reduce the possibility of poor design outcomes or circumvention of requirements
- Revision of deep soils and canopy clauses to be consistent with other urban greening policies
- Revision of allowance for deeper habitable rooms and lower kitchen ceiling heights
- Revision of ventilation clauses
- No adoption of sunlight hours commencing at 8.00am
- The Silver Living Design guidelines should be applicable to a greater proportion of stock and accompanied with specific design requirements
- Incorporation of broader design objectives to allow for ageing in place such as storage spaces for equipment and scooter parking etc. as outlined above.
- Greater clarity regarding treatment of boarding houses, seniors housing, and disability in the ADG.

28 February 2022

Submitted on Mon, 21/02/2022 - 14:48

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

1.1 NAME

First name

Suzi

Last name

Stojcevska

I would like my submission to remain confidential

No

1.2 INFO

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suzis@kiama.nsw.gov.au

Suburb/Town & Postcode

Kiama 2533

Please provide your view on the project

I support it

Submission file

[kiama-municipal-council---submission---letter---draft-design-places-sepp---dpie.pdf](#)

Submission

Please refer to attached submission letter.

Thank you

Regards,
Suzi

I agree to the above statement

Yes

15 February 2022

Director Planning Legislative Reform
NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir/Madam

Submission – Draft Design and Place SEPP Package

Kiama Municipal Council would like to take this opportunity to thank you for allowing us to work collaboratively with the Department on the Draft Design and Place SEPP package.

Council supports proposals and reforms which seek to simplify the NSW planning system. We acknowledge and support the aim of the State Government to create great places to live work and play. We welcome the focus on putting sustainability, resilience, and quality of places at the forefront of development.

Theme 4 of the Kiama Local Strategic Planning Statement (LSPS) 2020 is to *'Mitigate and adapt to climate change and protect our environment'*. A key priority the community identified was *environmental sustainability, including the conservation of the natural environment and promoting use of sustainable energy to move towards a carbon neutral future*. The Design and Place SEPP package will help Council to achieve this community expectation and deliver required actions in our LSPS.

Council is particularly supportive of the draft Ministerial Direction and the amendments to the BASIX thresholds. The Ministerial Direction and associated Design Guides will ensure that future planning proposals for urban release areas integrate good design processes to create places that support the health and well-being of the community and achieve better built forms. This is consistent with the Kiama LSPS 2020 action to Champion Architectural Excellence.

The Kiama LSPS 2020 contains a number of actions which seek to mitigate and adopt to climate change and protect our environment, including actions to advocate for increases to BASIX commitments.

While Council is aware of the Department's Reform Schedule we are disappointed with the timing of this exhibition period. The draft SEPP was placed on exhibition during the NSW Local Government caretaker period and closed within a month of the new Council forming. This has left very little time for new Councillors to be informed of the proposed changes. This submission has however been able to be endorsed by our new Council and we are appreciative of the opportunity to provide comment on this reform.

Should you have any further enquiries in regard to this matter please contact me on the above phone number.

Yours faithfully

A handwritten signature in black ink, appearing to read 'J Rippon', with a long horizontal flourish extending to the right.

Jessica Rippon
Director Environmental Services

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 8:56 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: ku-ring-gai-council-submission---draft-design-and-place-sepp.pdf

Submitted on Mon, 28/02/2022 - 20:54

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Craige

Last name

Wyse

I would like my submission to remain confidential

No

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Gordon 2072

Please provide your view on the project

I am just providing comments

Submission file

[ku-ring-gai-council-submission---draft-design-and-place-sepp.pdf](#)

Submission

Submission attached.

I agree to the above statement

Yes



Ku-ring-gai Council Submission

Draft Design and Place SEPP

Ku-ring-gai Council Submission – Draft Design and Place SEPP 2021

Ku-ring-gai Council welcomes the opportunity to provide feedback on the draft *State Environmental Planning Policy (Design and Place) 2021* and supporting guides.

This submission has been prepared by Ku-ring-gai Council staff. Due to the lead time for reporting to Council Meetings, it has not been formally endorsed by Council.

Council Staff have reviewed the following documents:

1. Draft Design and Place State Environmental Planning Policy (DP SEPP) 2021
2. Draft Environment and Planning Assessment (Design and Place) Regulation 2021
3. Proposed Ministerial Direction under section 9.1 of the EP&A Act 1979
4. Draft Apartment Design Guide
5. Draft Urban Design Guide
6. Sustainability in Residential Buildings (BASIX Overview)
7. Draft Local Government Design Review Panel Manual

Overall, the Draft Design and Place SEPP package is supported and is considered to potentials be an overall improvement to the planning system that would result in much improved outcomes to the built environment. Nevertheless, there are a number of concerns with specific aspects of the package as well as areas where improvements could be made

The detailed comments on the following pages 3 – 19 identify those areas of particular support and matters of concern, as well as recommendation for improvements.

If you have any questions regarding this submission, please contact Craige Wyse, Team Leader Urban Planning at cwyse@kmc.nsw.gov.au or 9424 0855.

1. The proposed draft Design and Place State Environmental Planning Policy (DP SEPP) 2021

Part 1 Preliminary

Clause 5(1)(b)(ii) –

The height of a basement out of the ground should align with the storey definition contained within the standard instrument (i.e. 1m)

Clause 8(2)

This clause should reference the new 'Conservation' zones

Part 2 Design principles and design considerations

- *Clauses 14-23* should be consistent as there is a mix of the consent authority 'considering' and 'being satisfied' – this should be amended so that the consent authority should be universally satisfied of everything in *Clauses 14-23*. This will strengthen the SEPP.

Clause 20 (c) –

Design Consideration – Green Infrastructure - Limiting the appropriate management and maintenance expectations to only '*at least the first 12 months*' is vague and unenforceable. This should be strengthened with mechanisms to ensure ongoing management and maintenance.

Part 3 Assessment of development

Division 1 Urban design development

Clause 25 (1)

Development Control Plans for Urban Design Development - If the intention of this clause is that a site-specific DCP is required for all sites subject to Urban Design Development, it is supported. However, the clause needs to be reworded to make it clearer. Most Councils already have DCPs in place that would apply to all land within the LGA and Urban Design Development, so existing DCP should be able to be used to meet the requirement of this clause.

Division 3 Residential apartment development

Clause 30 (2) –

Objectives of Apartment Design Guide:

"(2) Development may meet the objectives of the Apartment Design Guide by –

(a) meeting the applicable design criteria, to the extent possible, and the design guidance set out in the Apartment Design Guide, or

(b) an alternative solution that the consent authority considers achieves a neutral or more beneficial outcome than meeting the design criteria and design guidance set out in the Apartment Design Guide"

- There are concerns regarding the wording of part (a) including 'to the extent possible'. The development needs to meet the applicable design criteria and design guidance OR propose an alternative solution. By including 'to the extent possible' it gives an 'out' or basis for development to not meet design criteria.
- This submission supports (b) in that alternative solutions may be required in certain circumstances due to site/context, and that the onus needs to be on the applicant to make a case for the alternative solution and why compliance with ADG is not possible.
- However, there are concerns about ADG including examples/details of potential alternative solution as it risks the alternative design responses outlined throughout the document becoming the quasi criteria that developments need to comply with – as by nominating them in the ADG they are seen as 'accepted', whether they are an appropriate outcome for a specific site or not.

Clause 31 (1)

- Development Control Plans cannot be inconsistent with the Apartment Design Guide - support for the 8 matters listed from Clause 6a of the SEPP 65 (visual privacy, solar and daylight access, common circulation and spaces, apartment sizes and layout, ceiling heights, private open spaces and balconies, natural ventilation and storage) being retained and transferred into the Design and Place SEPP as the matters that a DCP has no effect.

Clause 32(3)

- The use of the word 'recommended' in the context of apartment area invites interpretation – it should be replaced with 'required by'.

Part 4 – Design review

Clause 34

- Application of Part – Council has strong concerns about a mandatory Design Review Panel for all residential apartment developments. This process will be time intensive and result in additional costs to Council to run the panel. If Design Review Panels are to be mandatory, then the panel operational model needs to ensure the advice provided by the panel is clear, objective and reaches a consensus.

Timeline – transitional period (6 months)

- The proposed transitional period of 6 months from the making of the Design and Place SEPP, until the SEPP coming into effect is supported. This 6 month period will be essential for Councils to understand the requirements of the SEPP in its final form, and to update and establish systems and processes, for example:
 - Establish Design Review Panel
 - Review DCP
 - Update forms, templates and guides.
 - Update 10.7 Certificates

Fees and assessment times

- The Draft Design and Place SEPP will make the assessment of affected development significantly more complex. Fees and time expectations need to be adjusted accordingly.

2. Proposed changes to the Environment and Planning Assessment Regulation 2021 (EPA Regulation)

Clause 3 Definitions

- Definitions – the definition of ‘urban designer’ should be refined to clarify what constitutes ‘master planning’ in the term ‘with 5 years in master planning’ as this may be interpreted vaguely.

Clause 16 (3)

- Content of development control plan – support for the addition of the clause to require Councils to consider the design principles and considerations in the Design and Place SEPP as well as the Urban Design Guide. It is assumed that as part of a Council report on the preparation of a DCP it would include a table/discussion demonstrating how the design principles and considerations of the SEPP and Urban Design Guide have been considered.
- A ‘principles-based’ system may result in a very subjective assessment of the development outcomes, based on one expert opinion against another about whether a development is consistent with or achieves the intended effect of the principle

Clause 57A – Additional requirements for design verification statements or Clause 57B – Design review report

- Recommendation to include a provision that, in addition to demonstrating how the Design Review Panel’s advice has been incorporated, it has also demonstrated how any advice of the Council given in conjunction with or separate to this advice has been addressed and incorporated into the proposed development.

Clause 57D – Net zero statement -

- Homeowners are liable for high cost of disposing of gas services that become stranded assets, and replacing with electric heating plant as NSW economy transitions to net zero.
- The draft policy package proposes that non-residential buildings classes will require a “net zero statement” that demonstrates the net zero readiness of a building. This is a welcomed measure, which in principle should lead to a higher design weighting for all-electric buildings, and at a minimum, require all non-residential buildings to have provision for all-electric services in the future. However, the proposed requirements for residential development do not include such a requirement, which inevitably means a large portion of homeowners (if not the majority), will bear the very high cost having to electrify gas services overtime, as the NSW economy transitions to net zero. Particularly so for class 2 buildings, where the electrification of gas hot water

services is extremely challenging (and in some cases likely impossible) without the provision of sufficient space for electric heating plant.

- Recommendations in order of preference
 1. Extend the requirement for a “net zero statement” to all residential development, or
 2. Extend the requirement for a “net zero statement” to all class 2 developments, or
 3. Consider a provision that enables local councils to define net zero precincts, where residential development must meet satisfy the requirement of a “net zero statement”, as applied to non-residential buildings.

Clause 99 – Condition relating to charging facilities for electric vehicles

- The provisions for electric vehicle charging readiness are a positive and important set of measures towards ensuring future developments are electric vehicle ready. This submission strongly supports these provisions

Clause 268B – Constitution of Design Review Panels and 268C – Membership of Design Review Panels

- The regulation notes that the Minister may constitute a Design Review Panel for a Local Government Area, and the panel are appointed by the Minister.
 - It is unclear whether Council would get to provide any input into the panel membership. Council currently has an existing panel of external Urban Designers who provide advice at Pre-DA and DA stage. The existing panel of Urban Designers have local knowledge of area and Councils LEP/DCP controls which is essential to be able to provide consistent design advice.
 - The clause should be amended to allow Council staff to be Design Review Panel members
 - There should also be a clause that addresses remuneration of panel members as well as what additional fees are payable upon lodgement to recoup those costs.

Clause 268D – Functions of Design Review Panels – (3)

- This clause requires that a Design Review Panel must provide advice for development within 14 days of a request from a person seeking to make a DA or consent authority.
 - 14 days is not very long time period for Council to receive the request, undertake a preliminary assessment to understand what is proposed, comprehend the key issues, and then convene a Design Review Panel Meeting.
 - To comply with the 14 day time period, Council's would potentially need to hold at least two Design Review Panel meetings a month. This would be very resource and time intensive and lodgement fees would need to reflect this.

Clause 268D (4)

- This clause notes that Design Review Panels '**may**' also review and provide independent advice to a Council about the provisions that relate to design quality of development contained in: a) Draft LEP or DCP, b) Draft masterplan or other planning policy document, c) Local environmental plan or DCP in force.

There is a lack of clarity with the use of the word 'may' – It needs to be made clear if it is mandatory or not Councils to refer draft LEPs, DCPs or masterplans to Design Review Panel. If it is not mandatory, then a threshold or trigger should be included. It should also include an option for Council's to use their discretion in determining the need for advice from the panel.

Schedule 1, Clause 2(3A) – (d)

- It is recommended to delete 'if relevant' i.e. compelling a site analysis to provide different siting options.

3. Proposed direction by the Minister under section 9.1 of the Environmental Planning and Assessment Act 1979 (9.1 Direction)

When this direction applies

- It is proposed that the direction will apply to planning proposal for land greater than 1 hectare in area and within an existing or proposed residential, commercial, mixed use or industrial zone or any other zone in which residential development is permitted or proposed to be permitted.
- This threshold is supported for planning proposals, as it will ensure that only larger scale planning proposals are required to consider the design principles, design considerations and Urban Design Guide.
- However, it is noted that many of the design considerations in the SEPP are not relevant at the planning proposal stage e.g. design considerations regarding the overall design quality which require consideration of detailing and articulation of buildings. This level of detail is not available at the planning proposal stage.

What a relevant planning authority must do if this direction applies

Clause 5

- *Clause 5(a) and (b)* which require consistency with design principles and design considerations of Design and Place SEPP and objectives of Urban Design Guide are supported, and *clause 5(c)* is supported.
- There are some concerns with *clause 5(d) is referred to the relevant review panel for advice concerning the **design response***. The requirement for planning proposals to be referred to Design Review Panel for advice on '*design response*' is of concern. A planning proposal is only considering amendments to an LEP (height, floor space ratio, zoning etc) – it does not contain or consider the detail design considerations that a DA does. While an Urban Design Study is submitted with the planning proposal, it only shows indicative development outcomes that would be enabled by the proposed amendments (height, FSR, etc). A planning proposal cannot be tied to particularly development outcome or design on a site.
- Councils experience with the advice provided by panels on planning proposals is that the panels are too used to focusing on DAs with more fine grain detail and struggle to appreciate the broader strategic context and consideration that needs to be undertaken for planning proposals.
- The benefit in Design Review Panels providing advice for planning proposals is not considered to be significant. It is recommended that requirement for Design Review Panels to provide advice on Planning Proposals should be removed from the direction. Alternatively, if the requirement for referral to the Design Review Panel is retained, (d) should be amended to: "*5(d) is referred to the relevant review panel for*

advice concerning the ~~design response consistency with the design principles and considerations of the Design and Place SEPP, and objectives of the Urban Design Guide~~".

- To ensure that the panels advice for planning proposals is focused on considering the consistency with the broader design principles, considerations and objectives of the SEPP and Urban Design Guide, and not 'design response'. This referral requirements also means that planning proposals that meet the threshold for this direction will be required to be considered by both the Local Planning Panel and Design Review Panel. This will add additional time and cost to the planning proposal process.

Clause 6

Clause 6(a) requires that a planning proposal must give effect to any residential density, open space and connectivity criteria and guidance as referred in the Urban Design Guide.

- There is concern regarding the requirement for planning proposals to meet minimum residential density. This was a concern raised in Councils original submission to the EIE. It is a concern that the introduction of baseline residential density targets could lead to planning proposals using this as justification to seek up-zoning or increases in height and floor space ratio that are incompatible with existing and intended future local character or are inconsistent with Councils LSPS and Housing Strategy in terms of timing or location of additional housing.
- Achieving a minimum residential density in itself will not guarantee a vibrant urban area or high amenity. Concern is raised that a residential density target is a generic blanket 'one-size fits all' control which does take into account local context or character, and may lead to a monotonous building type (e.g. all of the same building type across the area subject of the planning proposal) in order to meet the density requirement. It is recommended that the density target be removed, as Councils are best placed to determine appropriate residential densities through Housing Strategies.

4. The revised Apartment Design Guide (ADG)

Part One – Designing for the site

1.4 Relationship to the street

Utilities and building services

- There is a requirement to utilities and building services in the basement '*wherever possible*' in the basement. This language needs to be strengthened, and changed to locating the structures in the basement '*unless it can be demonstrated that such location is not practical*'.

1.5 Green infrastructure

Deep Soil

- Support the proposed increased in Deep Soil provision from current ADG. However it is noted that the requirement for deep soil is much lower than what is required by the Ku-ring-gai DCP.
- Support the Note under the table 1.5.1 which states '*Deep soil targets are a minimum recommendation. Local controls reflect variations in character and local context, and take precedence where their requirements are greater than these* – this is imperative and will ensure that the current Deep Soil requirements in the Ku-ring-gai DCP are retained.
- The second paragraph of the note under the table 1.5.1 - "*For sites where it is not possible to provide sufficient deep soil e.g. mixed use development where the basement or building envelope fills the site, use alternative options for green cover, such as planting on structures, including for landscaped communal open space offering amenity and outlook for residents*" - is not support. This paragraph needs to be deleted from the Design Criteria for Deep Soil. The suggestion to use alternative planting on structures does not meet the definition of deep soil and should not be considered an equivalent or alternative solution for deep soil planting. Furthermore, deep soil planting in mixed use areas may not be required at all as per the development controls of certain Councils. If a development cannot meet the Design Criteria for deep soil, there is the option for an alternative solution under 30(2)(b) of the Design and Place SEPP which needs to be adequately justified and documented by the applicant.

Part Two – Building design

2.1 Common circulation

- Equitable access – equitable access should be universal to all buildings with minimum standards set. This section uses weak language and it reads that this is only encouraged as opposed to mandated.

2.3 Apartment mix and diversity

- There should be standalone requirements for build-to-rent buildings as these buildings will have different market demands to those buildings which are owner occupied.

2.4 Apartment configuration

- Clarity is required regarding how a window is deemed visible from the habitable room – sitting or standing.

2.6 Sunlight, daylight, shade and thermal comfort

- Recommendation to set a maximum percentage for the amount of south facing single aspect apartments. Suggestion to limit single aspect apartments to the North, West and East aspects.

2.7 Natural ventilation

- Recommendation to allow ventilation shafts as a way of providing for alternate natural ventilation – will help with the acoustic standards for RFB's on the highway.

2.9 Visual Amenity

- The alternative design solutions under Section 2.9 Visual Amenity state that *“On constrained sites where it can be demonstrated that building layout opportunities are limited, provide fixed louvres or screens to windows or balconies where required to provide privacy.”* Good design should provide visual amenity through effective physical and spatial planning. Provision of fixed louvres or screens to provide privacy is not a best practice design approach and should not be encouraged or specified in the ADG.

Part 3 – Environmental considerations

3.1 Energy efficiency

3.2 Water

- Parts 3.1 and 3.2 – the changes are positive and are supported. The formulation of the controls are well considered.

Appendices

Appendix 1 – Application requirements

- Where designers are demonstrating compliance, the example guides should encourage a mix of words and diagrams.
- Suggestion that the Design Verification Statement Template be updated to include a column to nominate/identify if the ADG Design Criteria is being used, or if an alternative solution is being used

Alternative Design Responses throughout the ADG

- The revised ADG enables alternative solutions to those in the ADG that may better suit the needs of the local area and the site. While this approach paves way for greater innovation in design, it will also require detailed negotiations and justification on how the alternative solutions better suit the needs of the local area and the site. In the absence of an overall guiding framework for assessing the alternative solutions and limited Council resources and capacity, this approach can also make DA assessment a more subjective and time consuming process leading to significant delays.

- There is concern that there are alternative design responses included throughout the ADG, particularly where these alternative design responses detail specific design options/methods or specifically support departures from the design criteria. (for example, 2.1 Common Circulation, the alternative design response notes although 8 apartments is preferable, where this is not possible consider 12 apartments as the maximum number accessed from a circulation core on a single level)
- By the ADG specifically detailing methods and acceptable departures, it significantly weakens the design criteria. It risks the alternative design responses outlined throughout the document becoming the quasi criteria that developments need to comply with – as by nominating them in the ADG they are seen as ‘accepted’.
- The ADG should set the design criteria, and then it is up to the applicant to demonstrate why they can’t meet the criteria and provide an alternative design solution which is specific to the context of the development and site.
- It is recommended that all alternative design responses are removed from the guide.

5. The proposed new Urban Design Guide (UDG)

Objective 3 – Compact and diverse neighbourhoods connect to good amenity

Objective 3 states that “ *Minimum gross residential densities of 30 dwellings per hectare are provided: — in and around activity centres within 5 minutes’ walk of neighbourhood shops, neighbourhood centres or local centres — within 10 minutes’ walk of strategic and metropolitan centres, regional towns and cities — within 10 minutes’ walk of high-frequency public transport. The minimum average gross residential density is 15 dwellings per hectare if not called out in the neighbourhood catchments above.*”

- Further clarification is required around the basis of the minimum density requirements as stated under this objective.
- As stated elsewhere in this submission as well as Council’s submission on the EIE, it is a concern that the introduction of baseline residential density targets could lead to planning proposals using this as justification to seek up-zoning or increases in height and floor space ratio that are incompatible with existing and intended future local character or are inconsistent with Councils LSPS and Housing Strategy in terms of timing or location of additional housing. Achieving a minimum residential density in itself will not guarantee a vibrant urban area or high amenity. Concern is raised that a residential density target is a generic blanket ‘one-size fits all’ control which does not take into account local context or character, and may lead to a monotonous building type (e.g. all of the same building type across the area subject of the planning proposal) in order to meet the density requirement.
- **It is recommended that the density targets be removed, as Councils are best placed to determine appropriate residential densities through Housing Strategies.**
- There are also concerns around considering this objective during the assessment of planning proposals, as they are unlikely to have this level of detail. Consideration must be given throughout the UDG of the differing levels of detail between development applications and planning proposals.

Objective 7 – Walking and cycling is prioritised, safe and comfortable for people of all abilities

- This objective discusses prioritising direct walking and cycling route over car trips, but in figure 26, the cycleway is not shown as being prioritised over cars. Figures and diagrams should reflect the intent of the text.

Objective 8 – Parking is minimised, adaptable and integrated

- 8.1 “*Multistorey car park structures may be suitable in built-up urban areas and in suburban or town centre locations, where parking can support public transport patronage, such as near train or bus stations*” conflicts with the following paragraph in

8.2 “Reduce parking for private vehicles close to transport hubs, and strategically place car share and cycle parking at key hubs to increase their catchment.”

- It is Recommended that these two design guidance points be amended to ensure speak to each other.

Objective 12 – Public open space is high quality, varied and adaptable

- The alternative design solution outlines that consent authorities may consider the provision of publicly accessible private open space, provided it is accessible to all, free of impediment at all times of day and appropriate management and maintenance is provided.
- There are concerns with private open space being considered as counting towards the provision of public open space. This goes against the definition of public open space being publicly owned. Appendix 2 sets out very detailed criteria about what can and can't be considered in the calculation of public open space, and strict criteria that dual use land cannot exceed more than 10% of the total provision of public open space.
- It is recommended that, if the UDG is going to allow the consideration of private open space (so long as it meet the criteria of being publicly accessible and free of impediment at all times of day) as part of the calculation of public open space, then it should also be subject to a limited percentage of the total provision of public open space – 10% or even lower.

Alternative Design Responses throughout the Urban Design Guide

- There are concerns regarding the inclusion of alternative design responses throughout the UDG, particularly where these alternative design responses detail specific design options/methods or specifically support departures from the design criteria
- By the UDG specifically detailing methods and acceptable departures, it significantly weakens the design criteria. It risks the alternative design responses outlined throughout the document becoming the quasi criteria that developments need to comply with – as by nominating them in the UDG they are seen as 'accepted', whether they are an appropriate outcome for a specific site or not.
- The UDG should set the design criteria, and then it is up to the applicant to demonstrate why they can't meet the criteria and provide an alternative design solution which is specific to the context of the development and site.
- Recommendation that all alternative design responses are removed from the guide.

Design verification statement

- The ADG and UDG require the preparation of a Design Verification Statement providing detailed justification on how the proposed development is consistent with the 5 Design principles and the corresponding 33 design considerations as well as the objectives of the UDG/ADG. The multilayered language of the SEPP could make this entire process overly complex and onerous.

6. Updates to residential sustainability (BASIX)

Proposed higher energy and thermal comfort targets

The higher BASIX energy and BASIX thermal comfort standards are noted as positive and necessary steps towards a planning and development framework for net zero dwellings.

This submission supports these higher targets, but also notes a number of other elements (below) that leave significant gaps in the ability of the policy package to meet the net zero objective and the D&P SEPP design principles and design considerations.

Historical climate data for thermal comfort standards

- The proposed BASIX framework does not incorporate projections of near and medium term temperature rise trajectories from global heating.
- It is noted that during the proposed BASIX Q&A session run by DPIE, the department responded to this point by stating climate data for projected temperature increases is not incorporated into the new BASIX framework, and instead, existing NatHERS climate files are adopted – response which appeared to imply alignment with current NatHERS climate data was prioritised.
- While harmonisation with the relevant parts of NCC has benefits, it is noted that the department has chosen to go above proposed NCC requirements in other areas where it has identified a significant shortcoming in the NCC requirements and a strong community benefit in going above them – the proposed provisions for electric vehicle charging readiness are one such example.
- Also, it is noted that failing to build for near and medium term temperature rise, appears inconsistent with the D&P SEPP proposed Design consideration 22 - resilience and adapting to change, and that such buildings will fail to provide occupants with the suitable thermal comfort levels as temperatures increase in the next 5 to 20 years.
- Research undertaken by Randwick, Woollahra and Waverley Councils (*Future Proofing Residential Development To Climate Change*), has demonstrated that use of historical climate data by the current BASIX framework, produces buildings that fail to provide appropriate levels of cooling thermal comfort in the near future (to 2030) and beyond (to 2070) – due to the trajectory of rising temperatures in the Sydney region. For example, thermal comfort cooling loads increased by an average of 70% for all dwelling types to 2030, and thermal comfort cooling loads increased by an average of 308% to 2070.
- It is Recommended that a requirement be included for climate files used in NatHERS, BASIX or any other modelling tool eligible for use under the D&P policy package to be grounded on future climate projections (e.g.2030, 2050, 2070) to ensure all residential development approved today, is safe for the future, hotter climate.

Provision for review and update of the BASIX standards

- The provision of regular review and update of the BASIX standards is a positive and important measure to ensure that the standards are updated to a level that provides the highest net benefit to the community. Our submission supports this provision.

Mechanical heating and cooling of common areas

- The existing BASIX online documentation states that mechanical conditioning of common areas in RFBs is currently excluded from the BASIX thermal comfort assessment, and it is unclear if this has been addressed in the D&P SEPP updates to BASIX. As mechanical conditioning within the common areas of RFBs represents large portion of the common area energy footprint, there is a need for this to be addressed in the D&P BASIX updates (if it has not already been resolved under the existing BASIX framework).
- It is Recommended that a requirement be included to ensure that mechanical conditioning of common areas in class 2 buildings is assessed as part of the BASIX thermal comfort standards.

7. Design Review Panel Manual for Local Government (DRPM)

Which projects go to a design review panel?

- The list provided is only the development applications. There is no mention of planning proposals (required to be referred to panel under S9.1 Ministerial Direction). Additionally, 268D of the Regulations proposes that Design Review Panels may also review Draft LEPs, DCPs, masterplans and other planning policy documents. The manual and templates are focuses only on DAs – with no mention of planning proposals or other matters that the Design Review Panel may provide advice on.
- It is recommended that, if the intention is that Design Review Panels consider matters other than DAs, the manual and templates be updated to include consideration of this.

Part one – understanding design review panels

1.1 When does design review by a local panel take place?

- This section notes that most projects will require 2 or 3 design review panel sessions. If this is the intention, then it will be a significant time and cost burden to Council to arrange and assess each time a project is considered by the panel, and noting that the costs Council can charge a proponent will not cover all the costs of the panel.

Part two – establishing a local design review panel

2.2 Roles and responsibilities

- Figure 2 outlines that the panel members are engaged by the local Council. The draft Regulations outline that the panel members are appointed by the Minister. There is a need for clarification whether Council will get any input into the Design Review Panel members. As stated on page 6 of this submission, Council currently has an existing panel of external Urban Designers who provide advice at Pre-DA and DA stage. The existing panel of Urban Designers have local knowledge of area and Councils LEP/DCP controls which is essential to be able to provide design advice.

2.3 Costs

- This section notes that fees Council can charge the proponent will be set by the EP&A Regulation, and that the fee paid by the proponent will not cover all the costs of establishing and managing a design review panel. **Fees charged should cover the costs of the panel.**

Part three – design review panel operations

Figure 4: Design review panel preparation and follow-up outlines the timeframe and process for the proponent submission of documents and the issuing of Design Advice Letter.

- The figure outlines that the Design Advice Letter will be provided to the proponent within 14 days of the Design Review Panel meeting. This 14 day timeframe after the panel meeting is again set out on p.23 Template design review panel terms of reference. This is contradictory to what is currently drafted in the Regulations, which outlines that the advice needs to be provided within 14 days of a request:

“268D Functions of design review panels - (3) A design review panel must provide advice under subclause (1) b from a person seeking to make a development application or a consent authority. “

This needs to be clarified and made consistent – whether the intention is that panels will provide advice within 14 days of a request from a proponent to review the development, or within 14 days of the Design Review Panel meeting.

Submitted on Thu, 24/02/2022 - 14:17

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

1.1 NAME

First name

Terry

Last name

Tredrea

I would like my submission to remain confidential

No

1.2 INFO

Email

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Suburb/Town & Postcode

LANE COVE

Please provide your view on the project

I am just providing comments

Submission file

[design-and-place-sepp---exhibition-comments-from-lane-cove-council.pdf](#)

Submission

Kindly find attached Lane Cove Council's submission on the draft Design & Place SEPP.

Regards

Terry Tredrea

Strategic Planner

Lane Cove Council

I agree to the above statement

Yes



Lane Cove Council

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Ms Kiersten Fishburn
The Secretary,
NSW Planning and Environment
Locked Bag 5022,
PARRAMATTA NSW 2124

Date: 28 February 2022
Doc Ref: 7866/22

Dear Ms Fishburn,

Re: Proposed State Environmental Planning Policy (Design and Place) submission

Council thanks the NSW Department of Planning and Environment for the opportunity to comment on the proposed draft *State Environmental Planning Policy (Design and Place) 2021* (DPSEPP) and supporting guides.

A number of the proposed amendments are supported, including most notably the amalgamation of the State Environmental Planning Policy No 65 (Design Quality of Residential Apartment Development) 2009 and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004, which aims to place 'the sustainability, design quality, beauty and vibrancy of places at the forefront of development.'

Council is particularly supportive of:

- updating the Apartment Design Guide (ADG) including criteria, guidance and prescriptive measures;
- creating the Urban Design Guide (UDG), including five Components and 19 Objectives;
- mandating appropriate design evaluation from Design Review Panels (DRP);
- setting clear environmental sustainability targets; and
- revising the Building Sustainability Index (BASIX).

Notwithstanding Council's support for the above, there are issues which are **not fully supported**. Further elaboration or modification is called in regard to the following:

- *Alternative solutions*

"Alternative solutions" permit a flexible application by the ADG; i.e. design verification is now assessed against the Objectives of the ADG (rather than solely against prescriptive measures), so that "alternative solutions" might be deemed to meet the Objectives, even if not the numerical values.

While this is already an established practice in development assessments, the Objectives of the ADG and UDG contain ambiguous terms like "sustainable" landscaping for communities, "ample daylight", and even "privacy". While recognising the value of Design Solution examples provided, these terms require clear definitions within the design criteria and guidance.

- *Connecting with Country Framework*

Principle 1 supports development that demonstrates "an appropriate response to context and local character (including *Connecting with Country* for specific large-scale projects)". It is noted that the D&P SEPP Overview states that:

“The need to acknowledge the cultural significance of Country from an Aboriginal perspective is outlined in the Aims of the DP SEPP. For State significant development over 1 hectare, the design verification statement for master plans will need to verify how Country has informed the design, in 3 specific ways” (p22)

However, the Framework itself states that its current focus is on delivering “government infrastructure including building projects such as roads, transport, and major public facilities”.

Although it will also examine “what the long-term opportunities might be for *all* built environment projects across NSW”, the Framework is still a draft, being piloted on 8 public projects at present, and should not be mandated at least until pilot investigations are complete.

- *Relocating matters to the UDG*

By removing some matters of consideration from the ADG to the UDG to apply only to larger scale developments (over 1 hectare), such matters are likely to be ignored by developments under 1 hectare. This includes matters such as “local character”, “block patterns”, and “precincts”. This is despite the possibility that such matters are of some relevance to developments below 1 hectare. Therefore, it is suggested that proponents of developments of all scale be reminded to consider the UDG, even for proposals under 1 hectare, to decide if these larger issues are relevant matters.

- *‘20-minute neighbourhood’*

No clear evidence or justification has been provided” for practical targets for public space and tree canopy, walking distances to clusters of services, for density and for housing diversity”, that supports the 20-minute neighbourhood.

- *Design Review Panels*

The Ministerial Direction “*Design Principles and considerations*” 2022 seeks to ensure that the design principles of the proposed *Design and Place SEPP* (DPSEPP) and the objectives of the proposed *Urban Design Guide* are considered early in the planning process. It mandates that a Design Review Panel’s advice is received, considered and integrated.

However, as an outcome of the Ministerial Direction “*Statement of Expectations*” 2021, Local planning panels (including Design Review Panels) have been omitted from the proposed Rezoning Reforms, especially at pre-lodgement stage. Council is further restricted in time to consult local planning panels in order to make a decision on a proposal within the 90 days mandated. The potential conflict between Ministerial Orders should be resolved.

- *Changes to BASIX standards*

Council has made a separate submission on the Department’s proposed changes to the State Environmental Planning Policy (BASIX).

Council would welcome the opportunity to expand and detail any aspect of this submission. Should you wish to further discuss anything raised, please contact on 9911 3610.

Yours faithfully,

Mark Brisby
Executive Director, Environmental Services

Submitted on Mon, 28/02/2022 - 18:14

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

1.1 NAME

First name

Cameron

Last name

Jewell

I would like my submission to remain confidential

No

1.2 INFO

Email

jewellc@liverpool.nsw.gov.au

Suburb/Town & Postcode

Liverpool 2170

Please provide your view on the project

I support it

Submission file

[submission---design-place-sepp.pdf](#)

Submission

See attachment

I agree to the above statement

Yes

Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2150
Submitted via Planning Portal

Dear Sir / Madam

Re: Draft Design and Place State Environmental Planning Policy (DPSEPP)

Thank you for the opportunity for Liverpool City Council to make a submission on the DPSEPP.

Council supports the goal of elevating good design in the planning system, and the consolidation of SEPP 65 – Design Quality of Residential Apartment Development and the BASIX SEPP into the DPSEPP. The DPSEPP represents an opportunity to improve the built environment, leading to positive health, amenity, environmental and economic outcomes. However, while Council supports the SEPP in principle, there are some proposed changes that will work to reduce amenity of residents which Council does not support, and other areas where further clarification is required.

Detailed comments are provided at **Appendix A** where changes or further clarifications are requested. A consolidated list of all recommendations is provided at **Appendix B**.

Please note that, as discussed with the Design & Place SEPP team, this submission represents a staff position on the DPSEPP as there has not been sufficient time provided to meaningfully engage the newly elected Council and provide a Council-endorsed submission. Following consultation with Council, an additional or amended Council-endorsed submission may be provided following the 28 February deadline.

Should you require any further information on this matter, please do not hesitate to contact Cameron Jewell, Senior Strategic Planner on 02 8711 7862.

Yours sincerely,



Lina Kakish
Manager Planning & Compliance

Appendix A: Detailed Comments

Draft Design and Place SEPP

Flexibility provisions

Regarding flexibility, the present drafting of the SEPP may lead to some design criteria not being addressed appropriately.

Division 1 24(2)(a) and Division 3 30(2)(a) Part 30 (2)(a) of the SEPP indicate that development meets objectives of the Urban Design Guide and Apartment Design Guide, respectively, by:

(a) meeting the applicable design criteria, to the extent possible, and the design guidance set out in the Apartment Design Guide, or

(b) an alternative solution that the consent authority considers achieves a neutral or more beneficial outcome than meeting the design criteria and design guidance set out in the Apartment Design Guide.

Having 'to the extent possible' is not considered necessary given that part (b) provides for alternative solutions in instances where a particular design criterion cannot be met, and that part 3(a) requires flexible application of the design criteria.

Including 'to the extent possible' allows for a situation where a design criterion is not met, and there is no requirement to provide an alternative solution that provides a neutral or better outcome. This undermines application of design criteria. There is also no definition of what 'to the extent possible' means practically in assessment.

Throughout the process of engagement on the SEPP, it has been indicated that alternative solutions to design criteria in the Urban Design Guide (UDG) or Apartment Design Guide (ADG) could be proposed if they provide better place-based design outcomes for a particular development.

Documentation provided during exhibition states: "*Applicants will need to make the case for these alternative solutions. To demonstrate the alternative is a better design outcome for the relevant site and context (i.e. is place-based), the designer will need to verify how options and design review advice were considered and the preferred solution arrived at, in the design verification statement.*"

However, the SEPP as drafted allows for alternative solutions that provide 'neutral' outcomes. Council believes that alternative solutions should only be permissible where it is demonstrated to provide better place outcomes for a particular development. The ability to present a 'neutral' alternative solution undermines application of the design criteria and will be burdensome on development assessment staff to assess effectively. It has been put forward by DPE that flexibility and alternative solutions have been allowed as ways to encourage innovation and creativity. Innovative and creative approaches should provide better than neutral outcomes.

Council also requests further information as to the application of flexibility provisions and cost-benefit analysis, including worked examples of how flexibility provisions are reducing costs while providing neutral or positive planning outcomes. There is a risk to health and amenity of residents if trade-offs that are not equivalent are allowed, or if the flexibility provisions are interpreted in a way that allows development that is close to but does not meet minimum design criteria or guidance.

Resourcing

While Council is supportive of a planning system that encourages innovation, with appropriate variations encouraged to provide improved amenity and place outcomes, this comes with a significant burden on Council development assessment staff and other decision makers. DPE should commit to providing training resources and/or funding to upskill relevant staff.

UDG triggers

Clause 6.1 of the SEPP identifies sites greater than 1Ha in area as 'Urban Design Developments'. Whilst this is acceptable for a broad spectrum of development across the state, additional triggers for applicability of the UDG should be put in place to cover multi-lot developments and detached housing that have more than 20 dwellings being proposed on a small parcel of land under 1Ha in size.

Similarly, in Clause 34, 'Application of Design Review Panel', it is recommended that development applications for multi-lot developments and detached housing that have more than 20 dwellings proposed on a small parcel of land (i.e., less than 1Ha in size) should also be considered by the Design Review Panel.

Exempt and Complying Development

It is noted that the DPSEPP does not apply to development under State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP), and that changes to complying development standards will be considered as part of the DPSEPP's ongoing monitoring and review.

A review of controls in the Codes SEPP must be undertaken as a matter of urgency. A review is well overdue and needs to be conducted as a parallel process, not only to align with the objectives of the SEPP, but so it too can align with the principles of the Greater Sydney Region Plan (GSRP), Western City District Plan (WCDP) and the Minister's Planning Principles.

Liverpool Council has significant greenfield growth areas, and much of the development of the LGA is taking place in land release areas. However, there is limited control over planning outcomes in these areas, with the majority of residential development approved as complying development under the Codes SEPP. Dwellings approved under a complying pathway generally cover most of their respective lot, lack appropriate provision of private open space and space for tree canopy, and are unresponsive to site conditions and context. A review is required as a matter

of urgency to ensure there is not a stark disparity in design outcomes between complying and development assessment pathways.

It is noted that the Codes SEPP and Standard Instrument – Principal Local Environmental Plan (2006) (Standard Instrument LEP) will be amended to limit solar absorptance of roofs in order to address poor urban heat outcomes, and this is strongly supported. Council suggests that the definition for what constitutes a dark roof in BASIX be reviewed to align with that in the National Construction Code, i.e., 0.6, and that this measure is what is progressed.

Green infrastructure

Under Clause 20, it is recommended the clause be revised to ensure preference is given to the preservation of existing green infrastructure (such as mature trees) over newly installed green infrastructure (such as new plantings) where possible, particularly where there are immediate benefits. Mature tree removal is often justified based on an assumption that new plantings will adequately compensate for their loss. This leaves a short-to-medium-term deficit in canopy cover. Given the draft SEPP only notes maintenance for the first 12 months, it also risks suboptimal outcomes for new plantings that may never compensate for the loss of mature vegetation. Clause 20 should also include a requirement to respond to existing natural and landscape features of the site (similar to Clause 16(b)). There should also be a requirement to consider the long-term management of green infrastructure (e.g., maintenance, ownership, protection).

Futureproofing

Clause 22 – ‘Design consideration – resilience and adapting to change’ does not identify any measures that would ensure the development is adapting to change (e.g., provision for futureproofing of multiple uses at ground level).

Recommendations:

1. Amend the SEPP to remove ‘to the extent possible’ from Division 1 24(2)(a) and Division 3 30(2)(a).
2. Amend the SEPP to remove ‘neutral or’ from Division 1 24(2)(b) and Division 3 30(2)(b).
3. Provide further information and worked examples as to the functional application of flexibility provisions.
4. Commit to developing training resources or funding to upskill development assessment staff in applying the design criteria and guidance.
5. Provide additional triggers in Clause 6.1 to account for multiple (>20) developments on sites under 1Ha.
6. Commit to an immediate review of the Exempt and Complying Development SEPP to align with the State’s strategic planning framework.

7. Align the BASIX classification of 'dark' roof solar absorptance to align with the NCC, i.e., 0.6, and progress changes that restrict roofs with a solar absorptance >0.6.
8. Amend Clause 34 to account for multiple developments (>20) on sites under 1Ha.
9. Amend Clause 20 to ensure preference is given to preservation of existing green infrastructure over newly installed green infrastructure.
10. Include a provision in Clause 20 requiring green infrastructure to respond to existing natural and landscape features (as in Clause 16(b)).
11. Include a requirement to consider the long-term management of green infrastructure.
12. Include a provision in Clause 22 to address future-proofing of development.

Draft Urban Design Guide

Council supports the development of the UDG and the associated Ministerial Direction that would require planning proposals to demonstrate consistency with the UDG. There are, however, several elements that require further consideration or clarification.

Public open space

In Objective 12, the open space metric of 15% net developable land does not adequately consider high- and very-high-density development. It has been noted that additional guidance may be provided for high density development. There is reference to development of over 20 dwellings per hectare in the UDG, but Council currently has planning proposals where development is proposed at a density of 300-400 dwellings per hectare. In these instances, 15% open space may be insufficient, particularly in areas with historic open space deficits. Further guidance and worked examples should be provided, and it should be made clear in the UDG – as it has been made in engagement workshops – that councils are able to propose to rezone more land as public open space to meet local open space requirements. This is particularly important for large-scale high-density urban renewal projects.

The 'Alternative Design Solution' for public space also allows for consent authorities to consider the percentage of open space criteria being met by an existing open space outside the development boundary. This provision may lead to sub-optimal outcomes for the development itself. It is recommended that a much stronger criteria/guidance is provided for considering such circumstances by the consent authority, such as reference to any open space needs analyses for the area, and additional requirements for revitalisation/improvements works to be undertaken by the development for the existing open space.

The metric for shading – '20% of the public open space, and public squares and plazas, is protected from direct sunlight on 21 December' – needs to define a period for which this metric needs to be met, such as from 9am-3pm, as is the case for solar access.

Part 2 – Public Space: Objectives 12, 13, and 14 speak to the varying nature of public space, however design criteria for Objective 12 only identifies provisions for parks. It is recommended that other types of public spaces (e.g., plazas and civic squares) are included as part of design criteria.

Heritage considerations

The design objective Part 2: 1.3 – ‘Identify and protect significant Aboriginal heritage and environmental values (tangible and intangible)’, recommends protecting and conserving significant Aboriginal heritage values and environmental features within the public realm. It is considered that the objective should not be limited to only the ‘public realm’ but expanded to apply throughout the development. Development should also acknowledge ‘Trans-national and Migrant Heritage’ and incorporate features/elements to promote, conserve and enhance such heritage value.

Walkable neighbourhoods

In Part 2 – Objective 5: ‘Walkable neighbourhoods are vibrant and productive’, it is unclear whether the design criteria requires homes to be located within 15-20 minutes of all items in the list, or just one of these. If it is the intention is for homes to be located near all of the items listed under ‘Walkable neighbourhoods’ – which Council supports – it is recommended that ‘and’ be added before ‘a supermarket or grocery store’ to avoid confusion.

Ranges in design criteria

Further clarification should be provided on the design criteria, and other design criteria, where there is a minimum or maximum range specified i.e (15-20 minutes). In this instance, clarification is required as to whether Council can require development to meet the lesser range. There is no reason to include a range unless Council can indicate the appropriate minimum/maximum in particular contexts.

Mid-block connections

In Part 2 – Objective 7, the design criteria for ‘Mid-block Connections’ should also identify minimum widths for mid-block connections to enforce a minimum benchmark and achieve better design outcome for development.

Canopy, tree retention and deep soil

In Part 2 - Objective 4: Design guidance 4.1, it is recommended that control measures such as Asset Protection Zones be located in developed land, not land to be managed as a reserve, to minimise potential land use conflicts (e.g. limiting planting and vegetation retention opportunities within reserves).

In Part 2 – Objective 10, the design criteria for street tree canopy target should provide guidance on the area considerations for calculation of the 40% canopy target (i.e., entire street width or the carriageway, etc.)

Part 2 – Objective 10: Design guidance 10.1 identifies prioritising retention and protection of trees over removal/replacement. It is recommended that additional guidance on replenishment/replacement of trees be provided (e.g., a minimum of 2-3 trees for every 1 tree being removed on site).

Part 2 – Objective 10: Design Guidance 10.2 speaks to supporting urban tree canopy with deep soil. It is recommended that additional guidance on deep soil requirements is provided as part of the objectives. A reference to Apartment Design Guide could be considered. It is also unclear how tree canopy and suggested deep soil targets can be ensured at the subdivision stage for detached and semi-detached dwellings, particularly as the ADG does not apply and much development is pursued through a complying development pathway.

Dwelling diversity

Under Part 2 – Objective 15, it is unclear how Council is to aim to achieve fewer than 30 per cent detached dwellings in areas of 15 dwellings per hectare (gross) or greater where a development application involves only subdivision. The UDG does not apply to development applications for individual dwellings. Including building envelopes at subdivision stage might be considered.

Definitions

Consistency of the definitions used in each guide is recommended. For example, 'tree' is defined differently in the Apartment Design Guide and Urban Design Guide.

Ensure that all terms used to specify areas included/not included in the 15% public open space provision are consistent and defined. Text in column 1 of page A7 indicates that natural areas of bushland and waterways, including linkages and foreshores (creeks, rivers, lakes, wetlands, beaches) are included (amongst others). However, column 2 indicates that drainage swales, detention basins, large waterbodies, biodiversity protection areas (which isn't defined) and protected riparian corridor buffer zones are excluded (amongst others).

Recommendations:

13. Provide guidance and worked examples of appropriate open space provision for high density projects.
14. Clarify that councils may choose to require more RE1 land be zoned as part of planning proposals.
15. Provide further criteria/guidance around instances where external open space may form part of the open space calculation. Note additional requirements such as upgrades that may be required.
16. Provide a period for which the 20% shade on 21 December metric must be met.

17. Update design criteria for Objective 12 to include other forms of public space, such as plazas and civic squares.
18. Expand design objective Part 2: 1.3 to apply throughout the development rather than solely the public realm.
19. Include trans-national and migrant heritage as a consideration.
20. Amend design criteria wording for walkable neighbourhoods to make clear development needs to be located near all types of development in the list – add 'and' before 'a supermarket or grocery store' to avoid confusion.
21. Clarify whether Council can indicate an appropriate design criteria rate in instances where the UDG indicates a range as a minimum or maximum.
22. Revise the design criteria for mid-block connections to also identify minimum widths for mid-block connections.
23. Amend Part 2 - Objective 4: Design guidance 4.1 to provide control measures such as Asset Protection Zones on developed land to minimise potential land use conflict
24. Provide additional guidance on replenishment/replacement rates of trees in Part 2 – Objective 10: Design guidance 10.1
25. Provide guidance on deep soil requirements, including reference to ADG.
26. Consider how guidance around achieving fewer than 30% detached dwellings can work in practice, particularly considering circumstances where a development application only involves subdivision.
27. Ensure consistency of definitions in UDG and ADG, and ensure terms used throughout guides are properly defined.

Draft Apartment Design Guide

Council supports a revision of the Apartment Design Guide (ADG). However, there are some elements that require further consideration.

Referencing

Part 1: The draft Apartment Design Guide identifies reference numbers for the objectives, however design guidance under the relevant objectives do not have numbers for cross referencing. It is recommended that all relevant design guidance is provided with a number system for ease of cross-referencing.

Building separation

The current ADG does not account for the large increase in clustered very tall apartment buildings. For buildings taller than 24 storeys, a separation of 28-30m is more appropriate to preserve amenity, including the ability to provide for deep soil planting and trees to reduce urban heat island effect while increasing privacy, sun access and overall ground plane comfort.

Residential floor height

Figure 1.2.8 identifies the recommended floor-to-floor height to promote flexibility of uses, however, the dimension for residential habitable floor (2.7m) should be 2.7m clear height instead of 2.7m floor-to-floor height as indicated. This should be amended.

Green infrastructure

In Section 1.5 Green Infrastructure, the design guidance for 'tree canopy' recommends replenishment of canopy through sufficient new tree planting as best practice. Additional guidance on replenishment/replacement of trees is highly recommended, as suggested under comments on the Urban Design Guide.

Under 'tree and plant species selection', "suitable endemic species" should be amended to read "suitable native species" or "suitable indigenous species". The term "endemic" should be revised throughout all guidance as this includes potential invasive species.

Communal open space

In Section 2.2 – Communal Space, the design criterion for provision of communal open space (8m² per dwelling) is inequitable as it should not be the same for a studio/1-bedroom unit versus a 3-bedroom unit. Consideration of a more equitable calculation based on habitable rooms is recommended. The design criteria should also clearly identify communal open space provision as minimums.

The move to a per dwelling metric for communal open space was intended to respond to occupant needs appropriate to density, as explained in the Explanation of Intended Effects (EIE). Capping communal open space at 25% and making additional communal space optional will lead to higher density environments having significantly reduced amenity. In these high-density situations it should not be optional to provide additional space above 25%, as either communal outdoor space or communal indoor space.

Apartment mix and diversity and apartment configuration

Under Section 2.3 – Apartment mix and diversity, the ability for apartments to include a habitable study room that is not counted as a bedroom for the purposes of calculating minimum apartment size undermines the non-discretionary design standard for minimum apartment sizes (Section 2.4 – Apartment configuration). Under the proposed changes, a bedroom-sized study room could be included in a one-bedroom apartment, effectively creating a two-bedroom apartment under 60m², as opposed to a minimum 70m² for a standard two-bedroom apartment. It is anticipated that the proposed change will result in a reduction in minimum apartment size by stealth. This will

effectively reduce the amenity of apartment development, which is against the intentions and objectives of the SEPP.

The change also has serious implications for Council's Section 7.11 local contributions plans, which are levied depending upon the number of bedrooms per development. Including habitable study rooms that are likely to be used/marketed as bedrooms will lead to underfunding of necessary local infrastructure to support the local population, which will have a deleterious effect on public domain and local amenity, against the intentions and objectives of the SEPP.

It is strongly recommended that the ADG be amended to include a maximum study room size that discourages the study room being used as a bedroom. Alternatively, study rooms should be counted as bedrooms for the purpose of calculating minimum apartment sizes.

The EIE stated that the outcome of government research on increasing Livable and adaptable apartments would inform the draft SEPP, however no increase has occurred. Clarification is requested regarding the outcome of feasibility testing of increased Livable and adaptable apartments.

Energy efficiency

Under Section 3.1 Energy efficiency objectives, the use of the terms "where possible" and "where practical" results in these objectives being more discretionary than other objectives. It is recommended that tighter language is used to ensure the objectives are adhered to. There is sufficient flexibility written into the SEPP to consider alternatives or situations where objectives can't be met without the use of discretionary language in the objectives themselves.

Biodiversity guidance

At Appendix 2 – Site and Context Analysis, under 'biodiversity', reference to local Council GIS resources should be removed as there are many other suitable sources for biodiversity surveys and mapping (e.g. regional mapping, consultants).

Recommendations:

28. Provide a numbering system for design guidance to enable easy cross-referencing.
29. Provide a building separation of 28-30m for buildings greater than 24 storeys.
30. Amend Figure 1.2.8 to reference clear height, rather than floor-to-floor height for the residential habitable floor.
31. Provide additional guidance on replenishment/replacement rates of trees, as indicated in the Urban Design Guide recommendations.
32. Change 'suitable endemic species' to 'suitable native species' or 'suitable indigenous species' in Section 1.5. Revise use of 'endemic' throughout all guidance.

33. Amend the calculation of communal open space to a metric based on bedrooms, rather than dwellings, e.g., 4m² per bedroom.
34. Revise guidance to indicate that provision of communal open space above 25% is not optional, and can be provided as indoor communal space.
35. Include a maximum study room size to discourage use of study rooms as bedrooms. If not, include study rooms as bedrooms for the purposes of calculating minimum apartment size.
36. Provide clarification as to the findings of research into increasing Livable and adaptable apartments, as referenced in the EIE.
37. Revise Objectives 3.11 and 3.12 to remove discretionary language “where possible” and “where practical” to ensure objectives are adhered to.
38. Remove reference to Council GIS resources under the ‘Biodiversity’ section of the Site and Context Analysis in Appendix 2.

Draft Local Government Design Review Panel Manual

The Draft Design Review Panel manual provides templates on Panel’s Terms of Reference, Agenda, Design Advice Letter and Design Review Report. It is unclear whether the templates are mandatory for adoption or are being provided as guidance. It is recommended that a note highlighting the applicability of the templates is included as part of the Appendices.

It is acknowledged in the manual that the fees Council can levy as part of the Regulations may not cover costs. Given the financial challenges councils have experienced during the Covid-19 pandemic, further clarification of how the Department plans to assist Councils in carrying this burden is requested.

Recommendation:

39. Clarify applicability of Design Review Panel manual templates.
40. Clarify how the Department plans to assist councils in meeting the financial burden of expanded Design Review Panels.

Cost-benefit analysis

For transparency and probity, the cost-benefit ratios (CBRs) for all tested options should be provided to understand the impact of the flexibility provision. There is no reason why the CBRs for each tested scenario should not be publicly provided.

Additionally, a full evaluation of Option 1 and Option 2 should be released, including information on how all costs and benefits have been accounted for, a breakdown of cost and benefit estimates, and acknowledgement of uncertainties and costs/benefits not able to be assigned a monetary value.

Recommendation:

41. Provide CBRs for all tested scenarios listed in cost-benefit analysis.
42. Provide detailed evaluation of Options 1 and 2.

Appendix B: Consolidated recommendations

Design and Place SEPP

1. Amend the SEPP to remove 'to the extent possible' from Division 1 24(2)(a) and Division 3 30(2)(a).
2. Amend the SEPP to remove 'neutral or' from Division 1 24(2)(b) and Division 3 30(2)(b).
3. Provide further information and worked examples as to the functional application of flexibility provisions.
4. Commit to developing training resources to upskill development assessment staff in applying the design criteria and guidance.
5. Provide additional triggers in Clause 6.1 to account for multiple (>20) developments on sites under 1Ha.
6. Commit to an immediate review of the Exempt and Complying Development SEPP to align with the State's strategic planning framework.
7. Align the BASIX classification of 'dark' roof solar absorptance to align with the NCC, i.e., 0.6, and progress changes that restrict roofs with a solar absorptance >0.6.
8. Amend Clause 34 to account for multiple developments (>20) on sites under 1Ha.
9. Amend Clause 20 to ensure preference is given to preservation of existing green infrastructure over newly installed green infrastructure.
10. Include a provision in Clause 20 requiring green infrastructure to respond to existing natural and landscape features (as in Clause 16(b)).
11. Include a requirement to consider the long-term management of green infrastructure.
12. Include a provision in Clause 22 to address future-proofing of development.

Urban Design Guide

13. Provide guidance and worked examples of appropriate open space provision for high density projects.
14. Clarify that councils may choose to require more RE1 land be zoned as part of planning proposals.
15. Provide further criteria/guidance around instances where external open space may form part of the open space calculation. Note additional requirements such as upgrades that may be required.

16. Provide a period for which the 20% shade on 21 December metric must be met.
17. Update design criteria for Objective 12 to include other forms of public space, such as plazas and civic squares.
18. Expand design objective Part 2: 1.3 to apply throughout the development rather than solely the public realm.
19. Include trans-national and migrant heritage as a consideration.
20. Amend design criteria wording for walkable neighbourhoods to make clear development needs to be located near all types of development in the list – add ‘and’ before ‘a supermarket or grocery store’ to avoid confusion.
21. Clarify whether Council can indicate an appropriate design criteria rate in instances where the UDG indicates a range as a minimum or maximum.
22. Revise the design criteria for mid-block connections to also identify minimum widths for mid-block connections.
23. Amend Part 2 - Objective 4: Design guidance 4.1 to provide control measures such as Asset Protection Zones on developed land to minimise potential land use conflict
24. Provide additional guidance on replenishment/replacement rates of trees in Part 2 – Objective 10: Design guidance 10.1
25. Provide guidance on deep soil requirements, including reference to ADG.
26. Consider how guidance around achieving fewer than 30% detached dwellings can work in practice, particularly considering circumstances where a development application only involves subdivision.
27. Ensure consistency of definitions in UDG and ADG, and ensure terms used throughout guides are properly defined.

Apartment Design Guide

28. Provide a numbering system for design guidance to enable easy cross-referencing.
29. Provide a building separation of 28-30m for buildings greater than 24 storeys.
30. Amend Figure 1.2.8 to reference clear height, rather than floor-to-floor height for the residential habitable floor.
31. Provide additional guidance on replenishment/replacement rates of trees, as indicated in the Urban Design Guide recommendations.

32. Change 'suitable endemic species' to 'suitable native species' or 'suitable indigenous species' in Section 1.5. Revise use of 'endemic' throughout all guidance.
33. Amend the calculation of communal open space to a metric based on bedrooms, rather than dwellings, e.g. 4m² per bedroom.
34. Revise guidance to indicate that provision of communal open space above 25% is not optional, and can be provided as indoor communal space.
35. Include a maximum study room size to discourage use of study rooms as bedrooms. If not, include study rooms as bedrooms for the purposes of calculating minimum apartment size.
36. Provide clarification as to the findings of research into increasing Livable and adaptable apartments, as referenced in the EIE.
37. Revise Objectives 3.11 and 3.12 to remove discretionary language "where possible" and "where practical" to ensure objectives are adhered to.
38. Remove reference to Council GIS resources under the 'Biodiversity' section of the Site and Context Analysis in Appendix 2.

Draft Local Government Design Review Panel Manual

39. Clarify applicability of Design Review Panel manual templates.
40. Clarify how the Department plans to assist councils in meeting the financial burden of expanded Design Review Panels.

Cost-benefit analysis

41. Provide CBRs for all tested scenarios listed in cost-benefit analysis.
42. Provide detailed evaluation of Options 1 and 2.

Submitted on Thu, 24/02/2022 - 15:44

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

1.1 NAME

First name

Simina

Last name

Simaki

I would like my submission to remain confidential

No

1.2 INFO

Email

simina.simaki@maitland.nsw.gov.au

Suburb/Town & Postcode

Maitland 2320

Please provide your view on the project

I support it

Submission file

[mcc-response-to-dp-sepp-draft.pdf](#)

Submission

Please find Maitland City Council's response to the Draft Design and Place SEPP attached.

I agree to the above statement

Yes

Phone Enquiries: (02) 4934 9790
Simina Simaki
Senior Urban Designer

24th February 2022

NSW Department of Planning,
Industry and Environment
NSW Planning Portal

Dear Sir/Madam,

RE: DRAFT DESIGN AND PLACE SEPP

Thank you for the opportunity to comment on your proposed Draft Design and Place package.

Maitland Council supports efforts by the Department of Planning, Industry and Environment to promote good design in NSW through the principle-based controls proposed in the Design and Place SEPP (DP SEPP) and associated guidance. The package will be a positive addition to the NSW planning system. We would like to make a number of suggestions for the improvement of the package.

We would like to suggest that the application of the DP SEPP is either simplified or additional guidance or advisory notes are released to explain its application. This should also be extended to the application, thresholds and requirements of each of the guides.

The DP SEPP's requirements for consultation with Aboriginal stakeholder will create additional pressure on stakeholders and agencies. This should be offset through the provision of support, financial incentives and additional resources. This support should not be provided at the expense of local government.

The bulk of our comments relate to the Urban Design Guideline (UDG). The UDG will help set the expectations of the industry and will support council staff in enforcing standards at the DA stage. This is anticipated to create better design outcomes throughout the LGA. There were some provisions however, which Council staff believe may not be achievable in Maitland. An inability to enforce these provisions may undermine the application of the UDG. For example:

- Tree canopy targets of 35-50% will be difficult for us to enforce, considering that parts of our LGA currently achieve canopies of 7%. As we are working on a strategy to incrementally improve our tree canopy, a note referring to local provisions could be beneficial.
- Although higher densities are very desirable for certain areas, the prescribed residential density of minimum 15 dwellings per hectare (gross) is not desirable as a

blanket density. It does not take into account that much of our LGA is currently not well serviced by public transport or local shops, or that the immaturity of our medium density housing market means that some typologies may not be economically feasible. A blanket density may therefore discourage development. This Design Criteria can be retained as a standard where other controls don't exist but local provisions, which can take a more granular approach to density, should be able to override it.

- Achieving 4 hours of sunlight to 50% of public spaces in mid winter, while also providing tree canopy and shade in summer may be very difficult to achieve in smaller public spaces, or in more built-up areas. Consider a less onerous provision for small public spaces or spaces in urban settings.

In places, the UDG would benefit from better definitions or more detailed explanation of terms. For example, the term “comfort” or “comfortable” has been used throughout the document to refer to heat (ie thermal comfort), a feeling of enclosure (as in a street or public space), safety, or distance (as in a comfortable walking distance). Without definition or explanation, the relevant design criteria and guidance may be difficult to implement and applied consistently.

In many places the UDG should be more specific and provide measurable or qualitative outcomes to illustrate what good practise looks like.

There were some provisions however, which Council staff believe may not be achievable in Maitland. An inability to enforce these provisions may undermine the application of the UDG. For example:

- Tree canopy targets of 35-50% will be difficult for us to enforce, considering that parts of our LGA currently achieve canopies of 7%. As we are working on a strategy to incrementally improve our tree canopy, a note referring to local provisions could be beneficial.
- Although higher densities are very desirable for certain areas, the prescribed residential density of minimum 15 dwellings per hectare (gross) is not desirable as a blanket density. It does not take into account that much of our LGA is currently not well serviced by public transport or local shops, or that some medium density typologies may not be economically feasible. A blanket density may therefore discourage development. This Design Criteria can be retained as a standard where other controls don't exist but local provisions, which can take a more granular approach to density, should be able to override it.
- Achieving 4 hours of sunlight to 50% of public spaces in mid winter, while also providing tree canopy and shade in summer may be very difficult to achieve in smaller public spaces, or in more built-up areas. Consider a less onerous provision for small public spaces or spaces in urban settings.

More guidance is also requested around what is considered a “mix of lot types and sizes” or a “range of lot sizes”. Often, we see a uniformity of lot sizes in subdivision proposals since they represent the most profitable product. Design criteria would be beneficial that categorises ranges of lot sizes, or which sets out a required mix of lot sizes similar to the ADG section on apartment mix.

The UDG, ADG and BASIX should go further to ensure the provision of infrastructure for electric vehicles, including electric bicycles. This should include battery storage and protection for the electrical grid, particularly during peak demand.

Please find attached Maitland Council's full response to the Draft Design and Place SEPP package.

If you wish to discuss these comments, please contact Simina Simaki, Senior Urban Designer, Strategic Planning on 02 4934 9790.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'MP', with a stylized flourish extending from the bottom right.

Matt Prendergast
Group Manager Planning and Environment

Comment	Reference	Page no
Theme: DP SEPP application		
The application of the SEPP and its various guidances is very complex. This table (and another table shown in the webinars) helps to explain the application and requirements, but does not cover enough development types. Please simplify the application of the SEPP or provide additional guidance that covers open spaces, subdivisions, multi-residential development, apartment complex under 1ha etc.	Table 2: how the DP SEPP applies to various development types.	13
Theme: Heritage		
Does the Design Verification consider heritage issues, and if so who is the qualified designer that will write it? Noting that Culture, character and heritage relate the design principles of the DP SEPP.	Design skills and design review.	10
Sensible to have provisions which can take into account heritage values.	A5 Amendments to other instruments/ Dark roofs with SA higher than 0.7 may be allowed in certain circumstances such as heritage-listed items.	12
In Conservation Areas there may be particular density patterns, and there may be specific low density requires for development in the vicinity of a heritage item.	Density provisions.	16
Are there incentives here to promote reuse of existing buildings from a sustainability perspective?	Updating BASIX and alternative pathways.	17
Theme: Design review		
Given Design Review takes place pre DA, what are the implication where planning assessment requires other specialist reports (ie archaeology) which require a design response?	DP SEPP in the planning system.	15

Comment	Reference	Page no
Theme: Consultation		
Note that State Significant projects only involve Aboriginal stakeholder consultation. This highlights the need for Council to develop policy around other levels of projects (could this form part of the RAP).	Application of the DP SEPP/ for State significant development, explanation of how projects respond to Country and inputs from Aboriginal stakeholders.	11
If there is an expectation for Aboriginal stakeholder consultation, what support and resources are available to facilitate this considering local Aboriginal agencies already stretched?	B9 Connecting with Country.	22
Theme: Sustainability		
Why are EV charging stations only available to and required to visitor parks? Should be higher level of availability to residents, particularly for new complexes.	C3 Sustainability in on-residential buildings / Table 7 EV requirements / Apartments, residential aged care.	30
Retail centres should offer high percentage of EV ready parking spaces, in addition to a % of charging stations given prime opportunity to utilise commercial facilities.	C3 Sustainability in on-residential buildings / Table 7 EV requirements / Offices and retail centres.	30
Does the emissions calculator include reusing existing building stock - this can be an important incentive to retain existing buildings within Conservation Areas or incorporate as part of a redevelopment.	C3 Sustainability in on-residential buildings / Table 8 EES.	30

Comment	Reference	Page no
Theme: DP SEPP application		
Clarification required - does all new public space need to be designed by a qualified landscape architect? The SEPP applies to all of NSW, with minimum thresholds for the application of the UDG and the ADG. Is there a minimum threshold for public space (noting the definition of public spaces to include streets, pocket parks, plazas etc).	17 (a) The consent authority must be satisfied of the following: for development involving new public space - the public space is - (i) located to maximise equitable access by the public, and (ii) located on land that is fit for purpose, and (iii) designed by a qualified landscape architect.	9
Suggest this section includes the design guidance, as per the ADG: clause 30(2)(a) "Development may meet the objectives of the Apartment Design guide by: meeting the applicable design criteria, to the extent possible, and the design guidance set out in the Apartment Design Guide". There are only 8 design criteria in the UDG, so there are 10 objectives which will rely on guidance in enforcement.	24(2)(a) Development may meet the objectives of the Urban Design Guide by: meeting the applicable design criteria set out in the Urban Design Guide, to the extent possible.	12
To give status to the assessment guidance, suggest this section reads: "in determining whether development meets the objectives of the Urban Design Guide, the consent authority must: apply the design criteria and the assessment guidance set out in the Urban Design Guide flexibly and consider alternative solutions"	24(3)(a) In determining whether development meets the objectives of the Urban Design Guide, the consent authority must: apply the design criteria set out in the Urban Design Guide flexibly and consider alternative solutions"	12
Theme: Definitions		
Does this definition preclude development on main streets? Main streets might constitute the main public space in established towns.	6 Meaning of "urban design development"	5
A number of terms appear in the UDG glossary which are also used in the SEPP (eg "amenity", "thrive", "walking distance"). Will the same definitions apply? Suggest terms are defined in the SEPP so they apply consistently to all the documents.	12(1)(a) To deliver beauty and amenity to create a sense of belonging for people.	8
"Comfortable" and "accessible" should be articulated and defined. Are there standards for comfort and accessibility? Does "comfortable" include "safe"?	15(c) The consent authority must consider whether... for development that includes open space - the open space is accessible, comfortable and enables pedestrian circulation.	9

Comment	Reference	Page no
Theme: Consultation		
To achieve this, consultation is key. However it needs to be backed by providing necessary resources to establishing staff training, agreements and protocols for consultations.	3 (1)(i) to recognise the importance of Country to Aboriginal people and to incorporate local Aboriginal knowledge, culture and tradition into development.	4
Theme: Design		
Consider adding that building detailing should be appropriate to its use.	14(c) The consent authority must consider whether overall... the detailing of the buildings and spaces respond to the appropriate visual distance at which the buildings and spaces are observed and experienced.	9
Theme: Heritage		
Consider adding the following as a design principle: "To acknowledge and build on contribution of heritage precincts in defining sense of place"	12 Design principles and design considerations	8
Consider adding "and heritage significance within Heritage Conservation Areas".	14(a) The consent authority must consider whether overall... the scale, massing and siting of the building respond appropriately to the desired character of the surrounding area.	9
There should be reference to retaining and complementing the heritage significance of identified Heritage Conservation Areas.	16 Design consideration - culture, character and heritage.	9
Theme: Safety		
Suggest adding that public spaces should also be safe.	17 Design consideration - public spaces and public life.	9
Theme: Transport		
Suggest adding built fabric destinations such as public transport, retail areas and schools to the list of connections in 17(d).	17(d) The consent authority must be satisfied of the following:... the development contributes to connectivity between existing and proposed landscape corridors, public spaces and walking and cycling networks near the site.	9

Comment	Reference	Page no
Theme: Ecology and vegetation		
This section needs to mention wildlife corridors instead of landscapes to ensure that we capture the concept of connectivity for fauna and that corridors are actually functional for a maximum number of species. Also need to reference local to regional corridors.	17(d) The consent authority must be satisfied of the following:... the development contributes to connectivity between existing and proposed landscape corridors, public spaces and walking and cycling networks near the site.	9
Consider adding a reference to canopy targets, including providing ample shade for summer?	19 Design consideration - sustainable transport and walkability.	10
Most designs retain a minimum of existing green infrastructure if any at all. They also include some restoration or regeneration of natural systems. Should some standards be enforced like a minimum level of retention? Should there be a reference to canopy targets from the guidelines including a baseline cover so we don't start from 0% canopy cover? Achieving 40% canopy cover from 0% may take decades.	20(a) The consent authority must consider the following - (a) whether the development retains or improves existing green infrastructure and contributes to the restoration and regeneration of natural systems.	10
Trees need several years to establish, maintenance should be at least 24 months, not 12 months. Contingency needs to be put in place for replacement of green infrastructure if it fails.	20(c) The consent authority must consider the following... Whether new and existing green infrastructure will be appropriately managed and maintained during at least the first 12 months.	10
Theme: Resilience		
This section needs to define "natural hazard" and include specifically reference to urban heat- is urban heat considered a hazard? Heat wave is considered a natural hazard but weather can be uncomfortable without being considered a heatwave as heat stress is exacerbated by humidity levels which are not considered in heat waves.	22(a)(i) The consent authority must be satisfied that the development is resilient to natural hazards by - incorporating measures to - avoid or reduce exposure to natural hazards.	11

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: DP SEPP application				
Overall, the UDG is a positive addition. It will go a long way to supporting our work and reinforcing practices that we have been trying to implement for a long time.	Overall			
Suggest that design criteria are numbered for ease of use and reference.	Overall			
Theme: Definitions				
Definitions are needed for endangered ecological communities, threatened species or their habitat, wildlife corridors and linkages etc.	4	AG	Areas of high ecological value have been mapped and are protected.	30
What constitutes comfort needs to be defined, with reference to shade, urban heat and canopy targets.	7	Objective	Walking and cycling is prioritised, safe and comfortable for people of all abilities.	40
Regional open space needs to be defined more carefully. The definition should explain if it's an open space that caters for an entire region or is it an open space in a regional area (ie not a metropolitan area). There needs to be a way to assess whether an open space is a "regional open space" or whether it's over 5ha, otherwise the same canopy targets should apply as for open spaces over 5 ha.	10	DC	Tree canopy targets	50
The appendixes are very useful and explain some of the terminology and concepts behind the UDG. They can be leveraged to explain terms which were called out as too vague or needing definition.	Overall - Appendixes			
The definitions of small park, local park, district park and regional park appear throughout the UDG but seem to be defined in the Draft Greener Places Guide. Reference should be made to the Greener Places Guide so the definitions are easy to find.	5	DC	Public open space accessibility	34

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Urban structure and density				
Local density provisions (eg the LHS or LEP provisions) take into account the different circumstances of each neighbourhood (including connections to services, transport and amenities). Local provisions should therefore prevail over a blanket density. Suggest adding "or in Local Council strategies" at the end of the sentence.	3	DC	The minimum average gross residential density is 15 dwellings per hectare if not called out in the neighbourhood catchments above.	26
Unclear how this will apply to subdivisions which are already in the pipeline. The current DCP controls do not provide for such measures. Will subdivisions which are now receiving their DA approvals will need to be retrofitted?	3	DC	Minimum gross residential densities of 30 dwellings per hectare are provided.	26
In residential subdivision the developer is focused on the ability to provide the product, get an easy sale and walk away. This new provision is good, but how it works in practice will be a challenge, ie. diversity of housing (they are not interested in facilitating medium density), local centres, commercial opportunities (child care), etc.	3	DG3.1	Deliver a clear hierarchy of activity centres of varying scales and roles that is mutually productive.	26
This is good, but how do you assess against future development, or is the first developer hamstrung? Sequencing will be a challenge in how this is assessed (the site versus the precinct/locality). More detailed master planning will be required to drive outcomes, considering the disparate ownership in some greenfield areas.	3	Alt design solutions	If individual blocks are not capable of meeting a density target of 20 dwellings per hectare, the development proposal needs to demonstrate the average gross residential density across the area defined in the design criteria is capable of exceeding the target.	28
Identify uses which should be co-located (objective 13) (eg parks near schools, cafes near child care centres and high usage open space, medium density resi near open spaces) to create meeting places and synergy between the land uses.	12	DG12.1	Locate public open space to be visible and connected.	61

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Urban structure and density (cont.)				
More guidance is required around what is considered to achieve "a mix of lot types and sizes" or "a range of lot sizes". Applicants try to argue they are producing lot diversity with schemes that deliver 70% 40-550m2 lots and 30% 550-650m2. Design guidance that breaks down lot sizes into brackets would be very beneficial, as would target ranges for these lots sizes (similar to the new ADG section on apartment mix). Guidance could also hinge on the delivery of different housing typologies.	15	AG	A mix of lot types and sizes is provided that supports a range of building types.	72
	15	DG15.3	For lot patterns in residential areas, include a range of lot sizes, orientations, and access arrangements to deliver a mix of building types and tenures, both across neighbourhoods and within each block.	
Examples would be useful to understand how flexibility can be achieved over time in subdivisions and what features are beneficial to this.	15	DG15.2	For large-scale lot subdivisions, produce a consolidated master plan for the location that can support the involvement of multiple developers and designers in creating diverse built form that supports flexibility over time.	73
Theme: Transport				
Please ensure this is consistent with the neighbourhood density under objective 3. Currently not convinced the intentions are compatible.	5	DC	Walkable neighbourhoods	34
Agree with the intent, however we have a long way to go to reach this objective in Maitland. Current designs create a predominance for vehicles and at speed, which contradicts the promotion of a shared space. Often there are no footpaths, forcing residents to negotiate the roadways where vehicles drive at speed. More design solutions are required such as chicanes and the like, four way stop sign intersections, etc to encourage vehicles to drive at a slower speed. DG 7.2 and 7.3 are a good start.	7	Objective	Walking and cycling is prioritised, safe and comfortable for people of all abilities	40

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Transport (cont.)				
Mid-block connections should be well designed so that they prioritise wayfinding and safety. The design guidance should elaborate on what is considered good practise including that they should be: clearly public in perpetuity; wide, short and straight so that the exit is visible from the entry; well lit (without being a nuisance to nearby residents); well signposted; accessible, particularly to those who are mobility impaired, wheelchair users, prams, bicycles etc; footpaths should be paved and should be located so that adequate deep soil zones are available for tree planting.	7	DC	Mid-block connections and through-site links for pedestrians are provided no more than 130 m apart within walking catchments of key destinations such as centres, public open spaces, transport nodes and schools.	40
Ensure shade trees are provided along pedestrian and cycle routes for amenity and health / well-being. This will also contribute to wildlife corridor and habitat.	7	DG7.2	For all streets, either new or adapted, give priority to pedestrian movement over cars. Point closures (e.g. bollards) are an inexpensive method of maintaining the character of open street networks while prioritising direct walking and cycling routes over car trips.	40
At subdivision stage it is assumed that one dwelling will be developed per lot, however where dual occupancies dominate, issues arise with increased on-street parking.	8	DG8.1	Integrate parking into urban form.	42
Some criteria within the UDG are based on time (eg 10 min walk) and some are based on distance (eg 800m). Please amend these so they are consistent, or provide a table for standard conversions between time and distance controls. Should a development want a variation to this table, they are welcome to suggest an alternative (eg walking times may be longer for an aged care development).	12	DC	Public open space provision.	60

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Design				
Encourage porous pavements and set a canopy cover target for carparks. Shade can also be provided through the installation of solar panels.	8	DG8.1	Surface parking is not suitable in centres or dense urban areas. Where surface parking is provided in suburban or office-park environments: — provide adequate trees, landscaping and permeable surfaces.	42
Guidance should include ways to improve thermal comfort, for example by orienting streets east-west and planting trees to maximise shade in summer and maybe solar access for winter.	9	DG9.2	Use green infrastructure to mediate poor sensory experiences, such as integrating landscape features and planting to absorb noise and manage air quality.	48
Theme: Heritage				
This is a positive inclusion.	1	AG	Heritage buildings and significant landscape qualities are integrated into the development.	18
This section should include the need to understand what buildings and spaces are contributory within a Heritage Conservation Area; and the need to undertake heritage assessments and conservation planning for individual structures when required.	16	AG	Adaptive re-use of heritage buildings is considered. Historical street patterns are considered and reinstated where possible.	74
This section should include the need to incorporate interpretation into new developments within historic precincts.	16	DG16.2	When designing new developments in and around existing heritage buildings and places, respect or integrate historic lot layouts, street patterns, streetscapes and landscapes into the design.	74

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Open Spaces				
Need to encourage multi use space including passive/nature-centric recreation including space for bushland restoration volunteering, birdwatching, community gardens etc.	1	DG1.6	Ensure a clear and logical network of high-quality public open space, incorporating existing open space and including natural and movement components.	21
Suggest this criteria is cross-checked with the DC in objective 5. While this DC seems to suggest that all commercial and residential development should be within 200m of a small park, the DC for objective 5 requires only high density residential to be within 200m of a small park. This may become confusing and contradictory.	12	DC	Public open space provision: For all development, deliver open spaces of varying sizes within walking distance of all residents and workers	60
Please clarify if this should exclude tree canopy (ideally this will have a relationship with the DC above). If tree canopy can be used for shade, there should be a minimum density of shade, since some trees (eg figs) cast denser shade than others (eg eucalypts).	12	DC	Solar access and shading for public open space: 50 per cent of the public open space, including public squares and plazas, has sunlight access for a minimum of 4 hours between 9am and 3pm on 21 June, demonstrated by shadow diagrams.	60
Note that this will be very difficult to achieve, particularly in built up areas. If it's seen as not achievable it may in time become ignored. Suggest the guidance is varied for smaller or for urban public spaces.	12	DC	Solar access and shading for public open space.	60
Assume this 200mm distance is referred to as the "buffer space" in objective 13 on page 64. Please clarify if this is the case and refer back to objective 13 and the alternative solution on page 64.	App 4		As a minimum, 200m should be provided between a building edge and the clear footpath width.	107

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Ecology and vegetation				
Need more information around what is considered significant vegetation and what suitable retention targets should be.	1	AG	Areas of ecological importance and significant vegetation are retained, enhanced and connected.	18
"Prioritise" is a good start but without enforceable standards, developers are likely to clear sites so they can start with a blank slate.	1	DG1.2	Prioritise natural elements to define the shape and structure of new elements in places. This includes using bushland and waterway corridors as the backbone of green infrastructure in public space.	19
Great suggestion but too broad. Everywhere is an ecological area.	1	DG1.2	Protect ecological areas.	19
This can be difficult to achieve when lots are too small to plant trees. Consider adding a minimum lot size criteria, or guidance around averaging provision of green infrastructure over a larger area so that larger lots can offset the lack of green space provided by smaller lots.	1	DG1.5	Provide opportunities for contiguous green infrastructure within private space, such as contiguous rear setbacks or larger landscaped lots (e.g. using Environmental Living zoning).	20
Again, needs definition of both buffers and sensitive ecological areas. Buffers need standards for width and composition.	4	DG4.3	Provide buffers to sensitive ecological areas.	31
Need to add biodiversity targets such as retention targets and establishment of connectivity (wildlife corridors) and multi layered vegetation where it is not conflicting with the principles of CPTED.	9	DG9.1	Use green infrastructure to improve human health and biodiversity.	48
Need more specific guidelines including timing, minimum pot size and species including ratio of endemic native to non endemic native and exotic. Also choice of species should prioritize large, long lived and climate resilient species.	9	DG9.1	Provide trees and landscaping in public spaces as early as possible to establish long-term amenity.	48
This section has a heavy reliance on streetscape planting. Noting soil and climate conditions it is difficult to sustain plantings to maturity and achieve the required coverage. Over time trees in the public domain which die are removed and not replaced.	10	DC	Tree canopy targets	50

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Ecology and vegetation (cont.)				
Tree selection is also an issue with damage to infrastructure over long term noting the coverage minimum.	10	DC	Tree canopy targets	50
<p>The criteria should be expanded to cover:</p> <ul style="list-style-type: none"> - All land zones (currently it doesn't apply to B1 or B3 zones, for example); - Open spaces over 5ha without sports courts; - Regional open spaces; - New streets with overhead powerlines (even if they are rare, a "catch-all" clause is needed so that developers are not accidentally incentivised to create new streets with overhead powerlines) and - Existing areas to be retrofitted. 	10	DC	Tree canopy targets	50
Canopy targets should consistent with the Greener Neighbourhoods Guide targets. Note the on grade car parking requirement for one tree every 5th space on page 38.	10	DC	Tree canopy targets	50
The wording and/or weight of this guidance should be stronger to ensure it is followed. Removing the trees should be the last resort, but it's often done in the name of site levelling, cost and expediency. Mature trees are replaced with young trees which do not provide the same environmental benefit.	10	DG10.1	Prioritise the retention and protection of existing tree canopy over removal and replacement of trees to achieve canopy cover.	52
When is the canopy measured? We can't measure it at maturity because maturity may take decades and this would mean that there is a net loss in canopy for the years the tree is growing. Councils would be have to keep track of a "theoretical" canopy cover which is different to the actual measurable canopy. Measuring at maturity would also make it hard to measure compliance and would encourage developers to plan very young trees which are more likely to die.	10	DG10.1	<p>When setting a canopy target for large development:</p> <ul style="list-style-type: none"> - ensure no net loss on the existing canopy baseline - account for the opportunities of each development. 	52

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Ecology and vegetation (cont.)				
There is a long held agreement between NSW councils and service authorities which governs the location of services in public street verges. This agreement is known as the "Streets Opening Conference". Does this need to be renegotiated or can the DP SEPP overrule this agreement?	10	DG10.2	Minimise barriers to tree growth by consolidating below-ground services and aligning them to paths, removing overhead cables and powerlines, and creating buffer zones.	52
There is a need for a minimum standard width and stricter regulations to provide more space for planting. "Exploring opportunities" will likely result in business as usual and the implementation of a minimum width that only allow for small trees to be planted.	10	DG10.3	Explore opportunities for increased continuous undisturbed soil profiles along green infrastructure corridors and in streets with generously planted verges (green streets).	53
There should be specific canopy targets for these spaces.	12	DG12.3	Maximise tree canopy in spectator areas for sports fields and courts and along walkways and cycleways.	62
This guidance is supported as it would enable Council to renegotiate agreements with utilities providers that set the location of utilities. It would ultimately allow us to create more room for street trees.	13	DG13.3	Ensure new streets can achieve mature tree canopy by integrating consolidated (co-located) services and locating powerlines underground.	65
Rear setbacks work well (particularly when combined with adjoining lots) but are not safeguarded against construction such as pools, sheds, etc.	15	DG15.4	Scale rear or front setbacks to cater for deep soil where appropriate to support mature trees.	73

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Resilience				
There should be standards for stormwater runoff and WSUD. Often a detention basin is all that's considered in terms of WSUD. There should be some standards for incorporating other WSUD including porous pavement, and combining stormwater infrastructure with tree planting such as rain garden and bioswales. this may have its place in the DCP or MoES instead.	1	AG	Waterways and water-sensitive urban design elements have been integrated into the green infrastructure framework.	18
Need other specifics such as integrating tree planting within the stormwater infrastructure.	1	DG1.7	Establish a large-scale water cycle management strategy to retain more water in the landscape and to manage stormwater and water quality. Provide a network of interconnected measures such as wetlands, detention, bioretention and water-sensitive urban design measures including urban swales and passive filtration, and support urban greening.	21
Agree with this and suggest it should be given more weight. Currently there is a lot of concrete within stormwater infrastructure (to prevent Cumbungi from growing) and our detention basins are managed through regular slashing which kills amphibians and destroys their habitat. We need to set standards to establish stormwater infrastructure that emulates natural semi aquatic ecosystems and requires very little maintenance.	1	DG1.7	Preference natural methods for stormwater control, integrating passive landscape elements and water-sensitive urban design in preference to engineered solutions.	21
This is a good approach, particularly towards bushfire and flooding which are concerns in the Maitland LGA. However it is a bit vague. Please provide additional guidance around what community resilience is and what it means at different scales.	4	DG4.2	Ensure safety and resilience underpin new communities.	31

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Resilience (cont.)				
This guidance should be worded more strongly and be more specific. It should include integrating stormwater infrastructure with tree planting to minimize maintenance requirement and maximize the health of urban canopy.	11	DG11.1	Use water-sensitive urban design elements to support green infrastructure such as wetlands, parks, community gardens, tree canopy, corridors and bioswales to provide habitat and ecosystem services while building resilience and fostering urban cooling.	56
<p>This guidance should be more specific.</p> <p>Additional guidance should encourage artificial wetlands which are better habitats, provide cooling effect and are less maintenance. They create a functional ecosystem and habitat for amphibians that is not disturbed by regular maintenance regime.</p> <p>Dry detention basins that require ongoing maintenance such as slashing should minimised.</p>	11	DG11.2	Slow down the flow of stormwater and provide for cleaning of water on site in preference to piped stormwater infrastructure that can disrupt stream habitats and lead to erosion.	57
This should reference WSUD, bioswales and rain gardens. Ideally, all street trees should be passively watered through integration with stormwater infrastructures.	13	DG13.3	Design or retrofit streets to ensure trees have adequate soil volumes and sufficient dimensions, soil condition and access to water.	65
The urban heat island effect can be reduced with an urban structure that captures (rather than blocks) cool summer breezes. Consider adding a reference to this in this section or under the urban structure objectives.	17	DG17.7	Use of materials that are appropriate for the local area and will reduce urban heat.	79

Comment	Reference			
	Obj no	DC/ DG/ AG	Quote	Page no
Theme: Sustainability				
2% is quite low should be increased to 10-20% and consider how provisioning for parking and charging of electric and in particular autonomous electric vehicles might be factored into public parking spaces - ie running electrical conduit to appropriate locations to allow up to 50% without future earth works.	8	DG8.2	Consider car share parking, with a minimum 2 per cent of all parking spaces provided for car share parking in high-density urban places.	43
Consider how provisioning for parking and charging of electric and in particular autonomous electric vehicles might be factored into public parking spaces - ie running electrical conduit to appropriate locations.	8	DG8.2	Consider car share parking, with a minimum 2 per cent of all parking spaces provided for car share parking in high-density urban places.	43
Consider referring to making provision for future community batteries located adjacent to Kiosk substations.	19	DG19.1	Create opportunities to provide onsite renewable energy generation and storage.	84
Agree with all of 19.3. It would be further supported by working with Transport for NSW for creating engineering guidance that supports the use and market for fit for purpose low embodied energy civil works materials for kerb and gutter, shared pathway (Geopolymer Concretes) road base and road surfaces that incorporate proven recycled materials.	19	DG19.3	Disclose the embodied carbon emissions associated with the development, any commitments to environmental product declarations (EPDs) and Forest Stewardship Council (FSC) certification. Disclose whether a life-cycle assessment has been prepared and any associated data.	85
Theme: Misc				
Note: The automated caption description is incorrect.			Public space title page	58
Small typo: 2,000m written instead of 2,000mm or 2m.	App 4		As a minimum, 2,000 m is recommended for local streets, and 3,200 mm for main streets.	108

Legend: AG = Assessment Guidance
 DG = Design Guidance
 DC = Design Criteria

Comment	Reference		
	Obj no	Quote	Page no
Theme: DP SEPP application			
This is a positive addition.	A2.1	Other key consultants might include environmental and contamination specialists, hydrologists, geotechnical engineers, planners or heritage and interpretation experts.	103
Theme: Design			
This has been a challenge in Central Maitland where existing building have very high floor to ceiling dimensions, and it has been a hard argument for new apartments to match even where preferable from a heritage perspective.	1.2	Building Height: Align floor-to-floor heights of new development with existing built form.	18
This section should include: "Avoid car parking access from main street frontages"	1.4	Residential interfaces	25
The combined living and dining minimum width of 4m for units with 2 bedrooms or more is resulting in living areas for larger apartments that don't allow enough room for a dining table. Please add a requirement to provide a dining area for apartments with two bedrooms or more, or increase the minimum dimensions of combined living and dining room. An area-based minimum can work well with minimum dimension provisions.	2.4	Apartment Configuration	53
To encourage apartments to work for families, minimum requirements should be added for kitchens. Kitchens play an important part in the function of a family - it's where a variety of informal interactions between generations take place, eg where the kids do homework while the parents cook. Often in apartments, the kitchen size and layout is a secondary consideration and usually assumes a single person will be using it at any one time.	2.4	Apartment Configuration	53
For major works to existing buildings, where openings are contributory within HCA's or Heritage Items, continued use of openings is important.	2.7	Natural cross-ventilation	66

Comment	Reference		
	Obj no	Quote	Page no
Theme: Heritage			
This section should also include reference to view corridors within Heritage Conservation Areas and policy identified under existing DCPs.	1.1	Site and context analysis	12
This is a positive addition.	1.2.1	The built form responds to the historic, cultural, and planning context, streetscape and open spaces with appropriate building height, bulk, setbacks, and separation.	14
In some Heritage Conservation Areas the policy aims encourages the reinstatement of verandahs rather than awnings. Please add a consideration for verandah reinstatements where appropriate.	1.4	Awnings and signage	27
This should also apply where fence heights are consistent with standard heights within Heritage Conservation Areas where Private Open Space is located on principle street frontages.	2.5.2	Design and detail private open space and balconies that contribute to the overall architectural form and detail of the building.	56
This section should include that in Heritage Conservation Areas, material and colour palettes should be complimentary to contributory adjacent buildings and the surrounding area.	2.11	Facades	81
This is important also within Heritage Conservation Areas.	2.11	Relate the building facades and roof form to the key datum lines of adjacent buildings by using upper-level setbacks, parapets, cornices, awnings or colonnade heights.	81
This is a positive addition.	2.11	Adaptation of an existing building for a new residential use provides for its repurposing and should be approached in a way that acknowledges the past and respects its sense of place.	82
This is relevant also in the adaptive reuse of heritage structures where upfront identification of contributory fabric is important	3.4	Maximise the retention of existing buildings, structures, materials and landscaping where possible.	93

Comment	Reference		
	Obj no	Quote	Page no
Theme: Heritage (cont.)			
Promote the development of contributory building mapping within HCA's	A2.1	Once a site's unique characteristics and place qualities have been identified and spatially represented, the next step is interpretation of the data to identify the key design strategies that will lead to an optimal outcome.	104
Please add to the checklist: View corridors within Heritage Conservation Areas; heritage items.	A2.2	Site location and wider context	106
This can be particularly important within Heritage Conservation Areas where there is a clear historical and contributory precedents.	App 8	Corner components can be emphasised in the design	137
Theme: Sustainability			
Consider that Electric Bikes may become more prevalent and access to a standard GPO for charging would be required.	1.6	Bicycle parking - Provide bicycle parking for residents which is: undercover and located at ground, first floor or basement or level 1.	36
Strongly support provision of EV charging to each car space. Consideration should be given to future use of Vehicles in a Vehicle to Grid scenario ensuring space allocation for Grid protection etc in main switch rooms.	3.1	Provide EV distribution boards of sufficient size and quantity in each storey of the car park to allow connection for EVs, complete with a charging control system and connection to the main switchboard.	86
Consideration to be given to allocation of space to accommodate battery storage to manage peak demand of the building - location close to main switchboards and or solar PV inverters.	3.1	In all other buildings, rooftop solar collection should be connected to the distribution board that supplied common services and be sized to maximise energy contribution to common services while avoiding the need for export.	86
Theme: Resilience			
Consideration given to being grey water ready in regard to plumbing design guidance and separation of black and grey water prior to entry to the sewer so Grey Water might be diverted - retrofit may not be feasible.	3.2.1	Consider grey or black water treatment to generate additional water suitable for non-human-contact uses; this is particularly suited to larger and mixed-use development.	89

Comment	Reference	Page no
Theme: Sustainability		
Additional Requirements to provide for Electric Vehicle charging Capability 15 Amp minimum to Garage Spaces, but extended to allow for future Vehicle to Grid capacity for the home.	10. Does the proposed higher BASIX standard allow all-electric homes?	pg 6
Encouragement of appliances in particular Air Conditioners that are capable or demand response - AS 4755 Demand Response.		
Further consideration of appropriate locations for battery storage and wiring of homes to facilitate grid islanding for maintaining essential services - Refrigeration and telecommunication services should grid outages occur.		

Comment	Reference
Theme: DP SEPP application	
Unclear whether all councils will now need a Design Review Panel. Will those councils without one need to set one up? If so, by when and will there be financial assistance to do this?	Overall
For smaller or regional councils like Maitland, is there scope to form one Design Review Panel in conjunction with neighbouring councils so resources and knowledge can be shared?	

Submitted on Tue, 22/02/2022 - 11:38

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

1.1 NAME

First name

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Llyan Smith

I would like my submission to remain confidential

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Suburb/Town & Postcode

Moama

Please provide your view on the project

I am just providing comments

Submission

Thank you for the opportunity to provide a submission regarding The Design and Place SEPP 2021

Unfortunately Murray River Council will not be providing a response to the EIE at this time, as we are currently focused on progressing our priority strategic projects and do not have the resources available to review the documentation and collate a response by the nominated deadline. It is disappointing that we have received a suite of reforms to comment upon with overlapping (or the same) feedback deadlines. This timing makes it very difficult to prioritise genuine review and comment on legislation which will impact Murray River Council. We request that in future this aspect be taken into consideration when setting the timelines for legislative review to avoid simultaneous consultation deadlines, and enable meaningful consultation.

Regards, Llyan Smith, Manager Planning Services, Murray River Council.

I agree to the above statement

Yes

Submitted on Mon, 28/02/2022 - 18:04

Submitted by: Anonymous

Submitted values are:

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Please provide your view on the project

I am just providing comments

Submission file

[northern-beaches-submission---draft-nsw-design-place-sepp.pdf](#)

Submission

Please note that the attached submission is currently being reviewed by Senior Management at Northern Beaches Council. Hoping that you will allow this draft and a resubmission tomorrow (29/2/22), should there be any edits to the attached Draft submission.. Can you please confirm this will be possible. Thanks Amanda

I agree to the above statement

Yes

28 February 2022

Department of Planning & Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Our Ref: 2022/097768

[Link to Portal for lodgement](#)

Dear Sir/Madam

Northern Beaches Council Submission on draft NSW Design and Place SEPP

Thank you for the opportunity to provide comments in response to the exhibition of the package of Design and Place State Environmental Planning Policy (SEPP) Reforms comprising draft SEPP, Regulations, Ministerial Directions, Guides and Technical Papers.

Northern Beaches Council (Council) supports initiatives that improve the urban design of buildings, streetscapes and our local areas. As the Northern Beaches continues to grow and change, delivering well-designed and sustainable built environments will help shape the liveability and productivity of our communities. This is particularly relevant for our Strategic Centres at Dee Why, Brookvale, Frenchs Forest, Manly and Mona Vale, where more compact housing forms subject to the Design and Place SEPP may be expected.

Please find attached Council's submission in response to the Department's exhibition.

Should you require any further information or assistance in this matter, please contact my office on Ph: 8495 6415.

Regards



Andrew Pigott
Executive Manager Strategic & Place Planning

Northern Beaches Council Submission on draft NSW Design and Place SEPP

Thank you for the opportunity to provide comments in response to the exhibition of a package of Design and Place State Environmental Planning Policy (SEPP) Reforms comprising draft SEPP, Regulations, Ministerial Directions, Guides and Technical Papers.

Northern Beaches Council (Council) supports initiatives that improve the urban design of buildings, streetscapes and our local areas. As the Northern Beaches continues to grow and change, delivering well-designed and sustainable built environments will help shape the liveability and productivity of our communities. This is particularly relevant for our Strategic Centres at Dee Why, Brookvale, Frenchs Forest, Manly and Mona Vale, where more compact housing forms subject to the Design and Place SEPP may be expected.

The Department of Planning & Environment (the Department) and NSW Government Architect's Office (GANSW) should be commended for delivering reforms which recognise the importance of urban design at an early stage of the planning and development processes. At the same time, Council continues to highlight that the quality of urban design could be weakened if numerical standards are removed and too much reliance is placed on the new 'principles' led approach to design.

This Submission follows Council's submission dated 12 April 2021 in response to the Department's earlier exhibition of an Explanation of Intended Effect (EIE) for these reforms.

Council acknowledges that many of the concerns raised in response to the EIE have been addressed. This submission highlights ongoing issues and concerns with that work and provides further comments on the detailed reforms contained in the draft exhibition documents:

- draft Design and Place SEPP (DP SEPP) 2021
- draft Environmental Planning and Assessment Regulations Amendments (draft Regulation). EP&A Regulation requiring Design Verification Statements and Design Review requirements
- revised draft Apartment Design Guide (ADG), updating guidance primarily for the Development Assessment (DA) stage
- new draft Urban Design Guide (UDG) guiding precinct planning, large-scale development proposals and setting controls
- new draft Design Review Guide (DRG) establishing a consistent process for local design review panels and design quality evaluation; and
- BASIX revisions

Previous EIE comments

Issue: Implementing a place-based approach through State-wide legislation & guidelines could result in "cookie-cutter" outcomes which are inconsistent with local character.

While Council supports place-based and principle-based reform, the proposals to deliver such planning through state-wide planning controls and legislation have the potential to have the opposite effect.

The imposition of state-wide controls such as those proposed for density (see 'Urban Design Guide and Ministerial Direction comments below) are the antithesis of place-based controls. Local character should be at the core of design and place and blanket controls such as those for density should be replaced by targets that are cognisant with local character and enabled through Council's LEPs.

Recommendation: Standardised density controls should be replaced by guidelines or targets that are cognisant of local character. The SEPP principles and design considerations should be amended to better incorporate local character.

Issue: *The adoption of a new principle-based approach in the reforms is misaligned with other elements of the Planning System, potentially resulting in more uncertainty, conflict and costs to councils and developers.*

While it is acknowledged the reforms prioritise consolidating and streamlining policies and guidelines, and a comprehensive place-based approach for larger development sites at the local level; this reform is not supported by broader changes to the *Environmental Planning & Assessment Act 1979* and related instruments.

The recent expansion of complying development provisions and the employment zone “reforms”, whereby the number of employment zones will be reduced and standardised, are clear examples of changes which reduce Council’s ability to take a place-based planning approach. How can the Design and Place SEPP be taken seriously when other, very large parts of the current planning system, operate to work against designing for place?

More substantial reform of the planning system is required for a more effective and integrated principle-based approach with wider consideration and coordination across the entire planning framework.

In isolation the proposed application of a principles-based approach could lead to an increased assessment burden on Council, increased uncertainty for landowners and applicants, and increased time in the Land & Environment Court. Council’s view is that a transparent minimum standard approach is more equitable and appropriate regarding compliance with the principles and a merit-based approach for any non-compliance. This method will be more effective, given how the current planning system operates at all stages (from planning proposals to gateway assessments, to development assessment stages).

Recommendation: A holistic review of the entire planning system is undertaken to ensure the principles-based approach outlined in the SEPP is consistent with other parts of the system. A minimum-standards or “deemed-to-satisfy” approach should be incorporated into the SEPP as it is more transparent and equitable.

Issue: *More locally based cost benefit modelling is required to ensure feasible development outcomes*

In relation to cost-benefit modelling undertaken in partnership with NSW Treasury, Council continues to recommend that the Frenchs Forest Planned Precinct is used as a local case study by the GANSW. This local modelling may better determine if proposed controls will produce feasible development outcomes noting that current planning is based on specific and local floor space ratios, housing typologies and internal rate of return assumptions that may differ from what would result under the DP SEPP.

Council also seeks assurance that the modelling considers the impact on housing affordability, given the increased costs that will result from the implementation of increased design standards, requiring more technical studies, consultant advice and construction costs. Whilst more rigorous design controls are proposed and are strongly supported by Council, this will have a flow-on effect to consumers.

Recommendation: More locally based modelling is undertaken before adopting the SEPP which considers impacts on housing affordability

Issue: *More explicit and better integrated qualification requirements are needed to help planning officers in the assessment process*

The Regulations and DP SEPP require design for development under the UDG to be undertaken by Urban Designers that are either qualified town planners, landscape architect or architect with at least 5 years’ experience in precinct or master planning. This places a significant administrative burden on planning assessment officers to validate qualifications.

Clarification is sought on how assessment officers will evaluate the qualifications of Urban Designers. There is no protection of title law, nor statutory register for the use of the name Urban

Designer, as there is in the case of Architects. The Design and Building Practitioners Regulation 2021 does not include Urban Designers as Design Practitioners. All such practitioners should be included on the Public Register for easy assessment by planning officers. In a recent GAO presentation, it was noted that the professional skills required would align with the Design and Building Practitioners Act 2020, but how this will occur was not made clear.

Further, while the Department has advised that membership of an institute would be required, membership of an institute is not the same as registration under an Act of Parliament, and there is no mandated requirement for Professional Indemnity Insurance for consumer protection.

Recommendation: Urban Designers should be included in the Design and Building Practitioners Regulation 2021 so that planning officers and developers are not required to independently assess their qualifications.

Design and Place SEPP

Issue: The absence of a clear relationship between the SEPP principles and the ADG and UDG will lead to poorer design outcomes.

In the absence of a clear relationship between the SEPP Design Principles with the ADG and UDG the following outcomes are likely:

- increased likelihood of poor design in the approval process,
- increased applications to the Land & Environment Court and legal costs,
- increased resourcing requirements for both applicant and approval authority, and
- increased uncertainty for the applicant, community, and planning authority.

The DP SEPP Design Principles relate more to the UDG than the ADG, resulting in a focus on the public rather than on private building development (under the ADG) in enabling and creating place. To afford a holistic approach to design and place, the principles need to connect to the importance of both Guides and any future housing guides.

While the DP SEPP “Aims” incorporate the significance of Country and Aboriginal knowledge, culture and tradition into development, the proposed principles do not mention Country. Council suggests including a reference to Country in the DP SEPP principles. Council also recommends including some keywords and phrases in the principles defined in the SEPP dictionary, which could save considerable time and legal expense in the Land & Environment Court.

Suggested amendments to DP SEPP principles are included in Attachments to this submission for consideration in dealing with the above issues. Suggested definitions are also included in the Attachment to provide clarity in the use of some of the terms used in the principles.

Recommendation: The draft DP SEPP is amended to provide greater linkages between the UDG and ADG, amended principles and definitions, and a reference to Country in the proposed principles (see suggested changes in attachment).

Issue: Inconsistencies between DCPs and the ADG and UDG must be recognised and addressed.

DPE has advised that the ADG & UDG are to have the same legal weight as a DCP. Greater clarity needs to be provided where there is a conflict between the new Guides and local controls.

As noted previously, the residential density requirements stipulated in the UDG and given power by the Ministerial Direction will be a point of conflict with many LEPs. Clauses 30 and 31 of the DP SEPP continues to provide specific grounds that an Authority cannot use for refusal of development consent. Council is concerned that a greater level of specificity is needed about how these clauses interact with the UDG controls. Controls relating to separation, solar access, visual privacy, natural ventilation should be reviewed to ensure that any masterplan being produced can comply with the ADG.

Recommendation: Clarification is provided in the SEPP that in the event of an inconsistency between the ADG & UDG with a DCP, the ADG and UDG prevail only for the

numeric control for the specific issue (e.g., visual privacy). The DCP numeric control would still be valid for other issues, such as bulk & scale.

Issue: Clarification is required that exclusions from the SEPP are based both on landuse zoning and building classification

The exhibited DP SEPP Overview Document states, 'Other than the BASIX provisions, the DP SEPP will not apply to Class 1A buildings (and for development applications comprising 24 Class 1A buildings or fewer), Class 7a buildings and Class 10 buildings, where they do not form part of a mixed-use development otherwise captured by this SEPP, nor the amalgamation and subdivision of 2 lots'.

Recommendation: Clarification is provided that exclusions from the SEPP are based on both zoning and building classification under the National Construction Code.

Issue: Potential inconsistencies with other SEPPs will result in confusion and increased costs and processing times

DP SEPP clauses 8 & 9 state that in the event of an inconsistency with any other planning instrument, the DP SEPP prevails to the extent of the inconsistency and lists where the DP SEPP does not apply. Councils' earlier Submission about potential inconsistencies with other SEPPs remains relevant, especially given the "principles based" approach adopted by the DP SEPP. There is, for example, potential conflict with the affordable housing principles and objectives in the Housing SEPP and Infrastructure SEPP. It is not clear how the Development Near Rail Corridors and Busy Roads-interim guide, relates to the ADG & UDG.

Recommendation: A holistic review of all SEPPs should be undertaken against the DP SEPP to ensure that the DP SEPP is not inconsistent with these instruments (especially given its principles based approach) and is just another layer of assessment in an already complicated planning system.

Draft Ministerial Directions

Issue: Ministerial requirements for Planning Proposals that give effect to density, connectivity and open space criteria in the draft UDG remove Council's ability to locally determine the criteria appropriate to a place.

Clause 6 of the Ministerial Direction requires a planning proposal for land to which this direction applies to 'give effect to any relevant residential density, connectivity and open space criteria as referenced in the Urban Design Guide'. This clause appears to overrule current LEP density controls and makes it a requirement that all LEPs adhere to the residential densities stipulated in the Urban Design Guide. Clause 7 allows Council to request a variation from the prescribed density, but only by agreement with the DPE. Council opposes the imposition of standardised density controls as Council is best placed to set these standards having regard to local area character.

Recommendation: The draft Ministerial Direction is amended to make the density controls a consideration only for Council when preparing Planning Proposals, not a mandate, to enable consideration of specific characteristics of the place.

Draft EP&A Regulations

Issue: Design Verification statement (DVS) would benefit from more tailored templates to distinguish statements made under either the ADG or UDG

Council considers that separate DVS templates for the individual verification under the UDG and ADG would better serve the specific and different objectives and design guidelines of the 2 guides. Also, having regard to the DP SEPP requirements for specific professional skills, it may also be beneficial for the DVS template to have sections for each profession and verification by each member of a wider and more comprehensive Design Team.

Recommendation: Create separate design verification statements for ADG and UDG.

Issue: The DVS would benefit from the inclusion of drawings and diagrams that illustrate how each criterion has been met to aid the speed and efficiency of assessment

Council submits that the DVS requirements under Part 6 Division 1a of the DP SEPP should include requirements for drawings and diagrams that illustrate how each criterion has been met to aid the speed and efficiency of assessment, and re-assessment. Examples of the types of drawings and diagrams required for each criterion to ease evaluation should be included in the appendix of the ADG & UDG. The development application drawing requirements should be included in the revised EP&A Regulations.

Recommendation: Examples of the types of drawings and diagrams required for each criterion to ease evaluation should be included in the appendix of the ADG & UDG.

Issue: Additional provisions for the proposed Schedule 7 Members and procedures of design review panel in the Regulation may provide for greater ease of assessment

Recommendation: All Council Design Review Panel should be selected from the Design & Building Practitioners public register. This could be included in the new Schedule 7 of the Regulation.

Draft Urban Design Guide (UDG)

Overall, the proposals are welcomed, but the UDG conflates Urban Design, Public Domain Design, & Place. Place goes beyond formal design and includes cultural and economic considerations, and Urban Design is primarily the formal aspect of settlement design. Public domain design is the detailed design of the public domain and includes streets and roads. Council recommends that the UDG addresses the limitation of the planning system, particularly concerning transport and coordination with NSW state transport bodies and SEPP Infrastructure.

The inclusion of tree canopy is welcomed but further practical guidance on how this is to be assessed by Development Assessment Officers is required.

Council recommends that blanket controls are removed, and any density targets are coordinated and enabled through Councils Local Environmental Plan (LEP) and coordinated with local character.

Issue: UDG Aims, Objectives & Design Guidance do not specifically address sustainability and climate resilience

Council supports the intention of the UDG, to deliver sustainable, liveable and resilient urban communities. Council notes that the aims of the UDG make no specific reference to sustainability or climate resilience.

Recommendation: The rationale, aims, objectives and design guidance in the UDG are strengthened/enhanced as per recommendations below:

Aim/ Objective	Comments and recommendations
Third aim; 'takes a strategic approach to urban design, looking beyond site boundaries to positively contribute to place'	<ul style="list-style-type: none">Amend the third aim to state: 'take a strategic approach to urban design, looking beyond site boundaries to deliver sustainable and climate resilient communities and positively contribute to place'
Objective 1. Projects start with nature, culture and public space.	<ul style="list-style-type: none">Under 'Why this is important' include 'enhanced resilience to droughts and climate change'.Include an additional design guidance heading that encompasses protection and regeneration of biodiversity, bushland and waterways'.

	<ul style="list-style-type: none"> Under design guidance 1.7 '<i>Integrate a water cycle management strategy at the neighbourhood scale</i>' include: 'Establish alternate and recycled water harvesting at the neighbourhood scale'
Objective 4. Place-based risks are mitigated and ecological values sustained to ensure resilient communities.	<ul style="list-style-type: none"> Under 'Why This Is Important' include: 'To ensure equity for current and future generations' Ensure design guidance 4.1 'Address, mitigate and respond to risks' refers to both current and future risks especially in the context of climate change. Ensure specific design guidance for urban heat is fully incorporated. It is recommended that the urban heat planning toolkit developed by WSROC is referenced and adopted.
Objective 9. Landscape features and microclimates enhance human health and biodiversity.	<ul style="list-style-type: none"> Include additional heading under design guidance that states 'Natural systems are protected and enhanced'.
Objective 10. Tree canopy supports sustainable, liveable and cool neighbourhoods.	<ul style="list-style-type: none"> Under design guidance 10.1 Enhance tree canopy' – include 'Promote climate resilience and diversity in species selection'. This will enhance resilience to disease and climate impacts such as heat stress.
Objective 18. Built form enlivens the ground plane and activates and frames public space.	<ul style="list-style-type: none"> Under design guidance 18.5 <i>Consider the impacts of material choices</i> - include 'consideration of materials with low embodied energy'
Objective 19. Developments use resources efficiently, reduce embodied emissions, and consider onsite energy production.	<p>Under 'Why This is Important' include:</p> <ul style="list-style-type: none"> 'to deliver on the NSW Government's net zero targets' 'to reduce potential for irreversible catastrophic impacts of climate change.' 'to build climate resilience through improved thermal comfort'. <p>Under design guidance 19.1 <i>Reduce energy consumption and support renewable energy generation</i>' include: 'Reduction of operational emissions through energy efficient, low/zero emission technology and appliances. This includes energy efficient lighting and HVAC, HVAC with low/zero Global Warming Potential refrigerants'.</p> <p>Under design guidance 19.2 '<i>Deliver net zero emissions neighbourhoods</i>' – amend 'Plan for infrastructure that enables the transition from gas to low-emissions intensive options' to ' Provide infrastructure for 100% electric homes to effectively transition away from gas and deliver against net zero commitments and targets.</p>

Issue: UDG – Residential Density Requirement is inconsistent with place-based planning approach

The UDG requires minimum gross residential densities of 15 dwellings per hectare for R1 to R4 zoned land, or 30 dwellings per hectare in and around activity centres based on the following spatial criteria as follows:

- within 5 minutes' walk of neighbourhood shops, neighbourhood centres or local centres, and, or,
- 10 minutes' walk of strategic and metropolitan centres, regional towns and cities,

- 10 minutes' walk of high-frequency public transport,

The application of the above spatial criteria is not based on local character assessment consistent with Council's LEP, DCP or any associated local study, and is at odds with a place-based approach to design.

Recommendation: *The draft Ministerial Direction is amended to make the density controls a consideration only for Council when preparing Planning Proposals, not a mandate, to enable consideration of specific characteristics of the place.*

Issue: *The proposed 1 hectare cut off to applying the ADG appears arbitrary*

It is proposed that the UDG applies to subdivisions of 1 Hectare or more. The subdivision pattern can often have the most significant ongoing effect on design quality. A subdivision that is not appropriate to place, including topography, geography can bequeath a legacy of compromised and bad design for centuries. As one example, in an application for a subdivision in Frenches Forest, the applicant has attempted several times to secure a subdivision on two amalgamated sites. The issue is that an escarpment ridgeline bisects the sites, and because of the insensitivity of the original subdivision, it has created a legacy of compromised design proposals for fifty years.

The caselaw of Parrott v Kiama 2004 set a planning principle as to when it is appropriate to set building envelopes for future development at the subdivision stage if the site is deemed sufficiently complex. This planning principle should be reinforced.

Recommendation: *The planning principle outlined in Parrott v Kiama Council 2004 should be incorporated in the ADG for sites less than 1 hectare, with the Design Review Panel deciding the specific aspects of place that warrant a subdivision masterplan.*

Issue: *It is unclear how the calculation metric for Communal Open Space will coordinate with the metric in the UDG*

It is unclear how newly proposed calculation metric for communal open space will coordinate with the new Open Space metric in the UDG.

Recommendation: *Clarification is provided to ensure the requirements of the ADG and UDG are harmonious.*

Issue: *Additional requirements for drawings and diagrams are appropriate, both generally for the ADG and in preparing DVS'.*

In general Council requests more graphics and case studies to illustrate a holistic approach to design.

Recommendation: *The following illustrations of proposed development are included in the Regulations:*

- ***for street enclosure, multiple long section illustrating the enclosure of the street,***
- ***for street activation, a drawing illustrating the number and position of building entries and windows along the public and private domain interface, and similar diagrams and drawings illustrating compliance.***

Issue: *There are several areas in the UDG where the measurement criteria are unclear.*

An example of where measurement criteria are unclear is the measurement criteria for minimum gross density, which is measured in terms of walking times.

The UDG must ensure walkable neighbourhoods that support improved physical activity and health outcomes for the community. Comfortable walking environments for people requires well designed street and public open space layouts but also a land use pattern and services that support daily life like small parks, schools, supermarkets, green grocers and bus stops are within easy walking distance.

For most people, and in most other urban design guidelines a 10-minute walk (a 20 minute round trip) is the accepted measure. Only infrequently used facilities may be within a 20 minute walk. The design criteria must distinguish between daily needs (up to a 10 minute walk) from other needs (up to 20 minutes). It also requires that walking is safe and easier for local trips than driving, which requires local area traffic management (including speed and pedestrian priority management).

Similarly, what constitutes 'high-frequency' public transport and 'neighbourhood shops'? The UDG must have clear and objectively measurable design criteria to aid efficient assessment, and the quantifiable measures should relate to context.

In establishing criteria and mapping the criteria's applicability, the UDG doesn't appear to integrate with the NSW Government Movement & Place Built Environment Indicators. Integration with the Built Environment Indicators may aid understanding of the applicability and make assessment more efficient.

Recommendation: The release of the UDG should be delayed until the criteria are amended so that they are objectively measurable criteria and relate to context.

Revised Draft Apartment Design Guide (ADG)

Issue: Conflicts between the ADG numeric criteria and Council DCP controls will result in unnecessary costs, delays and conflict in the planning approvals process.

The relationship of ADG criteria to Council's DCP controls must be clear and distinct. For example, an assessment of setback under a local DCP may have distinct objectives, seeking to alleviate certain impacts that are not a consideration in the more generic ADG. In such instances the DCP localised control should not be nullified by ADG standardised criteria.

There are many examples in the Northern Beaches Council area where DCP setback requirements differ from those in the ADG. In the Northern Beaches Council area, DCP setback controls regulate mass, scale, & bulk and are a proxy for density controls. In one recent example at 67 Pacific Parade, Dee Why the LEC upheld the setback in the Warringah DCP over the setback in the ADG. In this example, the specific group of issues a setback control was introduced to alleviate were conflated under the umbrella term 'setback'.

Council is concerned that applicants may shop for the most advantageous control. We believe this will cause uncertainty and confusion and increase costs for applicants, the community, and the Council. It is likely to lead to an increase in applicants choosing to submit to the Land & Environment Court for a merit-based assessment and increased costs and time.

Recommendation: The new DP SEPP clarify that compliance with setback control in the ADG does not nullify a commensurate Council LEP or DCP setback control intended to regulate a different issue(s).

Issue: The assessment of Modification Applications needs to provide a new holistic re-calculation and validation of development against the ADG and UDG numeric controls to ensure efficiency of assessment and maintain design quality

When applications are made to modify an approved development, the assessment of that Modification Application under the ADG and UDG may change the basis of the original calculation for all controls set on a percentage basis. While clause 116 of the Design & Place SEPP requires another design verification statement to accompany Modification Applications, it is unclear if these are to be checked before validation of such an application.

Council cites one recent example of a Modification Application for development at 5 Skyline Place, Frenchs Forest. Notwithstanding that the required numeric controls for the ADG were approved by a panel, a subsequent Modification Application sought to reduce the number of apartments by amalgamation resulting in an even lower level of numeric compliance for certain controls.

Re-calculation of the consolidated modifications against the ADG and UDG is required to ensure efficiency of assessment and maintain design quality.

Recommendation: A process is implemented to clarify validation of Modification Applications in relation to the ADG and UDG so that applications that are not substantially the same development are not validated.

Issue: *Solar Access and Natural Cross Ventilation requirements need further clarity*

The balance between providing solar access to the public domain and good quality northern sunlight to living areas has been an ongoing issue when assessing solar access in the ADG. Similarly, issues for applicants seeking to comply with the minimum 70% of dwelling meeting solar access requirements by locating all the smaller apartments on the northern side of buildings are widely known. Council supports efforts to ameliorate these issues by increasing the hours included in the solar access calculation beyond 9 am-3 pm. It is arguable that in winter, solar access outside the 9 am-3 pm hours will be sufficiently strong to heat an apartment passively. Council supports the inclusion of solar **insolation** analysis in the calculation, as an element of solar access quality rather than just quantity. Because such assessment deals with the quality and quantity of solar access, consideration could be given to applying a weighting to the hours of solar access.

Council considers that a higher weighting could be applied between the hours of 9 am-3 pm and a lower weighting to other hours in winter. Similarly, a weighting could be applied to the hours of solar access in summer; the extended westerly solar access that contributes to overheating could be given a lower weighting.

For ease of visual assessment, we suggest including a requirement for the applicant to provide a Solar Insolation Analysis (a heatmap of the amount of solar radiation falling on a surface). Assessing a Solar Insolation Analysis is far quicker and much more efficient, and we want to encourage efficient assessment times. The Manly DCP 2013 requires applicants to calculate the percentage loss of solar radiation falling on private open space areas and the number of hours solar radiation falls through window openings into living areas. A visual representation of the calculation such as a Solar Insolation Analysis may provide for more expeditious assessment.

Council notes that the revised ADG does not change the requirements for cross ventilation but provides additional guidance and diagrams to explain when an apartment is naturally cross ventilated. While this is welcomed, we are concerned that that discussion of alternate solutions is very complicated and that the scientific basis of the controls should be clarified with references.

Further, Council generally requests more graphical illustrations, particularly in the appendixes. Appendix 4.1 Natural ventilation & Appendix 4.2 Natural cross-ventilation both appear difficult to understand and require further clarification, diagrams and explanation.

Council also notes the need for some correction in relation to certain ADG Figures as follows:

- Figure 1.2.8 should be corrected – residential habitable - 2.7 floor to ceiling height, not floor to floor; and
- Figure 2.4.1 should be corrected – the depth dimensions are missing.

Recommendation: amendments are made to the ADG to:

- ***Require a view from sun solar access study***
- ***Require a solar insolation analysis***
- ***For cross-ventilation, require a drawing with a blue line that passes through the living spaces and bedrooms in accordance with the definition of natural cross-ventilation from the windward to the leeward side of the building.***
- ***For balconies, require a drawing that illustrates how the balcony complies by providing a hatched coloured overlay, for bedroom & apt sizes, by providing a hatched coloured overlay illustrating how they comply, and similar diagrams and drawings illustrating compliance.***
- ***Correct figures 1.2.8 and 2.4.1 as outlined above***

The new Design Review Guide is welcomed, as are the requirements for consistency in the Design Review Panel. Northern Beaches Council has been operating the Design & Sustainability Advisory Panel for some time and its operation is harmonious with most of the provisions of the new guide.

Issue: Need for clarification, advice and guidance on the relationship and roles of the different design review panels

The DRM is silent on its relationship to State Design Review panels and further clarification, advice and guidance on the relationship and roles of the different design review panels is required.

Recommendation: further clarification, advice and guidance on the relationship and roles of the different design review panels is provided.

Issue: Liability for advice of the Design Review Panel is unclear

The DRM should clarify who is legally liable for the advice given, and how any claims of negligence could be handled. In particular, as panel members cannot be “employees” of Council, the requirements for Professional Indemnity Insurance must be clarified.

Recommendation: Further clarification is provided about the legal liability of Design Review Panel members

BASIX

While Council supports the intention of increased BASIX targets a range of issues are detailed in the Attachments and summarised as follows:

Issue: Climate data used in the NatHERS and BASIX do not incorporate future climate projections.

Recommendation: That projected, and not historical climate files (CSIRO Climate File for 2070) are adopted as the required data input for NatHERS and BASIX in 2022, to ensure that NSW's homes (and workplaces) are designed to be thermally safe for a warming climate, for the lifetime of the dwelling.

Issue: NSW Government's commitment to reach Net Zero by 2050, should be better supported through increased incentives to transition new developments away from gas

Recommendation: New developments to be transitioned away from gas in order to meet net zero targets with the BASIX tool to be amended to heavily 'mark down' reliance on inclusion of gas and incentivise electrification. Gas should be excluded from multi-unit apartments.

Issue: There is no ability for Councils to set higher targets in low carbon precincts within Council's LGA.

Recommendation: That local government is supported to apply higher BASIX standards in identified high-efficiency low carbon precincts, where outlined in the LSPS, District Plans and other relevant strategic plans.

Issue: The exclusion of increased thermal performance and energy standards for residential flat buildings (RFBs) less than 6 storeys given this scale of development is locally predominant and no alternate mechanism for improved energy standards and thermal comfort is currently provided. The exclusion is based on a cost benefit analysis with significant identified limitations.

Recommendation:

- All RFBs under 6 storeys are required to meet the increased standards for thermal performance and energy. Alternatively, Council will require support from the Department to set higher standards for these building types in our new LEP, given most of our higher density residential areas allow for RFBs up to 3 storeys maximum.***
- The CBA is peer reviewed to address existing critique associated with the Australian Building Codes Board's proposed changes to the NCC exhibited in 2021 including***

combined critique from ASBEC, GBCA and the Property Council. The identified limitations within the Acil Allen Consultation Regulatory Impact Statement (CRIS) for the NCC 2022 appear to have been translated into the existing CBA.

- **That future scope of works for a Cost Benefit Study are expanded to include environmental and social costs and benefits in respect to a warming climate, as NSW Treasury has modelled in its 2021-22 Intergenerational Report**

Issue: Insufficient detail provided on how embodied energy is calculated in the proposed new standard. This is required for transparency and increased confidence in the standard.

Recommendation:

- **Further detail on embodied energy calculations that inform the tool be made publicly available as soon as possible. These calculations should reflect sourcing of local materials. This will increase transparency and instil confidence in this proposed index. There should be sufficient time allowed for testing and refinement of the new index prior to implementation.**
- **Transparent and clear communication on how the BASIX standards are formulated to build stakeholder confidence in the proposed increases and use of the tool. This includes clarity on relative impact of updated grid electricity EF and increase in stringency. If the majority of the increase is due to the EF, then further increased energy standards are recommended.**

Issue: Compliant pathways include options for poor energy efficiency

Recommendation: A minimum standard must be set for lighting i.e. LED only with best practice lighting controls and do not provide options for selection of sub performing lighting including halogen, florescent and incandescent lamps. Options should also not be provided for sub-performing appliances.

Issue: trade-offs permitted between thermal comfort and energy performance result in sub-par outcomes.

Recommendation: Make trade-offs between thermal comfort and energy performance permitted only for heritage buildings and adaptive re-use where 90% of the building fabric is retained.

Issue: Exclusion of BASIX Water index and the BASIX Alterations and Additional tool under current reforms leaves a gap in the system.

Recommendations: The BASIX Water index is reviewed in 2022 and the Basix Alterations and Additional tool is reviewed by 2023.

Issue: Non-compliance with BASIX standards remains a significant issue.

Recommendation:

- **The NSW Government provides auditing/compliance checks on BASIX/NatHERS certificates at DA stage and conducts audits and compliance checks of private certifiers and BASIX compliance at Occupation Certificate stage. This could include consideration of post occupancy ratings and reporting such as that used in the NABERS tool.**
- **The Department works with the NatHERS Administrator to reduce non-compliance issues for apartments, including improvements to the NatHERS quality assurance framework.**

Issue: Training for Council planners and industry stakeholders is required to ensure effective delivery of the proposed increased standards and Merit Assessment Pathway.

Recommendation: The Department provides training for Council planners, certifiers and industry stakeholders on the proposed increased BASIX including the new Merit

Assessment Pathway. This will ensure effective delivery of increased standards and will help reduce the widening gap between DA and construction.

Issue: Introduction of Merit Assessment Pathway (MAP) creates increased complexity in development assessment.

Recommendation: Alternate assessment software under the MAP has harmonised assessment criteria and a harmonised output to facilitate accurate and efficient assessment by planning authorities.

Issue: Lack of detail on proposed audit process for the Merit Assessment Pathway (MAP) and lack of any proposed audit process for BASIX.

Recommendation: Provide further detail and information on the proposed audit process for the Merit Assessment Pathway and create a desktop audit process for BASIX to demonstrate commitment to scheme integrity in line with the MAP audit process.

Please see the attachment for specific comment about various aspects of the proposed changes.

Council again thanks you for the opportunity to provide comments on the Design and Place State Environmental Planning Policy reform.

ATTACHMENTS

1. Proposed amendments to the Design & Place SEPP principles

	<i>Currently proposed</i>	<i>Alternate</i>	<i>Design Considerations</i>
1.	to deliver beauty and amenity to create a sense of belonging for people,	To deliver <i>amenity</i> and <i>aesthetically beautiful</i> , functional, and <i>safe environments</i> of appropriate <i>built-form and scale</i> for the <i>character</i> of the place, which promotes wellbeing and creates a <i>sense of belonging</i> for people,	Overall design quality & <u>character</u> . Comfortable, inclusive, and healthy places. Passive heating and cooling
2.	to deliver inviting public spaces and enhanced public life to create engaged communities,	To deliver inclusive, inviting public spaces and enhanced public life to create engaged communities, supported by appropriate <i>density</i> for the context & <i>character</i> to enable placemaking	Culture, character, and heritage. Appropriate inclusive design Public space facilitates social interaction Public space for public life <u>appropriate to the context</u> .
3.	to promote productive and connected places to enable communities to thrive,	to promote productive, healthy, and connected places that deliver ease of movement & connection to the most appropriate <i>travel mode</i> to enable communities to thrive,	Vibrant and affordable neighbourhoods. Sustainable and active transport and walkability.
4.	to deliver sustainable and greener places to ensure the well-being of people and the environment,	to deliver <i>sustainability</i> and appropriate <i>landscape</i> and green places in harmony with <i>natural systems</i> to ensure the well-being of people, Country , and the environment,	Enhanced blue- green infrastructure. Regeneration of natural systems Maximal tree canopy and deep soil Water Sensitive Urban Design Resource efficiency and emissions reduction. Infrastructure that supports active travel and electric vehicles
5.	to deliver resilient, diverse places for enduring communities.	To deliver adaptable, resilient, and diverse places for enduring communities, supported by appropriate <i>density</i> and <i>mix of uses</i> & tenures that complement a place's existing or future desired <i>character</i> .	Resilience and adapting to change. Optimal and diverse land use.

Note: key words and phrases for further definition in the SEPP definitions/dictionary are highlighted in italics. Changes to the Design Considerations are underlined>.

2 Suggested additional SEPP definitions / dictionary items to be included in the Design & Place SEPP legislation dictionary

Note: These are partially based on the SEPP 65 principles to provide some business continuity with the previous SEPP and the caselaw that has been produced since its inception. The definitions have been broadened to include urban design issues.

Amenity	<p>To be pleasant, attractive, comfortable, beneficial, and convenient to a location and building occupants.</p> <p>A good design positively influences and protects internal and external amenity for residents, neighbours, and the community. Achieving good amenity contributes to positive living environments and resident & community well-being. In buildings, good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation for cooling and respiration, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility. In a place, good amenity combines appropriate levels of street enclosure and materiality, access to sunlight, natural ventilation, outlook, density, acoustic attenuation, setback, bulk & scale, vegetation, hard & soft landscaping, ease of access for all age groups and degrees of mobility, sympathetic with the natural environment, and is appropriate to the present, or desired future character of an area.</p>
Aesthetically beautiful	<p>A good design achieves a built outcome with good proportions, a balanced composition, and a sense of enclosure that acknowledges the present or desired future character. Good design uses appropriate materials, colours, and textures. The appearance of a well-designed development responds to the existing or desired future character.</p>
Safe environments	<p>A good design optimises safety and security within the development and the public domain. It provides quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety and place.</p> <p>Designers can achieve a positive relationship between public and private spaces through clearly defined routes, secure access points, and well-lit and visible areas that are easily maintained and appropriate to the location and character.</p>
Density	<p>Appropriate densities are consistent with the area's existing or projected population. Existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment must enable appropriate population densities. A good design achieves a high level of amenity for occupants and the community, resulting in a density appropriate to the site and its context.</p>
Mix of uses & tenures	<p>A good design achieves a mix of housing & dwelling sizes to provide choice for different demographic groups, living needs and budgets, that complement the context. Well-designed developments respond to social context by providing housing, facilities and amenity to suit the existing and future community.</p> <p>A good design involves practical and flexible features, including different private, semi-private, and communal spaces for a broad range of people and providing opportunities for social interaction.</p>
Sustainability	<p>A good sustainable design includes using natural cross-ventilation and sunlight for the amenity and liveability of occupants, and passive thermal design for ventilation, heating, and cooling, reducing reliance on technology and operation costs. Good sustainable design includes consideration of materials embodied energy, the recycling and reuse of materials and waste, use of natural materials and deep soil zones for groundwater recharge and vegetation. A good design combines positive environmental, social, and economic outcomes.</p>

Landscape	<p>A good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive places that provide good amenity. A well-designed development delivers hard and soft landscaping appropriate to a place's existing or desired future character to create a positive contextual fit. Good landscape design enhances a development's environmental performance by respecting Country and retaining positive natural features that contribute to character. A good design coordinates water and soil management, solar access, micro-climate, tree canopy, habitat, and green networks. A good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for the long-term management of the landscape.</p>
Built form and scale	<p>A good design achieves a height, bulk, and scale appropriate to a place's existing or desired future character.</p> <p>A good design also achieves an appropriate built-form for a place and the development purpose in building alignment, proportions, building type, articulation, sense of enclosure, urban grain, movement & pedestrian permeability.</p> <p>An appropriate built-form defines the public domain, contributes to an area's character, including views and vistas, and provides amenity and outlook for occupants and the community.</p>
Character	<p>The Character of an area is linked to identity and includes a place's physical and social characteristics. Character includes but is not limited to the following: built-form, bulk and scale, urban structure, urban grain, density and mix of uses, sense of enclosure, cityscape, townscape, streetscape, landscape, the interface between public and private domains, movement and place, geology, geography, the idea of Country and identity. A good design responds to and contributes to the context and existing or desired future Character of a place. The context includes the natural and built features of an area, their relationship, and the Character they create when combined with the social, economic, health and environmental conditions.</p> <p>A good design responds to context and identifies the desirable elements of an area's existing or future Character. Well-designed buildings respond to and enhance the area's qualities and identity, including the adjacent sites, streetscape, and neighbourhood. Consideration of local context is vital for all sites, including sites in established areas, those changing or identified for change.</p>
Country	<p>Country is the connection between people and land. It is spiritual connection to ancestors and transcends time. It is society and connection to family and how life is lived in symbiosis with Country.</p>
Travel mode	<p>Travel modes include walking, cycling, trains, buses, trams, metros, and private vehicles and the most appropriate travel mode for a context should be prioritised. For example, in a city centre walking will be the most appropriate travel mode and make the most efficient use of land to enable connection and movement for most people. The Movement & Place framework and Built Environment Indicators produced by the Transport for NSW should be considered in assessing the most appropriate travel mode(s).</p>
Natural systems	<p>Natural systems are far ranging and often go beyond political and legislative boundaries. Natural systems include everything in the natural world, including but not limited to; ecology, geography, water systems, and climate, etc. The relationship between man-made and man-maintained natural system should be considered and the relationship between the first nations people of Australia and the natural systems they maintained; including but not limited too, fire, water, and soil.</p>

3 Higher BASIX

Introduction

In August 2019 Northern Beaches Council resolved to *'declare that we are in a state of climate emergency that requires immediate action by all levels of government.'*

Following from this, in December 2019, Council adopted *Protect.Create.Live*. The Northern Beaches Environment and Climate Change Strategy (E&CCS) that sets out clear and ambitious commitments to accelerate action on climate change. These commitments are aligned to the Paris Climate Agreement ‘to limit global temperature rise to well below 2 degrees Celsius above pre-industrial levels and to strive for 1.5 degrees’ and include:

- A 50% reduction in community emissions by 2040 and net zero emissions by 2050
- 50% of suitable premises with solar panels installed by 2030.
- As aspiration to achieve net zero emissions by 2030 with all new buildings net zero by 2030.

Council’s commitments are re-iterated in *Towards 2040*, our Local Strategic Planning Statement, in particular Priority 7 – A low-carbon community, with high energy, water and waste efficiency. This priority outlined actions to improve building standards for residential and non-residential buildings and support the push for net zero carbon buildings (A7.4), including controls to improve energy, water and waste efficiencies in new developments (A7.5). In recognition of the need for higher standards, Council also proposed to require independent sustainability certification such as the Green Star Rating Tool, Passive House or a recognised equivalent for development in our strategic centres, employment hubs and areas subject to urban intensification.

The State Government also has similar commitments to achieve net zero emissions by 2050, and a 35% reduction in emissions by 2030 compared to 2005 levels.

The latest IPCC Report identifies that climate change is accelerating and we will need to reach these targets earlier, otherwise limiting warming close to 1.5 degrees or even 2 in accordance with the Paris Agreement will be beyond reach. It further identifies we will need to reach ‘at least net zero CO₂ emissions, along with strong reductions in other greenhouse gas emissions’ (IPCC, 2021).

It is critical that our planning frameworks and mechanisms give effect to and where possible go beyond these commitments noting:

- We are locking in the carbon emissions of the future today, with the life of buildings ~ 50 years.
- Buildings account for almost 25% of Australia’s carbon emissions (ASBEC, 2016).
- Council supports the NSW leadership in delivering planning reform to the residential sector in order to deliver on net zero targets.

Council supports the intention of increased BASIX targets in assisting the NSW Government and Council in delivering against our net zero targets and commitments and building climate resilience. Council understands that the proposed changes focus on cost-effective increased standards for energy use, thermal performance and embodied carbon as informed by ACIL Allen’s 2021 Report ‘*Proposed Requirements For BASIX in 2022: Cost Benefit Analysis*’, commissioned by the NSW Department of Planning, Industry and Environment (DPIE).

Council welcomes the opportunity to comment on the proposed Higher BASIX and to ensure this proposal is effective in supporting the delivery of net zero commitments and targets at all levels of government and climate resilient, more liveable housing.

Key Issues and Recommendations

1. Climate Files do not incorporate future climate projections

- Council understands that the climate data used in the NatHERS engine and BASIX tool has been updated from 1970-2004 to 2015, however notes that future climate projections have not been incorporated. Council does not support the use of historic climate data in the design and construction of buildings stock with a life of 50-70 years. New developments built today should be future ready for climate projections to ensure the appropriateness and

safety of building and site design in the next 70 years. Furthermore, this does not meet the Resilience Design Considerations of the proposed Design and Place SEPP; that is, homes must be designed to mitigate and adapt to risks of natural hazards, including climate change effects.

- There needs to be a consistent approach to incorporate future climate and related projections in the BASIX tool, noting that the emissions factor for electricity has incorporated future projected greening of the grid.

Recommendation:

- That projected, and not historical climate files (CSIRO Climate File for 2070) are adopted as the required data input for NatHERS and BASIX in 2022, to ensure that NSW's homes (and workplaces) are designed to be thermally safe for a warming climate, for the lifetime of the dwelling.

2. Transitioning Away from Gas

- The NSW Government's commitment to reach Net Zero by 2050 is strongly supported. Electrifying the housing stock, fostering the use of the most efficient technologies available and sourcing electricity from renewable sources is the best way of achieving this target for residential development.
- Council appreciates the NSW Government has not mandated the exclusion of gas for new developments, and thus the proposed Increased BASIX does allow for connection to gas.
- Council understands the Department has responded to concerns the current BASIX favours gas through the proposed update of the grid electricity emission factor from 1.09 to 0.67. However, this only responds to the true emission factor of electricity and does not effectively disincentivise incorporation of gas or conversely promote electrification which is required to transition away from gas and meet net zero targets. Further, it should be noted that locking in gas in new developments that will last until 2092, poses a great challenge for Council and the community in reaching net zero by 2050. Retrofitting will be borne at a great cost especially for multi-unit dwellings, where this will be more difficult and expensive to achieve.

Recommendation:

- New developments to be transitioned away from gas to in order to meet net zero targets with the BASIX tool to be amended to heavily 'mark down' reliance inclusion of gas and incentivise electrification accordingly.
- Gas should be excluded from multi-unit apartments.

3. Energy Standards

- Council supports the proposed updated emissions factor for grid electricity which accounts for future greening of the grid. However, it is not clear whether the Increased Standard for Energy is largely on account of this updated emissions factor (EF) or whether it is due to an actual increase in stringency.
- There is no ability for Councils to set higher targets in low carbon precincts within their LGAs, such as Frenchs Forest. As place managers, Councils should be empowered to manage risks, and meet community and strategic planning commitments in our Local Strategic Planning Statements (LSPS). Enabling Councils to set higher BASIX targets is supported by actions in Towards 2040, supported by the Greater Sydney Commission for consistency with the North District Plan. These include the abovementioned action to require independent sustainability certification in our strategic centres, employment hubs and areas subject to urban intensification (A7.5), and action to deliver Frenchs Forest strategic centre as a low-carbon, high efficiency precinct and a Green Star Community. The BASIX requirements should work with the objectives of the Design & Place SEPP and make provisions for potential energy & water harvesting related to built-form context and climate zone. There should be more significant incentives to maximise on-site generation

and harvest of the renewable natural resources of the site, where practical. Incentives would help progression toward de-centralisation, resilience, and a reduced infrastructure contribution requirement. Reduced infrastructure contributions, Floor Space Ratio bonuses, or tax incentives could encourage uptake and any proposed BASIX-plus standard could also be incentivised in similar ways.

- Council does not support trade-offs between thermal comfort and energy performance. Developments should be designed to deliver thermal comfort without relying on increased energy performance of appliances and related technology. Any such trade-offs should be limited to heritage buildings and adaptive re-use where 90% of the building fabric is retained.
- The lighting and appliances installations showcase poor energy efficiency as an option for compliance, e.g. “Reverse cycle air-conditioner (2 stars heating, 1 star cooling)” is available as a compliance pathway as mentioned in document “Design and Place SEPP - Sustainability in Residential Building”.

Recommendations:

- Transparent and clear communication on how the BASIX standards are formulated to build stakeholder confidence in the proposed increases and use of the tool. This includes clarity on relative impact of updated grid electricity EF and increase in stringency. If the majority of the increase is due to the EF, then further increased energy standards are recommended.
- That local government are supported to apply higher BASIX standards in identified high-efficiency low carbon precincts, where outlined in the LSPS, District Plans and other relevant strategic plans.
- Trade-offs between thermal comfort and energy performance are only permitted for heritage buildings and adaptive re-use where 90% of the building fabric is retained.
- A minimum standard must be set for lighting i.e., LED only with best practice lighting controls and do not provide options for selection of sub performing lighting including halogen, florescent and incandescent lamps. Options should also not be provided for sub-performing appliances.

4. Thermal Comfort Standards

- Council supports the increase to at least 7 stars for thermal comfort in accordance with the NCC’s energy efficiency provisions under the national Trajectory for Lower Energy Buildings.
- Council understands that no increased thermal performance or energy standards are proposed for residential flat buildings (RFBs) 5 storeys and under with the Acil & Allen (2021) cost benefit analysis (CBA) identifying that these improvements would not be cost beneficial. This exclusion is of particular concern to Northern Beaches Council given most of our higher density residential areas allow for RFBs up to 3 storeys maximum with no existing alternate mechanism to deliver improved thermal comfort and improved energy standards for these types of developments.
- Council notes that the CBA did not account for benefits/costs associated with:
 - Offsetting all carbon emissions from the residential sector post 2050 (note: Large Scale Generation Certificates are currently priced at ~ \$40 per tonne)
 - Inaction of delaying reduction of carbon emissions given we are in a climate emergency
 - Social impacts including heat related illness and death, lack of productivity particularly to vulnerable populations (young and elderly) who cannot afford air conditioning.
 - Actual benefits of thermal comfort, including improved liveability.

- It is also concerning that the CBA does not appear to reflect the typical increased cost effectiveness of solar PV for low rise RFBs, given available roof space, in comparison to high rise, nor the relative ease of modifications for improved thermal comfort for low rise in comparison to high rise. Furthermore, the exclusion of Low rise RFBs from the increased thermal performance and energy standards is inconsistent with proposed changes to the National Construction Code (NCC) which incorporates increased standards for low rise RFBs (including in the proposed '7 Star' Standard).

Recommendation:

- Considering concerns and limitations of the cost benefit analysis, Council recommends that all RFBs are required to meet the increased standards for thermal performance and energy. Alternatively, Council will require support from the Department to set higher standards for these building types in our new LEP, given most of our higher density residential areas allow for RFBs up to 3 storeys maximum.
- The CBA is peer reviewed to address existing critique associated with the Australian Building Codes Board's proposed changes to the NCC exhibited in 2021 including combined critique from ASBEC, GBCA and the Property Council. The identified limitations within the Acil Allen Consultation Regulatory Impact Statement (CRIS) for the NCC 2022 appear to have been translated into the existing CBA.
- That future scope of works for a Cost Benefit Study are expanded to include environmental and social costs and benefits in respect to a warming climate, as NSW Treasury has modelled in its [2021-22 Intergenerational Report](#)

5. Embodied Energy

- Council supports the intent to include embodied energy in the tool as a mechanism to support delivery of net zero targets. However, there is insufficient detail to have confidence in this standard with evidence and process-based information lacking in the proposal.

Recommendation:

- Further detail on embodied energy calculations that inform the tool be made publicly available as soon as possible. These calculations should reflect sourcing of local materials. This will increase transparency and instil confidence in this proposed index. There should be sufficient time allowed for testing and refinement of the new index prior to implementation.

6. Standards for Basix Water and BASIX Alterations and Additions Excluded

- Council notes that the Department intends to address higher standards for water within 12 months, however that a date for review of the BASIX Alterations and Additional tool has not been set/proposed.

Recommendations:

- The BASIX Water index is reviewed in 2022.
- The Basix Alterations and Additional tool is reviewed by 2023.

7. Training and Compliance

- Non-compliance with BASIX standards during construction has been an issue since BASIX was introduced in 2006.

Recommendation:

- The Department provides training for Council planners, certifiers and industry stakeholders on the proposed Increased BASIX including the new Merit Assessment Pathway. This will ensure effective delivery of increased standards and will help reduce the widening gap between DA and construction.

- The NSW Government provides auditing/compliance checks on BASIX/NatHERS certificates at DA stage and conducts audits and compliance checks of private certifiers and BASIX compliance at Occupation Certificate stage. This could include consideration of post occupancy ratings and reporting such as that used in the NABERS tool.
- The Department works with the NatHERS Administrator to reduce non-compliance issues for apartments, including improvements to the NatHERS quality assurance framework.

8. Merit Assessment Pathway

- Council supports the intention of introducing an alternate assessment pathway i.e. the proposed Merit Assessment Pathway (MAP) however is concerned that this creates increased complexity for planning assessments by Authorities.

Recommendation:

- Alternate assessment software under the MAP has harmonised assessment criteria and a harmonised output to facilitate accurate and efficient assessment by planning authorities.

9. Reporting

- Council supports the intention for a proposed audit process for the Merit Assessment Pathway (MAP), however no detail has been provided on this process within the proposal to have confidence that it will deliver to an acceptable standard.

Recommendation:

- Provide further detail and information on the proposed audit process for the Merit Assessment pathway.
- Establish a desktop audit process for BASIX to demonstrate commitment to scheme integrity in line with the MAP audit process.

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Submitted on Thu, 24/02/2022 - 10:31

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

1.1 NAME

First name

Glen

Last name

Weekley

I would like my submission to remain confidential

No

1.2 INFO

Email

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Please provide your view on the project

I am just providing comments

Submission file

[penrith-city-council---submission-on-the-design-and-place-sepp---february-2022.pdf](#)

Submission

Penrith City Council's submission.

I agree to the above statement

Yes



Our reference: InfoStore
Contact: Glen Weekley
Telephone: 4732 7415

24 February 2022

Department of Planning and Environment

Sent by email: [online submission]

Submission on the draft Design and Place State Environmental Planning Policy and supporting policy framework

Thank you for the opportunity to comment on the draft Design and Place State Environmental Planning Policy (draft DP SEPP) and supporting policy framework.

Please find our submission attached for your consideration. This submission was formally endorsed by Council at the Ordinary Meeting of 21 February 2022.

Whilst we are supportive of the intent of the draft DP SEPP and surrounding policy framework to facilitate and ensure a priority is placed on good design, we believe the issues raised in our submission need to be considered and addressed prior to the finalisation of the draft DP SEPP and surrounding policy framework. As some of the issues raised in our submission require additional information to be provided, we request that additional consultation with Council is undertaken.

If you have any questions about this matter, please contact Glen Weekley, Executive Planner on 4732 7415.

Yours sincerely

Natasha Borgia
City Planning Manager

ISSUES RAISED IN OUR PREVIOUS SUBMISSION ON THE EIE THAT HAVE NOT BEEN ADDRESSED

The following key concerns raised in our submission on the Explanation of Intended Effects (EIE) on the Design and Place SEPP have not been addressed:

- Design Review Panels - The draft DP SEPP, through the draft Design Review Panel Manual is still proposing a one size fits all approach to local design review panels. No acknowledgment is given to existing design review panels, such as Penrith's that are successful in providing positive outcomes for both the community, Council and developers,
- Local Character - The ministerial direction requires planning proposals to give effect to any relevant residential density, connectivity and open space design criteria and guidance of the draft Urban Design Guide (draft UDG) which reduces Council ability to influence local character,
- Sustainability - There is little consideration about urban heat management targets. The draft DP SEPP still appears to enable trade-off between thermal comfort and energy performance, which isn't supported,
- Assessment times and capability – No consideration appears to be given to the increased requirements for experienced practitioners to design and verify, particularly in regard to the draft UDG that will increase requirements on Council to staff and review. No consideration or concessions have been provided for the additional layer of reporting that is required for Planning Proposals,
- The draft DP SEPP still requires further work on the legal drafting to strengthen the links between the companion guidelines,
- Greater consideration of urban heat management targets, particularly for Western Sydney has not been incorporated into the proposed changes to BASIX, and
- There is still no ability for councils to set their own sustainability targets above those set by BASIX.

GENERAL COMMENTS ON THE DRAFT DP SEPP AND SUPPORTING GUIDES AND DOCUMENTS

Impact on Council's Urban Heat Planning Proposal and proposed Development Controls

Council is about to exhibit a Planning Proposal that seeks to introduce a new provision in Penrith LEP 2010 to ensure that the mitigation of the urban heat island effect is a major consideration for development. It is proposed that the new provision will require a consent authority to be satisfied that planning and design measures will be taken as part of a development to reduce the urban heat island effect.



We are concerned that the draft DP SEPP limits Council's ability implement measures that were specifically designed to mitigate the urban heat island affect in the Penrith LGA and may override new DCP controls that are intended to complement existing energy efficiency and thermal performance outcomes for buildings under the NSW Government's Building Sustainability Index (BASIX).

Whilst we acknowledge that the draft ADG, draft UDG and proposed changes BASIX have considered the impacts of the urban heat Island affect, a standardised approach has been taken to address this issue and this approach does not take into consideration variations that occur in local climates such as Penrith's.

Requirement for Councils LEP's and DCP to be consistent with the Draft DP SEPP

The requirement that Council's LEP and DCP need to be consistent with the draft DP SEPP places an additional administrative burden and cost on Council.

It appears little consideration has been given to Council's other responsibilities, that include:

- Ensuring their planning controls are consistent with both the Greater Sydney Region Plan and District Plans, and
- Processing proponent led planning proposals and DCP amendments within mandated timeframes.

Importantly, the need to be continually updating our planning controls to be consistent with State Government Planning Policy, impacts on Council's ability to focus on our own planning controls to ensure they are providing the best outcomes for our own community.

Impact on existing Urban Design Review Panels (UDRP)

It is of great concern that no acknowledgment has been given to existing UDRP's, such as Penrith's, that are successful in providing positive outcomes for both the community, Council and Developers.

Council's existing UDRP is unlikely to meet the new requirements of the draft DP SEPP and the Urban Design Review Panel Manual. Council's current UDRP does not contain members appointed by the Minister and its membership includes Council's senior assessment officers.

The inclusion of Council officers on the UDRP has been key to the successful operation of our UDRP.

We firmly believe that existing UDRP's that are operating successfully and are providing advice that is consistent with the provisions of SEPP 65 and the ADG should be exempt from the provisions of Draft DP SEPP.

The likely need to set up a new UDRP will also place an additional administrative burden and cost on Council.

Reduced ability for Council to address Local Character

We are concerned that a standardised approach promoted by the draft DP SEPP limits Council's ability to consider and apply specific controls to protect local character, as Council's LEP and DCP cannot be inconsistent with certain design criteria of the draft Apartment Design Guide 2021 (draft ADG) and draft UDG.

Draft DP SEPP and draft ADG 2021 reference RMS "A Guide to Traffic Generation Development"

The RMS's "A Guide to Traffic Generating Development" (the Guide) is from 2002 and over 20 years old and not reflective of contemporary requirements. Transport for NSW needs to update the Guide to coincide with the draft ADG 2021 if parking requirements are derived from the Guide to then inform building footprint, access and circulation arrangements.

Until as such time as the Guide has been reviewed and updated, Council's car parking controls should apply to all mixed use and residential flat development. Further consultation with Council will be required to ensure any updated car parking rates in the Guide reflect the demand and need for car parking spaces in Western Sydney.

Requirement to refer a planning proposal to the UDRP

We do not support the draft Direction's requirement to refer a planning proposal to the UDRP.

This would need to take place pre gateway, as it is unlikely that DPE would issue a Gateway Determination for a Planning Proposal that did not address the ministerial direction.

Referring a planning proposal pre gateway is not the appropriate time to be seeking advice from the UDRP as the level of detail provided to support a planning proposal differs to the level of detail required to support a Development Application (DA) and justifies the strategic merit of a proposal. Designs submitted for a planning proposal are conceptual rather than detailed.

Advice from the UDRP is best provided at the DA stage when there is certainty on design. The Local Planning Panel already provides advice on the strategic merit of a planning proposal and would consider a planning proposals consistency with the draft DP SEPP and draft UDG.

The requirement to refer a planning proposal to the UDRP would also significantly affect Council's ability to process a planning proposal within proposed processing timeframes for Planning Proposal of 90 days. We do not believe it is feasible to undertake an initial assessment of a planning proposal



and seek advice on a planning proposal from the UDRP and the Local Planning Panel, prepare a VPA or Contributions Plan, as well as seeking endorsement from Council all within 90 days of receipting a planning proposal.

DRAFT DP SEPP

Prior to the finalisation of the draft DP SEPP, the follow matters should be considered:

Design Principles and Design Considerations

- Clauses 14 – 21 makes references to “the consent authority must consider” which has no lawful enforcement or obligations for compliance. The clauses should read the same as Clauses 22 – 23 being “the consent authority must be satisfied” with each design consideration then re-written to require deliverable elements to be demonstrated in the achievement of design excellence. The current clauses are interpretative with no security of quality outcomes,
- Clause 15 – requires rewording and explanation of design intentions. Clause 15(b) states “development incorporates inclusive design measures that are appropriate for the purpose of the development” with no direction or explanation of what is deemed inclusive, and what constitutes appropriate,
- Clause 17 - Public space and public open space should be separated and have distinct design considerations under the draft DP SEPP, as they perform different social functions, and the operation and management of these spaces is often different. Both have high social value and should be treated accordingly. Buildings over a certain construction value should be required to provide a social impact statement that incorporates consideration of these spaces, particularly in commercial centres and high-density residential areas. This would also have the effect of supporting the design consideration “Deliver inviting public spaces and enhanced public life to create engaged communities”,
- Clause 19 and 20 – an additional provision should be included to the effect that, for urban development involving subdivision, the subdivision patterns must accommodate deep soil areas in the verge and the verge wide enough to allow planting of medium-to large trees of an appropriate species. A specific canopy target should be set for all new subdivisions within the Design and Place SEPP. This would ideally be supported by minimum numbers of canopy trees by land area and deep soil zones for each development type and should require consideration of clustering and layering plantings,
- Clause 21 – clause 21(a) is not a matter to be considered as part of a subdivision development application and has limited capability at a master planning stage. The availability of energy services is a matter to be addressed at a precinct planning stage or planning proposal noting that future built form on a lot is more often than not captured via separate development applications or complying development certificates. This clause should be deleted as it is not easily assessable at the DA stage involving a subdivision element, and

- Clause 22 – this clause provides no guidance on what measures should be incorporated to reduce or avoid exposure to natural hazards. Further, the impacts of development to the risks of climate change cannot be easily quantified at a DA stage for an individual development. The implications of climate change on a development can be more readily understood at a planning proposal or precinct planning stage, but specifically limited to such impacts as increased rainfall and flooding risk. This clause should be deleted, or more specific requirements outlined as to how compliance with this clause can be assessed, let alone satisfied.

Division 2 BASIX standard for residential development

- It is not clear how an assessment of embodied emissions from construction materials stemming from occupancy rates can be assessed. This requires explanation and supporting assessment methodology if it is to be an assessable element in the consideration of a development application.

Division 4 Miscellaneous

- Clause 33 sets up for post occupation certificate green travel planning that is unenforceable and the implications of diminished onsite parking and greater reliance on alternate transport modes is a critical consideration at the DA stage. The Draft Policy has not been exhibited with the corresponding map so the implications of the areas to be identified as “Public Transport Accessibility Level PTAL 6” are unknown. Further, it is not clear why this is a requirement in the SEPP and not a design consideration reflected within the Draft ADG 2021, and
- More broadly it is not clear why only the objectives of the draft UDG and draft ADG 2021 are called upon by the draft DP SEPP when the principles in the draft DP SEPP have informed the draft UDG and draft ADG 2021 provisions. If the Guides are expected to influence design outcomes, then compliance with the Guides as a whole (not just the objectives) should be referenced by the draft DP SEPP noting that the Guides allow for numerical variation where excellence is otherwise demonstrated.

Part 4 Design Review

- Clause 35 suggests that the constitution and management requirements of Design Review Panels is outlined in the Environmental Planning and Assessment Regulations (whereas this was previously outlined in SEPP 65 and the ADG). A review of the Regulations has not identified such provisions, further noting that Ministerial Directions from 2015 make reference to SEPP 65 which is intended to be repealed. This requires urgent clarification noting concerns have been previously raised with the onerous impost of Panel Membership requirements and costs where capability for Council officers to be part of the Panel process is expressly excluded.
- The Department should also clarify if there is an intention to establish a Minister approved Panel List that Councils can draw upon without the need for individual Ministerial endorsement.

THE DRAFT EPA (DP) REGULATION:

We recommend that further consideration is given to the following clauses of the Draft EPA (DP) Regulation:

- Clause 57(ii) Design Verification Statements - The requirement to demonstrate how the development incorporates the intellectual property of the local Indigenous communities may be difficult to assess as there is not a definition of what constitutes the intellectual property of the local indigenous community,
- Clause 57(C) Embodied Energy Statement - This clause needs to be redrafted to be more definite. Words from “time to time” should be removed,
- Clause 99 – Condition relating to charging facilities for electric vehicles - This clause is complicated by the use of the Building Code of Australia building class designations and could be simplified through the use of Standard Instrument definitions,
- To future proof Hotel and Motel Accommodation it is recommended that all car spaces for visitors and staff are capable of supplying 12 kilowatt hours of electricity to charge electric cars for each car parking space between 11pm and 7am every day, and
- Clause 99 Green Travel Plan – The requirement to review a green travel plan every two years could place an undue compliance burden on Council as a consent authority.

DRAFT ADG 2021

We believe that further consideration needs to be given to the following:

Built Form and Siting

- Building separation and setbacks indicated on Page 15 for a town centre are contradictory to the minimum separation standards in Table 1.21. It is agreed that an urban core or city centre environment need not provide separation distances equivalent to a more suburban context. However, this vastly different context requires distinct design controls to address the relationship between the residential component and the urban core or city centre environment,
- Building floor plates, depth and articulation provide no standard for minimum depth or building length. This was a major omission from the current ADG. Maximum building lengths and depths should be prescribed with capability for variation upon demonstration of superior design and internal amenity outcomes, and

Site Access and Address

- We have concern with the encouragement of through site links for all sites. Through site links are only successful where they are anchored at each end (with destinations / attractors) and can be activated at the ground / street level. It is recommended that this clause be revised to establish a clearer criteria for when a through site link is important or beneficial rather than only making reference to where a site is sufficiently sized to support the inclusion of a through site link.”

Relationship to Street

- The draft ADG 2021 should make more specific references to sleeving requirements for above ground parking, similar to what is indicated in the draft UDG – Clause 8.4. This includes the creation of sleeved spaces that can accommodate suitable uses via tenancy depths and floor to ceiling clearances. The reference to active uses is more suggestive in nature rather than a specific design requirement to mitigate the poor visual presentation of above grade / podium parking,
- Above ground infrastructure (substations, hydrant boosters and the like) are almost always exposed in front setbacks and poorly disguised. The proposed draft ADG 2021 controls suggested to ensure services are integrated into the building are supported however the practicality of this and feasibility of this requires investigation. Discussions with the local development industry within Penrith have indicated this is unachievable and cost prohibitive, and
- The references to exclusions to services being in the “primary building frontage” is also strongly supported but contrary to service authority requirements according to the industry. This suggested prohibition requires further evidence of consultation and agreement from those service authorities to empower Council’s taking a definite line on service locations and design treatments during the design and assessment phases.

Communal Spaces

- A ratio of 25% of the site area is challenging in city centre environments. Consideration should be given to reducing the quantum of communal open space in commercial cores. The decrease in communal open space should offset by an increase minimum in unit private open space areas, and
- Further suggestions that communal open space need not be co-located with deep soil is only relevant for a city centre / commercial core environment and is highly inappropriate for a residential suburban neighbourhood. This suggestion requires deletion or refinement to still require an element of ground floor communal open space in combination with roof top open space for residential zoned land, especially given 6m setback requirements are established in the draft ADG 2021 provisions and basements should not protrude within them.

Apartment Mix and Diversity

- The suggestion of max 50% dwellings being studio or 1 x bedroom in this covid climate still seems high. It is suggested that this should be reduced to a lesser amount given encouragement of work from home arrangements and greater adaptability of spaces to function as residential dwellings as well as small business or other ancillary uses.

Waste

- The draft ADG 2021 indicates “where applicable” waste servicing should be on site, which is at odds with the design objectives to minimise streetscape and residential amenity impacts of waste servicing. Even basement servicing requires a clearance height on the descending driveway that adversely impacts the streetscape unless the decent and height difference can be absorbed by the topographic rise of the site from street level, and
- The suggested clause inclusion in the ADG further inhibits attempts to provide design quality outcomes that are not dictated by a waste collection arrangement. If the guide is intended to insist upon onsite collection, very specific design controls (not loose objectives) would be required to address the resulting floor to ceiling clearance implications, gradient transitions for access, swept path requirements and entry gate / door impacts to the street and public domain.

DRAFT UDG

General Comments on the draft UDG

- Evidence has not been included for key design criteria and standards, such as density, walking catchments, block sizes, tree canopy coverage and energy performance. As the draft DP SEPP and ministerial direction add weight to the design criteria, evidence is required to allow Councils to determine the suitability of the design criteria and guidance of the draft UDG, especially when the design criteria and guidance are inconsistent with Councils existing planning controls,
- The requirements for open space provision of the draft UDG, that are based on a percentage of site area, are inconsistent with Council’s Sport and Recreation Strategy. Council’s Sport and Recreation Strategy utilises population to determine open space provision. We are of the firm believe that open space provision needs to be based on future population and not a percentage of land area as it is the population that determines the need and demand for open space,
- Open space criteria in the draft UDG does not include a separate criteria for sporting space. It is unclear how the draft UDG addresses the need for sporting facilities. The draft UDG appears to focus on providing passive and informal active recreational space rather than sporting facilities for organised sport,
- Council does not support assets within the 1 in 100-year flood lines. The draft UDG allows for Open Space assets, up to 10% to be located within the 1 in 100-year flood line,
- The draft UDG supports increased housing density in locations with access to high frequency public transport. However, there is no definition or criteria for High Frequency Public Transport. The draft UDG needs to include a definition or criteria for “High Frequency Public Transport”,
- Where flexibility for car parking rates is proposed, it should be sufficiently justified to ensure suitability for the proposed location and development type, and



- The draft UDG does not specify what walking distance is. Walking distance is a relative term and will mean different things to people of different ages and abilities. The draft UDG needs to be clearer about 'walking distances' and provide numerical guidance on what is considered to be an appropriate walking distance.

Comments on Objective 1

- Design Guidance 1.2 needs to clarify the type of new elements, and how they should respond to natural elements, and
- Design Guidance 1.7 Point 5 – streets and public open spaces are mentioned separately however streets are a type of public open space. Add a note that streets are a component of open spaces and should be considered holistically as part of the public domain.

Comments on Objective 2

- Design Guidance 2.2 – Point 1 is vague and needs to be rephrased, and
- Design Guidance 2.2 - Points 2, 4 and 5 repeat a lot of information and can be consolidated.

Comments on Objective 3

- Design Criteria on neighbourhood density needs to provide further evidence as to why 30 dwellings/ ha and 15 dwellings/ha densities are considered appropriated densities. Additional justification needs to be provided on why 30 dwelling/ha is considered to be an appropriate dwelling density 'In areas of greater intensity or where there are excellent active and public transport,
- A clear definition needs to be provided for "an excellent active and public transport network". The draft UDG should include a minimum standard for "excellent active transport" and a minimum service provision for "excellent public transport". The current wording is too subjective, and
- Design Guidance 3.3 – further detail is required around walking catchment sizes. The draft UDG needs to provide numerical guidance on what an appropriate walking catchment is.

Comments on Objective 4

- Design Guidance 4.2 - details need to be provided around locating and designing safe zones, including minimum size and distance from key destinations etc.

Comment on Objective 5

- Design Criteria – We have concerns that the criteria that ‘All homes are within 15 to 20 minutes’ walk of a collection of local shops, a primary school, public transport, a supermarket or grocery store’ will not support a contained, compact neighbourhood as stressed in Objective 3. Distance to local shops of 20 min from new residential and mixed-use developments is too great for the types of development that will be assessed as part of the Urban Design Guide. As mentioned previously, walking distance is a relative term and will mean different things to people of different ages and abilities. The word ‘or’ also keeps it too vague as developments within 20minutes walk to a bus stop would be able to meet the criteria, and
- The Design Criteria also needs to address areas with high net dwelling densities and the need for bigger parks. Access to a small park within 200m is unlikely to provide usable open space for the future population. The quantum open space provision needs to be based on the future population of an area and the parcels of open space large enough to accommodate a variety of user groups.

Comments on Objective 6

- Evidence needs to be provided for proposed maximum block lengths in industrial, residential, and mixed-use areas, and proposed intersection densities per hectare, and
- Design Guidance 6.1 needs to specify that the addition of new streets and decrease in block lengths is for better accessibility and reduced travel time for pedestrians and not vehicles.

Comments on Objective 7

- Evidence should be provided supporting a maximum of 130m between mid-block connections and through site links in catchments of key destinations,
- The draft UDG needs to identify the need to support both recreational as well as utility cycling by promoting cohesive and integrated cross-LGA boundary bicycle networks,
- The draft UDG needs to include that cycle facilities on high speed/ high traffic volume streets should not only be dedicated but also physically separated. Narrow on-street painted bike lanes although dedicated will not feel as safe as a physically separated wide bike path,
- Design Guidance 7.2 - an additional point needs to be added about street tree canopy,
- Design Guidance 7.3 - other treatments for traffic calming need to be added including chicanes, vertical deflections in road surface etc, and
- Design Guidance 7.4 - Promoting cycling as a safe and comfortable choice for local trips up to 5 km will mean that the bicycle should be the quickest and most direct mode to get from point A to B in comparison with other modes.

Comments on Objective 8

- Design Guidance 8.2 - Minimum 2% parking with EV charging equipment and minimum 2% car share parking spaces seem quite low, especially when wanting to encourage an uptake of electric vehicles and car sharing.

Comments on Objective 9

- Design Guidance 9.1 – an additional point needs to be added to discuss diversity among trees including fruit-bearing trees to support different forms of urban wildlife and to address the importance of using native vegetation in landscaping, and
- Design Guidance 9.2 - an additional point needs to be added to discuss the balance between solar access and shade in the public domain, as a way to offer light across different seasons.

Comments on Objective 10

- Design Criteria - Provide evidence supporting tree canopy targets in public open spaces and streets and the justification lower minimum tree canopy targets for industrial streets compared to residential streets. Industrial areas in Penrith LGA are amongst the hottest areas and need as high amenity as residential areas. Lower minimum tree canopy targets for industrial streets are not supported,
- The draft UDG should specify whether public car parks (as a part of public open spaces) should have a minimum 45% tree canopy cover,
- Further explanation needs to be provided for how street tree canopy percentages are calculated, especially when it comes to long streets stretching across several blocks, and
- Design Guidance 10.2 – additional information should be provided on passive irrigation of street trees using stormwater

Comments on Objective 12

- The draft UDG needs to specify that the minimum public open space provision criterion does not include streets, shared zones and other excluded types,
- Design Guidance 12.2 - This section should address both physical and social safety in public spaces and needs to consider:
 - addressing the need of activated edges and/or passive surveillance around public open spaces, and
 - the safety of vulnerable users in open spaces abutting busy regional roads,
- Design Guidance 13.2 – needs to specify that street design should follow the determined movement and place functions and accordingly serve different modes and activities, and
- Design Guidance 13.4 – needs to address the need to have footpaths of a certain minimum width (minimum clear path of travel for pedestrians) in order to be protected, walkable and sociable.

Comments on Objective 16

- More detail needs to be provided around designing with Country and Indigenous narratives around place, and
- Design Guidance 16.2 needs to include details on how additions to heritage premises should not only respect and respond to urban and landscape features but also how they respond to built form features such as scale, proportions, architectural building elements and materiality.

Comments on Objective 17

- Design Guidance 17.1 - This section needs to address how built form and landscaping can contribute to rainwater collection, surface percolation and site drainage.

Comments Objective 18

- Design Guidance 18.3 – It is unclear if the guideline around 70% of active frontage is in relation to the length of a facade or its surface area,
- Design Guidance 18.3 – The design guidance should address the need for passive surveillance of rear lanes when possible – one way to allow it would be through ancillary dwellings or small retail pop-ups opening out onto the laneways, and
- Design Guidance 18.5 – the design guidance should address the use of sustainable and local materials for construction including recycled materials with a view of reducing energy consumption.

Comments Objective 19

- Evidence should be provided to support why 20 per cent of energy demand is to be met using onsite renewable energy (and not higher), and
- Design Guidance 19.1 – the design guidance needs to address how building envelope design incorporates natural lighting to minimising energy demand.

GLOSSARY

- Add definition of Net Developable Area and explain how it is calculated

PROPOSED CHANGES TO BASIX

General Comments

- The proposed changes to BASIX, through the “Your Home” Website, provides design responses for climate regions, however these home designs respond to Sydney regional conditions and fail to respond directly to the needs of a climate like Penrith, where extreme heat days are a significant concern, and
- The proposed updates to the BASIX tool and MAP calculation tools must be designed with the ability to factor in the effect of local variation in climate.

Materials Index

- To make the Materials Index a tool which can be used to support the NCC and to help home builders determine appropriate materials for their build, the Materials Index should also:
 - include Solar Absorbance and Solar Reflectance Index of materials used externally,
 - include any materials to be used for landscaping purposes. The permeability factors of these materials should also be considered,
 - identify where materials shouldn't be used (eg, how thermal mass can affect internal temperatures depending on material placement within a building),
 - address the predicted lifespan of the material, to support improved longevity and resilience of dwellings, and
 - define the origin of the material as a contributor to embodied carbon, as a result of transportation requirements,
- Addressing these factors in the Materials index will increase the value of the materials index tool and enable multiple applications that can be used to inform and support local policymaking. In turn, this will have the effect of enabling overarching sustainability responses to improve circular economy, urban heat and thermal comfort outcomes, and
- The minimum standard and materials index introduced should also enable the introduction of recycled materials to the new build, with a low or 0 embodied carbon, as well as the referenced "end of life" factor.

Merit Assessment Pathway Modelling Rules

- The effectiveness of this tool will be highly dependent on both the efficiency and appropriateness of the proposed accredited modelling software and the effectiveness of the proposed "recognised professionals" to complete assessment of this. Significant further detail and testing of the proposed new approach is required to demonstrate that it is effective,
- Council does not support privatisation of mechanisms for delivering development consent or certification, as past experiences have highlighted the ineffectiveness of private certifiers to ensure systems are maintained for monitoring compliance. Allowing a MAP to be completed by a private certifier will make monitoring near impossible,
- Fire certification is required for larger buildings with multiple dwellings or rooms, such as boarding houses, residential flat buildings and hostels. Allowing AIRAH accredited certifiers to sign off on MAP plans, which incorporate ventilation and air conditioning, under BASIX prior to fire accreditation may create conditions under which inconsistencies between MAP-level certifications and final constructed developments are unavoidable, and

28 February 2022

Refers to: CRM 20803/2022

Submission: Draft State Environmental Planning Policy (Design and Place) 2021
From: Port Macquarie Hasting Council

We support the new approach to planning and development for a new way of living. Staff have reviewed the draft policy and are of a view that it introduces design principles to make sure everyone can be part of healthy, productive, and sustainable community, with access to greener and better public spaces, no matter where they live. The focus on sustainable development at all levels is appropriate.

The draft Policy provides clear advice and process especially when it comes to design.

Our suggested additions are shown in red text and other considerations are detailed over.

Aims and Design Principles

The design principles are clear as shown below and provide good direction for the Council to follow.

	1. Deliver beauty and amenity to create a sense of belonging for people	1. Overall design quality	2. Comfortable, inclusive and healthy places
	2. Deliver inviting public spaces and enhanced public life to create engaged communities	3. Culture, character and heritage	4. Public space for public life
	3. Promote productive and connected places to enable communities to thrive	5. Sustainable transport and walkability	6. Vibrant and affordable neighbourhoods
	4. Design sustainable and greener places to ensure the wellbeing of people and the environment	7. Green infrastructure	8. Resource efficiency and emissions reduction
	5. Deliver resilient and diverse places for enduring communities	9. Resilience and adaptation to change	10. Optimal and diverse land use

Aims of Policy are as follows—

Refers to: CRM 20803/2022

- a) to provide a consistent set of principles and considerations to guide the design of the built environment,*
- b) to ensure high quality and innovative design of the built environment,*
- c) to create places that support the health and well-being of the community,*
- d) to integrate good design processes into planning and development,*
- e) to recognise the economic, environmental, cultural and social benefits of high quality design,*
- f) to ensure sustainable development and conserve the environment,*
- g) to minimise the consumption of non-renewable energy and reduce greenhouse gas emissions,*
- h) to achieve better built form and aesthetics of buildings, streetscapes and public spaces,*
- i) to recognise the importance of Country to Aboriginal peoples and to incorporate local Aboriginal knowledge, culture and tradition into development.**

I would suggest that perhaps (i) needs to be moved to the top of the aims and some consideration should be recognising the importance of Country to Aboriginal peoples and to incorporate local Aboriginal knowledge, culture and tradition into the design principles.

Within the design principles having engagement and co-design would create better and more engaged communities.

Consideration should be given to include an additional aim around community engagement in the design process, perhaps:

- j) Engage with local communities and key stakeholder to enable contribution into design development at every stage (new)**

Design Considerations

The design considerations are all sound, however a regional lens sometimes also needs to be considered when talking about modes of transport and connecting communities. Minimising car use in regional towns and areas is a challenge so exploring alternative modes of transport and using sustainable transport options is a better consideration

18 Design consideration—vibrant and affordable neighbourhoods.

The consent authority must consider the following—

- a) for urban design development involving subdivision—whether the subdivision supports—
 - (i) walkability, and
 - (ii) smart cities by adequately providing for current and future needs for telecommunication infrastructure,
 - (iii) Public Art and cultural infrastructure**

Refers to: CRM 20803/2022

- (iv) **Natural open space and recreation infrastructure (new)**
- b) for development for residential purposes—whether the development contributes to the housing needs of the local population, **and provides affordable housing opportunities**
- c) for development that is within walking distance of a train station or in a town centre—whether the development contributes to a diverse mix of uses and active streets, **and open spaces**
- d) whether the development provides enhanced visibility and contributes to passive surveillance and the activation of the neighbourhood at different times of day.

19 Design consideration—sustainable transport and walkability

The consent authority must consider whether the development—

- a) *contributes to minimising car trips and car travel distances by—*
 - (i) *supporting access to public transport, and*
 - (ii) *minimising private car parking, and*
 - (iii) ***Improve opportunities for a variety of transport modes to be accessed (new)***
- b) *minimises the impact of car parking on public space, and*
- c) *supports increased opportunities for walking and cycling by integrating with, or improving connections to existing walking and cycling networks, and*
- d) *provides bicycle parking and end of trip facilities, and*
- e) *supports the installation of infrastructure for charging electric vehicles*

20 Design consideration—green infrastructure

The consent authority must consider the following—

- a) *whether the development retains or improves existing green infrastructure and contributes to the restoration and regeneration of natural systems,*
- b) *whether the development maximises tree canopy cover and provides sufficient deep soil to support the tree canopy,*
- c) ***The new green infrastructure be included in all designs (new)***
- d) *whether new and existing green infrastructure will be appropriately managed and maintained during at least the first 12 months.*

The inclusion of green travel and more sustainable development that includes target around water and energy use will move us to a more sustainable position in the future.

The guidelines that support the SEPP are a good tool to support better development outcomes.

Considerations for inclusion of Cultural elements, the importance of public open space, housing diversity and affordability should be given consideration.

Refers to: CRM 20803/2022

Also some thought to how regional developments can achieve similar outcomes where there are great distances to travel and potentially not the same infrastructure to support great outcomes.

There is an opportunity to include greater community engagement into the design of their places and their communities and the SEPP is a little silent on that.

Urban Design Guidelines

The guide supports the principles of the DP SEPP in aiming to create healthy, prosperous places for people, communities and Country. It provides benchmarks, guidance and best practice processes for designing and assessing urban design development across NSW. It is a human-centred and Country-centred approach that will provide better outcomes for all.

The guide:

- recognises and responds to place as the foundation for all place-based decision-making
- focuses on public space to promote equitable public life as a key outcome of good urban design
- takes a strategic approach to urban design, looking beyond site boundaries to positively contribute to place
- prioritises compact, walkable, diverse and connected neighbourhoods
- provides a common framework that gives progressive certainty to proponents and assessors.

Conclusion

Overall the new Design SEPP is well thought out and will provide good outcomes for develop development and the community. There are a few minor amendments suggested and we would appreciate your consideration of them.

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

By email: designandplacessepp@planning.nsw.gov.au and claire.krelle@dpie.nsw.gov.au

Dear Sir/Madam,

Re: Draft State Environmental Planning Policy (Design and Place) 2021

Thank you for the opportunity to provide a submission on the draft State Environmental Planning Policy (Design and Place) 2021 (the DP SEPP). Council supports the move towards simplification and consolidation of environmental planning policies that support design and place.

A range of documents supports the DP SEPP and this submission focuses on:

- Aims of the DP SEPP
- Modifications of development applications
- Planning pathway
- Design Review Panel
- Urban Design Guide
- Apartment Design Guide

Aims of the DP SEPP

Port Stephens Council supports the intention of the DP SEPP to incorporate principles for the design of places and the assessment of development proposals. The DP SEPP will guide design outcomes through mandatory design considerations to achieve well-designed built environments.

The DP SEPP is also likely to assist Council in achieving outcomes of the Port Stephens Local Housing Strategy (Live Port Stephens), specifically increasing diversity of housing choice and facilitating liveable communities.

However, it is unclear how the DP SEPP will achieve the aim to simplify design and place considerations in the planning system. For example, the DP SEPP consolidates the existing SEPP 65 and BASIX SEPP, but at the same time provides a new Urban Design Guide (UDG) to complement the DP SEPP.

The draft DP SEPP does not simplify design considerations when it requires that the consent authority ‘must be satisfied that’ or ‘that a development is consistent with’ a particular standard. This wording does not provide for a degree of flexibility and is broadly inconsistent with a touchstone of NSW planning that development controls should not be applied rigidly if a superior design outcome can be achieved through a flexible approach.

An example of this rigid approach is clause 13 of the draft DP SEPP, which requires a consent authority to be ‘satisfied that the development is consistent with the design principles’. The design principles in clause 12, are high-level, aspirational concepts. Determining whether development is or is not consistent with such principles will involve highly subjective considerations and may not result in predictable approvals and refusals.

To overcome this, these principles could be amended to require ‘consideration of’. Alternatively, a requirement for development to be ‘generally consistent’ with the design principles could be adopted. This would provide for proponents/Councils to have due regard to these principles while allowing for a degree of flexibility in their application.

Modifications of development applications (DAs)

The current wording of the draft instrument means that the DP SEPP will apply equally to new DAs and applications to modify existing development consents.

However, modification applications already need to satisfy the ‘substantially the same development’ requirement in section 4.55 of the *Environmental Planning and Assessment Act 1979*. It is on this basis that modification applications do not need to be assessed against development standards, such as maximum height limits.

Due to the onerous requirements of the DP SEPP, and the consistency with fundamental design principles already afforded by the ‘substantially the same development’ test, the SEPP should not apply to modification applications.

Planning pathway

The new Environmental Planning and Assessment (Design Principles and Considerations) Direction 2022 (Ministerial Direction) requires that planning proposals greater than 1 hectare demonstrate how the principles and considerations of the DP SEPP and the objectives of the UDG have been met in the proposal. They also need to be referred to the relevant design review panel for advice regarding their design response.

However, planning proposals explain the intended effect of an LEP amendment (usually to permit a change in permitted land uses) and set out the justification for making the plan by demonstrating strategic and site-specific merit. In most circumstances, the detailed design of likely future development on a site is rarely available or necessary at the planning proposal stage.

It is therefore unclear how a planning proposal can consider and respond to design objectives, principles and considerations. The design verification statement template in the UDG is more suitable for development applications than planning proposals. Clarity about the requirements for supporting (design) documentation, designs, or plans as part of a

submission for Gateway determination will be beneficial to local government and the development industry.

The Department of Planning and Environment recently published the Local Environmental Plan Making Guideline (NSW Government; 2021). This Guideline should be updated to include clear information requirements for planning proposals addressing the Ministerial Direction, SEPP, and the UDG.

Design Review Panel

The Ministerial Direction states that when the direction applies, a planning authority must ensure that a planning proposal is referred to the relevant design review panel for advice concerning the design response.

This requirement introduces an additional step in the planning proposal process which is likely to add considerable time requirements. There are also additional costs involved for Council and the proponent when planners and technical staff need to attend panel meetings. Finally, it is unclear what type of information needs to be referred to the design review panel at the planning proposal stage.

The Local Environmental Plan Making Guideline (NSW Government; 2021) should be updated with a requirement for the referral of planning proposals to a design review panel. For example, the draft Local Government Design Review Panel Manual indicates that 2 or 3 design review panel sessions may be required. Benchmark timeframes for the development of planning proposals should be amended to ensure that this is factored into the new benchmarks.

Urban Design Guide

The UDG references a wide range of existing documents and introduces new documentation, new design criteria, and new design processes. This will not necessarily simplify the design and place considerations for developers and local government.

Most local governments already have an existing design framework in place through development control plans and place plans. These controls are site and place specific and have been prepared to respond to the local context of urban development. Applying state-wide homogenous controls may prejudice development planning processes, further reducing flexibility in the planning system.

The guidelines are very prescriptive and aspirational, particularly in the context of urban development in regional areas compared to development in Sydney. The region often experiences a lag in the delivery of public infrastructure, retail precincts, pedestrian connections, and walkable access to strategic centres. In some instances, these requirements cannot be achieved in regional areas because of geographical or environmental constraints. Accordingly, Council staff will be required to spend additional time justifying unachievable variations to the UDG during the development assessment process.

The UDG is also rather Sydney and metro area focused, and fails to capture or consider the complexities and constraints of urban development in regional areas. The UDG should include specific provisions for regional areas, or include less prescriptive design requirements and focus on best practice place planning objectives.

Apartment Design Guide (ADG)

The draft ADG provides considerably less succinct aims, objectives, and numerical criteria compared to the current ADG. For example, the design guidance on 'Cultural context – response to Country' primarily explains the importance of analysing cultural significance, rather than providing specific actions or investigations to be undertaken in support of the site and context analysis.

The ADG document structure could be improved as follows:

- Incorporate relevant information from appendix 2.2 into the design criteria.
- Include numbering for each design guidance and criteria item for ease of reference.
- Where possible, include numerical design criteria or more clear guidance stipulating when certain design features are sought. For example, the "Through-site links" section does not include any specific criteria for when a through-link should be provided.

In summary, there is a risk that the new SEPP, UDG, and MD will introduce more red tape, increased time frames for planning and development assessment, and increase costs to both applicants and local government.

For further information, please contact Rogé Kempe, Strategic Planner on 4988 0508 or by email roge.kempe@portstephens.nsw.gov.au

Yours sincerely,



Brock Lamont
Strategy and Environment Section Manager

25 March 2022
Telephone enquiries
(02) 4980 0508
Please quote file no: PSC2021-03586

Claire Krelle

From: David Appleby <David.Appleby@randwick.nsw.gov.au>
Sent: Tuesday, 1 March 2022 12:58 PM
To: Abbie Galvin
Cc: PDPS DRDE Design and Place SEPP Mailbox; Stella Agagiotis; Thuy Tran; Natasha Ridler; David Ongkili; Bronwyn Englaro
Subject: RE: Design and Place SEPP_Randwick City Council Submission
Categories: DP SEPP Expo

Hi Abbie,

Thank you for the feedback.

I neglected to mention in my original email that the submission was endorsed at the Randwick City, Ordinary Council Meeting held on 22 Feb 2022.

Regards,

David

From: Abbie Galvin <Abbie.Galvin@planning.nsw.gov.au>
Sent: Tuesday, 1 March 2022 12:42 PM
To: David Appleby <David.Appleby@randwick.nsw.gov.au>
Cc: PDPS DRDE Design and Place SEPP Mailbox <designandplacessepp@planning.nsw.gov.au>; Stella Agagiotis <Stella.Agagiotis@randwick.nsw.gov.au>; Thuy Tran <Thuy.Tran@randwick.nsw.gov.au>; Natasha Ridler <Natasha.Ridler@randwick.nsw.gov.au>; David Ongkili <David.Ongkili@randwick.nsw.gov.au>; Bronwyn Englaro <Bronwyn.Englaro@randwick.nsw.gov.au>
Subject: Re: Design and Place SEPP_Randwick City Council Submission

Thanks very much for taking the time to put this submission in David

We value your comments and will review thoroughly

Look forward to speaking soon

Abbie Galvin

Government Architect NSW
LFRAIA

On 1 Mar 2022, at 10:31 am, David Appleby <David.Appleby@randwick.nsw.gov.au> wrote:

Hi Design and Place SEPP Team and Abbie,

Please find attached Randwick City Council's submission in response to the exhibition of the draft Design and Place SEPP.

We look forward to hearing how the draft DP SEPP is further refined and finalised for publication.

Regards,

David Appleby

Coordinator Strategic Planning
Randwick City Council
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Keep up to date with everything happening in Randwick City through [Randwick News](#), a short weekly email about living in our great city.

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Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 9:08 AM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: shellharbour-city-council-submission-_draft-design-and-place-state-environmental-planning-policy.pdf

Submitted on Mon, 28/02/2022 - 09:07

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Jessica

Last name

Lintern

I would like my submission to remain confidential

No

Info

Email

Jessica.Lintern@Shellharbour.nsw.gov.au

Suburb/Town & Postcode

Shellharbour City Centre 2529

Please provide your view on the project

I am just providing comments

Submission file

[shellharbour-city-council-submission-_draft-design-and-place-state-environmental-planning-policy.pdf](#)

Submission

Please see attached

I agree to the above statement

Yes

Council Reference: Submission

28 February 2022

Department of Planning and Environment

Shellharbour City Council submission on draft Design and Place State Environmental Planning Policy

Thank you for the opportunity to comment on the Department of Planning and Environment's (DPE) draft Design and Place State Environmental Planning Policy (DP SEPP) and supporting guides.

This submission has been prepared by Council staff and does not necessarily represent the views of the elected Council due to the exhibition of the DP SEPP occurring so close to the local government elections and an inability to brief and report this complex matter to newly elected officials.

Shellharbour City Council recognises the importance of promoting good design, quality of place, sustainability and resilience to support our community and to make Shellharbour City a desirable place to live. This is reflected in our land use planning instruments, local strategic planning statement, housing strategy, community strategic plan and other policy documents. The importance of quality and good design, as well as sustainability and resilience is common feedback from the Shellharbour City community when undertaking engagement to support the development of our strategies.

While Council staff are overall supportive of the goals and objectives of the draft DP SEPP and supporting guides, some considerations for DPE on this package that should be addressed prior to finalising the DP SEPP package are outlined below.

Draft DP SEPP

Part 1, Section 8 of the draft DP SEPP outlines exclusions to land which the draft DP SEPP applies. This section provides that this policy does not apply to development under the SEPP (Exempt and Complying Development Codes) 2008. The Policy and BASIX would therefore not apply to any residential developments undertaken via Complying Development Certificates. It is assumed this is not the intent and therefore should be corrected.

Additionally, in Section 8 of the draft SEPP, subsection (3) outlines that Part 3, Division 3 of the draft SEPP applies to certain development types if they are BASIX affected development. This clause includes reference to a subsection 2(c)(i), which is not a subsection of Clause 8. It is unclear if subsection (3) of Section 8 is aiming to include subsection (2)(c), or if there is a missing part under subsection (2)(c). As outlined above,

Department of Planning & Environment
Submission on draft Design and Place State Environmental Planning Policy

it is assumed that a reference to subsection (2)(b)(i) and (ii) is intended to be referenced here to ensure that Complying Development is still required to meet BASIX requirements when it is a BASIX affected development.

Any Development Application (DA) to which this draft SEPP applies is required to consider the design principles as per section 14-23 of the SEPP. These sections are wordy and ambiguous, with no clear assessment criteria. Consolidation of these clauses should be considered. Alternatively, provision of supporting documentation which provides a framework for how these matters are to be considered as part of the DA assessment process could be provided.

Part 2, Section 12 outlines the principles for design in NSW. It is suggested that an additional subclause be included to reflect the importance of the streetscape and providing for safe streets in creating well designed places. This could be further supported by a design consideration of sustainable transport under subclause (2) of this section.

Design Consideration 19 – sustainable transport and walkability requires the consent authority to consider whether the development contributes to minimising car trips and car travel distances by – (i) supporting access to public transport, and (ii) minimising private car parking. Council recommends subclause (ii) be removed, or amended to reflect that minimising private car parking in regional and rural areas can have a significant adverse impact on the streetscape, as it leads to residents parking on the street. While Council acknowledges the importance of encouraging alternative travel methods, without the public transport network to support this, car ownership will still be significantly high. The DP SEPP fails to acknowledge access to employment, medical, health and education services in regional areas, which often cannot be easily accessed by public and active travel methods. If private car parking is minimised through the DP SEPP this will lead to more on street carparking and congestion of already narrow local roads.

The draft DP SEPP defines ‘urban design development’ as sites greater than one hectare not in an industrial zone, land in an industrial zone that has a site area greater than one hectare and a capital investment value of \$30 million or more, or development where an environmental planning instrument requires a development control plan or master plan to be prepared for the land before development consent may be granted. This definition would capture development applications for the subdivision of land and other minor development applications, which does not appear to be in line with the intent of the SEPP and would add an additional layer of complexity to those assessments. It is suggested that a clause be included to exclude applications that do not have any, or have limited, built form from the application of Part 3 Division 1.

Part 3 Division 1 of the draft DP SEPP requires development consent must not be granted to urban design development unless a development control plan (DCP) applies to the land on which the development is to be carried out. Further clarification should be provided if this means any DCP or a site specific DCP. If a site specific DCP is required, this is considered overly onerous. It is unrealistic to expect councils to have the capacity to assess and endorse site specific DCPs in accordance with the requirements of the Environmental Planning and Assessment Act 1979 (EP&A Act), and Regulations (and the Regulations 2021) for any site which is more than one hectare.

Greater clarification should be provided on how councils could assess compliance with Section 26, subsections (a)(i), (ii) and (iii).

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Section 33 relates to car parking requirements for new buildings and green travel plans. This section refers to mapping that is not able to be viewed. An account is required to view the data. This data should be made available for councils to review prior to finalising the DP SEPP as relevant comments cannot be made. It is also unclear as to how subclause 3(b) could be achieved. Further clarification on how this is to be measured and who would be responsible for measuring whether the development has achieved the mode share targets should be provided. Council would be hesitant to take on this responsibility in most instances, restrictions imposed on title are unable to be enforced by council staff. Additionally, further information should be provided on how 'mode share' will be determined. Where are the trip generators or are the areas limited to only those residents who reside in the immediate area?

It is recommended that throughout the draft DP SEPP, particularly in relation to the design considerations that greater consideration be given to regional areas where town centres may not necessarily have easy access to public transport and parking demand is high. Consideration of existing and future demands on local streets and the impacts of these roads when reducing the number of parking spaces in regional areas should also be addressed throughout the DP SEPP.

Part 4 Design Review, Clause 34 requires any development on sites over one hectare to go to a Design Review Panel. This would capture DAs for the subdivision of land or where there is minor development occurring on large lots, which does not appear to be in line with the intent of the SEPP. It is suggested that a clause be included which excludes DAs which do not have any, or limited, built form from application of this Clause.

Council is supportive of the inclusion of sustainability targets for non-residential developments.

Draft EP&A Amendment (Design and Place) Regulation 2021 (DP Regulation)

Section 99A of the draft EP&A Amendment (Design and Place) Regulation 2021 (DP Regulation) requires that a green travel plan be prepared in accordance with section 33 of the DP SEPP and be reviewed every two years to ensure implementation and that targets for mode share specified are achieved. Further clarification should be required as to how this is to be dealt with. Who will monitor and enforce the implementation of the green travel plan? Restrictions imposed on title are unable to be enforced by council staff and would require an additional resource burden on council staff to monitor and enforce the implementation of the green travel plans.

While Council is supportive of the requirement for a design verification statement prior to the issue of Construction and Occupation Certificates, it is recommended that this wording be tightened to require a design verification statement that verifies that the construction certificate drawings align with the DA approved drawings and design verification statement provided and the development as completed aligns with the original design verification statement for the DA. The draft Regulations do not outline what is required to be submitted with a design verification statement at the construction and occupation certificates stages. This could allow for the same statement to be continually submitted. It is recommended that Sections 143A and 154A be amended to further specify what is trying to be achieved – that is that the design submitted at Construction Certificate and as constructed at Occupation Certificate phases achieve Clause 57 of the Regulations.

Department of Planning & Environment
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Currently, SEPP 65, Part 3, Clause 19(3) allows for the provision of staff and facilities for the design review panel. The new draft DP Regulation does not include this provision. As Council's design review panel will no longer be constituted under SEPP 65 once the DP Regulations amendment comes into effect, will the DPE be providing the staff and resources for the transition, and for the management of that panel and the meetings/functions as outlined in the DP Regulations?

It is noted that the amended scheme is intended to incorporate default factors on the materials index and allow for the submission of BASIX alternative materials. There needs to be appropriate resources to action requests relating to the use of alternative materials.

Apartment Design Guide

Council is supportive of the following inclusions:

- The increased Deep Soil Zone percentage targets and introduction of the canopy spread target
- The rate per dwelling for the provision of Communal Open Space.
- The inclusion of additional details regarding the storage calculations and information required. However, it is suggested that a requirement for storage lockers or cages to be installed as part of the development (prior to Construction Certificate) be included. There has been instances where the space has been provided, but each owner has been required to pay individually for the cage or locker.

Council recommends the inclusion of the following within the Apartment Design Guidelines:

- The minimum balcony dimension for 3+ bedrooms apartments. It is noted that a one metre width is required, however this would not be considered a usable area if this is all that was to be provided.
- Shellharbour City Local Government Area (LGA) should be included within the list of LGAs where two hours of direct solar access is required (rather than three hours). Shellharbour City LGA is identified as a regional centre within the glossary and many residential flat buildings within Shellharbour, Shellharbour City Centre and Shell Cove areas are being designed to provide two hours of solar access and seeking variations to this control in the current Apartment Design Guide. Additional clarification should also be provided as to when a balcony or living room window is in direct sunlight or where 1 sqm, or a small corner of the window receives direct sunlight?

Further clarification should also be provided as to whether the 'floor area served' in terms of natural ventilation is the total floor area of the dwelling or the floor area of those rooms that are cross ventilation. This additional clarification should also include as to whether popup/operable skylights serve as an appropriate form of open area to serve as a ventilation opening (provided it is of a sufficient size).

As the definition of wintergardens within the draft Guide would allow them to be fully closed up to and exceeding a height of 1.4m, they would be considered to contribute to the Gross Floor Area (GFA) and therefore the FSR of a development. This should be rectified within the GFA definition or requirement for Wintergardens to retain an open area below 1.4m from the floor level, which would enable exclusion from the current definition of GFA under the standard instrument.

Whilst it is acknowledged that minimising car parking requirements in the correct locations can assist with site planning, it is important to recognise that the ability to minimise car parking in regional areas is difficult due to the lack of alternative transport options.

Department of Planning & Environment
Submission on draft Design and Place State Environmental Planning Policy

Draft Urban Design Guide

The draft Urban Design Guide (UDG) outlines objectives that are to be considered at the planning proposal stage to ensure the principles of the DP SEPP and good urban design and encouraged throughout the built environment. A key component to encouraging good urban design is planning, to ensure urban areas are connected, infrastructure is delivered in a timely manner and to create liveable communities. It is recommended that Objective 1 'Projects start with nature, culture and public space' should include reference to projects being identified through councils strategic planning work. When urban areas are appropriately planned for by council, it allows the objectives of the UDG and the broader DP SEPP package to be considered earlier and therefore are easier to achieve. This is also in accordance with the Minister's Planning Principles, which acknowledges the importance of strategic planning work. Minimising the acceptability of proponent led spot rezonings will assist councils to encourage good urban design.

Throughout the draft UDG reference is made to high-service-frequency public transport, or high-frequency public transport. A definition of what service level would be considered to meet these terms should be provided. This will provide greater clarity for developers and assessing officers.

The Design Criteria under Objective 12 requires that development over 5 hectares deliver a minimum of 15% of the net developable land (NDL) as freely accessible public open space. The proportion of open space under the design criteria is area based, independent of population density. Has the 15% taken population density into account? Further advice should be provided on how this meets the different density needs of regional areas versus metro areas.

Objective 12 includes the definition of a Small Park which is 0.15 to 0.45 hectares within 200 metres walking distance catchment. Council's park hierarchy is local, district and City Wide. Regional councils will find it challenging to meet the small park provisions. This provision of open space will potentially create challenges for long term asset maintenance. We recommend that the need for this level of open space be reconsidered.

Design Criteria 12.2 outlines that toilets and amenities should be provided in areas of high visitation. It is also important to ensure that there is not an oversupply of amenities and toilets that will then need to be maintained by Council. Further clarification of what is considered to be an area of high visitation should be provided. It is recommended that toilets and amenities are only provided in district level parks and above. Local parks should only be considered for amenities if there is a demonstrated need. This criteria also considers the need for suitable lighting for safety and character. It is also recommended that lighting should only be provided in district and above parks. Lighting in local parks should only be considered if there is a demonstrated need in terms of safety and character.

Council is supportive of the list of open space land types that are excluded from contributing to the 15% of open space provision as outlined in Appendix 2 Public Open Space. Too often councils are to negotiate with developers to ensure that open space received is fit for purpose.

The criteria for dual-use of land under Appendix 2 should provide further information on what warrants dual use. It could be challenging in rural areas to ensure that district parks are not dual use and that there is still appropriate amounts of useable open space.

Department of Planning & Environment
Submission on draft Design and Place State Environmental Planning Policy

Appendix 2 provides a method for providing public open space in a five step process. Step 2 should consider the inclusion of R5 Large Lot residential development as part of the NDL for open space. This is particularly relevant for regional councils.

The Exemptions to the open space benchmarks under Appendix 2 require further explanation and detail of what the intent is of this section. Further clarification of the exemptions and how they apply should be provided.

Draft Ministerial Direction

The draft Direction states under Part 5(d) that a planning authority must ensure that a planning proposal is referred to the relevant design review panel for advice concerning the design response for a planning proposal that will affect land greater than 1 hectare in area and within an existing residential, commercial, mixed use or industrial zone; or any other zone in which residential development is permitted or proposed to be permitted.

The draft Local Government Design Review Panel Manual does not refer to planning proposals. There is no information about when a planning proposal should be referred to a Panel, or what information would be required to be reviewed by the Panel. Further information should be provided about what advice is being sought from a Design Review Panel in relation to planning proposals and what they are required to review. Planning proposals are high level and may not have enough information to warrant review by a panel, or further consideration of the DP SEPP and associated guides.

While the Ministerial Direction states that a planning authority must ensure that a planning proposal is referred to the relevant design review panel, there is no guidance as to when in the process this is required to occur, or who is responsible for managing the referral to a panel. Additionally, has referral to the Design Review Panel been factored into the timeframes DPE are looking to establish for the assessment of a planning proposal? This referral process could take significant time depending on the ability to convene a design review panel meeting. This may significantly delay council's abilities to assess a planning proposal in the timeframes being proposed by DPE.

Additionally, DPE have recently released new "LEP Making Guideline" and a Discussion Paper on "A new approach to rezonings" which do not appear to reference the requirement to refer a planning proposal to a design review panel if the proposed draft Ministerial Direction applies. As this is a significant new step in the process for the assessment of planning proposals, it would be beneficial if referral to a panel was discussed and further information and guidance was provided in these documents.

Draft Local Government Design Review Panel Manual

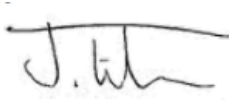
Whilst it is appreciated that the government has provided case studies to support the draft Design Review Panel Manual, the examples used are all very city-centric. As this document applies to the State, it would be beneficial to include examples from regional areas.

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Thank you again for the opportunity to provide comment on the draft DP SEPP policy documents and guides. Council acknowledges the amount of work that has gone into developing these documents and is supportive of the overall intent of the draft package. However, further consideration of the above matters is required to ensure that councils are able to implement and action the documents. It should also be noted that assessment of DAs or planning proposals against the DP SEPP package will take additional time and this should be reflected in any proposed assessment timeframes that DPE are considering.

If you wish to discuss anything further in regards to this submission, please do not hesitate to contact me via email Jessica.Lintern@shellharbour.nsw.gov.au or via phone (02) 4221 6246.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Lintern', with a horizontal line above the first part of the signature.

Jessica Lintern
Strategic Planner

Council Reference: 31157E (D22/69027)

18/03/2022

NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

By email: designandplacessepp@planning.nsw.gov.au and via Planning Portal

Dear Sir/Madam

Submission – draft Design and Place SEPP

Thank you for the opportunity to comment on the draft Design and Place SEPP (DP SEPP). Council welcomes the NSW Government's recognition of the importance of good design to local communities and its commitment to simplifying and strengthening this consideration in the NSW planning system.

The current exhibition material features a considerable amount of content to be reviewed in order to provide a response. Council has previously advised it is critical that exhibition periods for reforms of this nature allow sufficient time, at least 6-8 weeks, for the preparation of a properly considered and Council-endorsed response. Councils across NSW have been presented with wide ranging and significant reforms over recent months which may have broad implications particularly with regard to how these changes are coordinated and rolled out and ultimately impact on users. We acknowledge and appreciate a longer than usual exhibition period provided for the DP SEPP although it must be said that exhibiting during the holiday period is not ideal. We ask that similar timeframes be provided for any future reforms announced by the NSW Government.

This submission has been endorsed by Council at its Ordinary Meeting of 14 March 2022 (MIN22.173):

*That Council make a submission (**Attachment 1** of this report) to the NSW Department of Planning and Environment in relation to the draft State Environmental Planning Policy (Design and Place) 2021 and supporting guides.*

General

Shoalhaven City Council continues to support the broad intent of the DP SEPP to elevate, enhance and simplify design and place considerations in the NSW planning system and establish a consistent approach to design and assessment. Local government has an important role in facilitating and creating good urban environments and housing. The SEPP intends to assist in doing this, particularly by getting the fundamentals right at the

neighbourhood scale and by mandating design input into certain developments early in the process. The encouragement and integration of good design and place-based planning and policy has the potential to result in improvements in this space that would be welcomed and would benefit the entire community. Nevertheless, there are also some potential impacts that warrant further consideration. As with Council's previous submission on the Explanation of Intended Effects (EIE), this submission highlights some of the specific matters of concern to Shoalhaven.

Flexible approach

As per Council's previous submission, while supportive of the five principles of the DP SEPP and sympathetic to the *intent* of flexibility in a principles-based system (i.e. to foster innovation, optimise outcomes on a site specific basis, etc) there remains some concern about how this actually plays out in development applications and assessments.

The DP SEPP allows for a flexible approach to development assessment. Currently there is a tension between meeting acceptable solutions and performance criteria with the latter being difficult to assess. Working in a space without benchmarks could result in designs that diverge from a particular standard expected by the broader community. Performance solutions also take longer to assess which introduces an element of uncertainty, introducing another tension between timely assessment and achieving a good outcome (on this point we note certain expectations of the Minister set out in *Environmental Planning and Assessment (Statement of Expectations) Order 2021*). There is also potential for additional adjudication through the Courts. This process is costly. The existing clause 4.6 pathway (exceptions to development standards) has resulted in litigation, questionable approvals, consideration by ICAC and uncertainty. Development assessment teams already see proponents vary development standards and utilise clause 4.6 and it is not always so that they can demonstrate greater innovation. There are ongoing issues with the clause 4.6 pathway that need to be addressed. Furthermore, the interaction of the DP SEPP with the clause 4.6 pathway should also be analysed. The DP SEPP will likely be applied in regional councils differently to metro councils and uncertainty as to the application of development standards will cause concern in the community which might have particular expectations with regard to design outcomes.

The consent authority must be satisfied that applicable development is consistent with the design principles of the DP SEPP before granting consent. Section 30(3)(a) advises the design criteria and design guidance of the Apartment Design Guide (ADG) should be applied "flexibly and consider alternative solutions". Clause 24(3)(a) similarly applies to the Urban Design Guide (UDG). One inherent risk in 'flexible' interpretations is that these can lead to decisions being made for non-planning reasons with the potential to undermine the intent of the planning policies. Benchmarks or compulsory thresholds to be met for alternative solutions should at least be provided to ensure any flexible approach is also fully considered.

Another risk with a flexible approach is that it has the potential to be impacted by decisions made by the NSW Land and Environment Court (LEC), which could result in the court mandating certain approaches or principles being taken to how the ADG or UDG is enforced. The establishment of such legal precedents has the potential to remove any 'flexibility' which was otherwise intended to be provided. The implementation of more specific thresholds has the potential to provide more certainty regarding the design outcomes which are intended and reduce the potential for the interpretation of the DP SEPP to be impacted by interpretations of the NSW LEC.

Without sufficient and specific measurable design outcomes or quantitative examples of compliance provided, proponents are likely to find ways to argue that their proposal meets the relevant objectives of the ADG/UDG and therefore the principles of the DP SEPP. In some regional areas a design verification statement (DVS) might be prepared by a person who, despite on-paper credentials, might not have the specific relevant experience anticipated by the DP SEPP. For these reasons the principle-based approach may not result in a quantifiable difference to design outcomes in development across the State. To ensure that improvements in design outcomes can be reached, designers and assessors must be able to refer to more quantifiable provisions and outcomes for developments. Guidelines need to empower consent authorities to make robust decisions founded in the intent of the relevant controls.

Metro and regional differentiation

It is noted that the DP SEPP has “universal aspirations that can be adapted to context, fit for our towns, cities and suburbs”. Shoalhaven’s previous submission on the EIE commented on the importance of Development Control Plans (DCPs) and local development controls in delivering development outcomes appropriate to a particular context, noting that context varies considerably across NSW. However, the DP SEPP and supporting documents seem better attuned to metropolitan locations. Where design criteria have been provided, there remains some concern about its application in parts of Shoalhaven. In applying some of these provisions State-wide, it should be understood that what is appropriate for metro Sydney is not always appropriate for the regions.

Car parking

Council raised the issue of car parking in its previous submission on the EIE and it is noted that certain measures have been circumscribed since the EIE to reflect differences between Sydney and regional NSW, including “*car parking being applied to areas of high public transport accessibility only, to ensure outer metro and regional areas reliant on cars are not faced with an undersupply of car parking*”.

Nowra is included as a Nominated Regional Centre for the purposes of the non-discretionary development standards under section 1.6 of the ADG. Council recognises the need to reduce car dependency where public transport and walkability are feasible options for transport, and the design considerations relating to sustainable transport and walkability are supported in principle. It is also recognised that the provisions of Section 1.6 may be suitable for some Nominated Regional Centres. However, in many regional areas, public transport is poor and travel distances are large, so there is a need to ensure that car parking is designed for and accommodated. Nowra as a locality is some 3.7km north to south and 3.2km east to west. Public transport is intermittent and infrequent, topography is undulating and as a Regional Centre is very car dependent. There are sites in Nowra zoned B4 Mixed Use under Shoalhaven Local Environmental Plan 2014 that are as far as 1.5km as the crow flies from the town centre (e.g. 205-223 Kinghorne St). The minimum car parking requirements under Guide to Traffic Generating Developments (RTA 2002) differ from (i.e. are less than) those in the DCP and if relied upon may instead promote poor amenity outcomes for future occupants in some parts of Nowra. Such areas are unsuitable to be nominated for a reduced parking rate. The unique circumstances of individual development sites and Regional Centres need to always be considered in the assessment of development applications (DAs) in relation to car parking.

Residential apartment development

'Residential apartment development' retains the same broad definition as the current SEPP 65 and ADG. Accordingly, the provisions of the draft DP SEPP and ADG will continue to only apply to buildings three storeys or more that contain at least four dwellings. The revised SEPP is a missed opportunity to extend the application of the relevant controls to all development defined as a 'residential flat building'.

Being a regional council with economic factors different to the metro environment, it is not unusual to see applications for residential flat buildings of two storeys in height. This type of development is suitable for larger sites that may adjoin low density residential areas and can provide more affordable housing types both for renters and owners. While Council's DCP has the ability to 'call in' the ADG, its provisions are then only treated as secondary DCP controls and routinely overlooked and argued by applicants. The ADG should broaden its applicability to include lower rise residential flat buildings to deliver good quality design outcomes to this more affordable form of housing.

Density

The UDG contains residential density minimums as design criteria to meet Objective 3: 'Compact and diverse neighbourhoods connect to good amenity'. One of these criteria is a minimum average gross residential density of 15 dwellings per hectare, unless called out in certain neighbourhood catchments. This objective and the density minimums are understood and not objected to in principle. Shoalhaven's DCP, for some Urban Release Areas (URAs), already requires residential density minimums that would meet or exceed the requirements under the UDG. However, there have been and are likely to be other developments in Shoalhaven to which the DP SEPP and UDG would apply where this particular standard may not be appropriate due to certain site constraints or where a large lot, lower density character is intended. Some established developments, or those that are underway, may have changed substantially in terms of infrastructure requirements, neighbourhood character etc, had these density minimums been implemented.

It is understood that the design criteria are quantitative benchmarks that enable the relevant objective to be met, and that alternative solutions to the design criteria *can* be proposed, however it remains to be seen if this is workable in practice or if it causes local planning objectives in certain regional or semi-rural areas to come in conflict with, for example, a proponent's desire to maximise yield. (It is noted that increasing yield due to density requirements is categorised as a 'benefit' in the Deloitte Cost Benefit Analysis, but this is really only part of the story.)

There may be occasions where Council as the consent authority ends up seeking flexibility from design criteria set in the UDG in circumstances where local development controls expect a different outcome. The key issue is not that Council is density-averse, but simply that context-specific local planning should determine density outcomes. Perhaps additional wording to the design criteria could assist: "(design criteria) *unless otherwise specified in a local council's DCP*". Alternatively, these standards could be presented as design guidance rather than design criteria or, rather than design criteria that prescribes density minimums, perhaps the guidance should talk to a typical density minimum subject to context and put the focus squarely on existing local controls.

It is noted that clause (6) of the proposed Ministerial Direction says the planning proposal must give effect to design criteria and guidance in the UDG, whereas it would seem more accurate that effect be given to the 'objectives' given the intended flexible application of

these criteria and the potential to propose an alternative solution. Perhaps the Direction should 'give consideration to' rather than 'give effect to' or add wording along the lines of 'or give effect to an alternative solution that meets the relevant objective'.

Codes SEPP and local character

We note the former Planning Minister's comments lamenting what he describes as the current the "computer says no" approach to urban development.¹ It is submitted that the 'computer says yes' approach promoted through complying development must also be reconsidered if the Department truly wants to elevate the design and place outcomes of new development in NSW. On this point we note, with some disappointment, that the DP SEPP will not apply to development under Codes SEPP nor does the exhibited policy package amend the Codes SEPP.

It is also understood that the proposed local character clause for the Standard Instrument LEP has not progressed and may very well not be implemented, and that this is at least in part due to relevant matters being addressed in a new way through the DP SEPP. The draft clause sought to identify areas of significant local character values, make reference to a statement of desired future character, and in some instances identify areas where complying development was restricted due to character values. If the DP SEPP and guides are intended to instead be the statutory mechanism for dealing with local character, the SEPP needs to enable a consent authority to clearly identify local character and/or desired future character. The ongoing impacts of complying development with regard to these matters will need to be addressed at some point.

In the unfortunate event that the DP SEPP does not progress to finalisation, and without a local character clause in the Standard Instrument LEP or a strengthening of the role played by a council's DCP, there will remain a gap in the planning system for dealing adequately with local character.

Design Review Panel

The draft DP SEPP sets out the various development types or thresholds where advice from a Design Review Panel (DRP) will need to be obtained and considered. A new Local Government Design Review Panel Manual will support local government in establishing a DRP and meeting the requirements of the DP SEPP. In recent years, Council resolved to provide 'in principle' support for the establishment of a DRP for Shoalhaven, or for a joint DRP in the Illawarra-Shoalhaven region, subject to further investigations including terms of reference and potential costs. However, this process was never concluded and no DRP currently exists that services Shoalhaven.

Not all regional councils have significant numbers of applications warranting the regular briefing or convening of a panel which the Manual envisages. Establishing a DRP for Shoalhaven individually would be an expensive and detailed process, for a relatively narrow field of development types that would apply. Nevertheless, it is clear that a DRP would be called upon by Shoalhaven from time to time. The proposed EP&A Regulation requires a DRP to be constituted for a local government area, or for two or more councils. Council would likely consider establishing a regional DRP for different LGAs to refer DAs to as necessary. Any specific support or guidance from DPE in setting up a regional DRP would be valuable.

¹ Thompson, Angus. "Computer says no": NSW Planning Minister says rules are stifling good design." *Sydney Morning Herald*, July 9, 2021

Skills/Capacity

The ability for Councils in regional areas to establish DRPs with requisite skills may be challenging. Desirably, panel members should not have conflicting interests but would have some familiarity with or appreciation for local issues of relevance to design outcomes. For planning proposals assessed as per the new s9.1 Direction, it is also desirable that panel members have appropriate strategic-level skills in addition to DA assessment skills. Shoalhaven is a large local government area, with different neighbourhood character, community expectations and other local planning considerations across different areas. If panel members have limited experience in the LGA there will be resourcing implications for Council or other local groups for DRP briefings. Panels will need to be given documentation such as plans, an agenda, conflict of interest declarations, briefing packs, have site inspections arranged, venues and meetings arranged and set up. Minutes will be required, and a design advice letter provided. Smaller councils have limited capacity in staff numbers, funding and experience. There is an administrative workload that must be absorbed by already stretched administration and assessment teams.

Costs

Further, the cost of establishing and maintaining a panel could be a concern. As no DRP is currently utilised by Shoalhaven, the full costs implications are yet to be determined. It is still likely that the fees associated with a DA may not cover the full assessment cost inclusive of a DRP. It is noted that Council resolved in April 2020 to provide development application fee concessions in response to COVID 19. Accordingly, there is concern that the current fee arrangement would not provide adequate funding to support a panel. Councils will also be required to evaluate and monitor the panel for continuous improvement and to capture lessons learnt. This is another resource impost.

Decision making

The framework to improve design and consistency in assessment and determination, of which the DRP requirements are part, is commendable. However in regional areas it is theoretically possible for an elected Council to set aside design advice and feedback in the decision making process. The manual indicates that the advice of a panel must (only) be *considered* in the assessment process. Despite provisions in the draft EP&A Regulation (clauses 57A(c) and 57B(c)) there is the potential for proposals inconsistent with the advice of a DRP to be accepted.

Design Review Panels: Council and Crown DAs

Section 34 (1)(c) and (2) of the DP SEPP applies to Council and Crown development with a capital investment value between \$5 million and \$30 million. This is the same threshold for a DA to be referred to a Regional Planning Panel (RPP) for determination, making the RPP the consent authority.

Is there a process to be established to find out if the RPPs will require a DA to be referred to a DRP as part of the assessment? This should not be determined by the assessing authority due to potential conflict of interest, particularly when the DA may then proceed to a determination with the RPP who may have a different view.

Assessment, Engagement and Resourcing

In addition to the costs anticipated in setting up a DRP, there will be further costs and resourcing burdens with the implementation of the DP SEPP. Full consideration of this, or the capacity of councils to fund assessment, panels etc does not appear to have yet occurred. It is well known that there is a shortage of assessment professionals and related professions and that this can be felt acutely in regional areas. Council staff may need additional education or training to grow their skill sets in light of the requirements of the DP SEPP. Again, this may have a cost impact. The State government should provide and fund relevant training for council staff as required.

The Connecting to Country Framework is still in draft form but is intended to be finalised around the same time the DP SEPP comes into effect. It is also understood that the requirement to respond to Country may be expanded in future years beyond what is proposed in the draft DP SEPP. At the appropriate point, further clarification about the relationship between the Connecting to Country Framework and the DP SEPP (and UDG) would be appreciated. Time, resources and training will need to be provided to all parties involved to allow these considerations to be properly integrated in planning processes. We reiterate our previous comments on the potential resource burdens placed particularly on Aboriginal stakeholders due to additional engagement requirements. It is understood from stakeholder engagement sessions that DPE is aware of these matters.

Reforms generally: Simplifying and Consolidating Policies and Guidance

Council has previously expressed concern over the proliferation of new SEPPs and guidelines and therefore supports the Department's ongoing efforts to simplify the current NSW planning system through consolidation or reduction of the number of SEPPs. The status of some design guidance documents considered relevant to Shoalhaven, such as Urban Design for Regional NSW and Coastal Design Guideline, remains unclear in the exhibited materials although the UDG makes a very minimal reference to each.

Generally, we continue to request that the ongoing planning reforms initiated by DPE be considered with utmost regard to the coordination (and pace) of these reforms and their impact on users.

Specifically, it will be important that the application of the DP SEPP is closely monitored to ensure that its aspirations are ultimately resulting in improved design and place outcomes in all contexts.

Thank you again for the opportunity to comment on the draft Design and Place SEPP. We further thank DPE and Government Architect's engagement with stakeholders through the project working groups and other online events in the period between the EIE and current exhibition. We remain available to discuss the content of this submission further, if required.

If you need further information about this matter, please contact Richard Carter, City Futures on (02) 4429 3482. Please quote Council's reference 31157E (D22/69027).

Yours faithfully



Gordon Clark
Interim Director – City Futures



25 March 2022

NSW Department of Planning Industry and Environment
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SYDNEY NSW 2001

designandplacesepp@planning.nsw.gov.au

Dear Sir or Madam

Re: Submission to the Department of Planning and Environment in response to the draft Design and Place State Environmental Planning Policy

Thank you for the opportunity to provide feedback on the Design and Place SEPP. Please find the attached SSROC's submission. As noted in correspondence on 28 February 2022, provided by Ms Rebecca Habchy, Project Officer, Government Architect NSW, SSROC is now providing its final submission.

The Southern Sydney Regional Organisation of Councils Inc (SSROC) is an association of eleven local councils in the area south of Sydney Harbour, covering central, inner west, eastern and southern Sydney. SSROC provides a forum for the exchange of ideas between our member councils, and an interface between governments, other councils and key bodies on issues of common interest. Together, our member councils cover a population of about 1.7 million, one third of the population of Sydney, including Australia's most densely populated suburbs. SSROC seeks to advocate for the needs of our member councils and bring a regional perspective to the issues raised.

SSROC population and housing data¹, in the period from 2011 to 2016, reveals a very diverse socio-economic area marked by rapidly rising numbers of dwellings and underlying growth in the number of households in the area. The estimated resident population increased by over 150,000 during this five-year census period.

Although the urban growth of the SSROC area is unique, our region shares a number of issues and drivers with many other urban areas managing rapid population growth sustainably while enhancing liveability.

Because of its size and diversity, issues experienced within SSROC often reflect statewide trends like population growth supported by migration. The experience of strong growth and related development across both highly urban as well as more suburban parts of Sydney has provided a number of valuable insights and has helped to shape our feedback on the draft SEPP.

SSROC strongly supports the Department's work to elevate the importance of design excellence and place-based design in the planning system.

SSROC appreciates this opportunity to help shape and contribute to the policy to enable better design and place outcomes.

¹ Source: Australian Bureau of Statistics, Census of population and Housing 2011 and 2016, compiled by id <https://profile.id.com.au/ssroc/>

Introduction

In the face of the pandemic and global environmental challenges, our local councils are placing sustainability, resilience, and quality of places at the forefront of development and strategic planning. SSROC councils seek to use their local plans and strategies to deliver sustainable and resilient places and sound place-based and building design outcomes.

Most of our councils have broadly embraced the intent of the Design and Place SEPP and its supporting guides and look forward to working with the NSW Government to enhance and deliver positive design outcomes for the buildings and public places in their local areas.

At the same time, however, the 2022-23 financial year will be especially challenging from a budget and resourcing perspective for local councils. Following IPART's unprecedented and unanticipated low-rate peg determination, councils will be re-casting their 2022-23 budget projections. Councils will therefore be looking to the NSW Department of Planning and Environment (DPE) for support and guidance in all facets of transitioning and implementing the DP SEPP.

The submission is structured in three parts:

- **Part A** contains general comments about the overall design and place policy framework, and contains recommendations to assist local councils during transition and implementation;
- **Part B** contains SSROC's response to selected specific provisions within the DP SEPP, Apartment Design Guide and Urban Design Guide with particular focus on important aspects of policy which include sustainability and resilience, green infrastructure, waste management, design review panels and inclusive design;
- **Part C** contains SSROC's response to selected specific provisions within the DP SEPP, Apartment Design Guide and Urban Design Guide that relate to waste management, resource recovery and recycling. The circular economy forms a particular priority for the councils in SSROC.

Background: Our Understanding

The NSW Government is proposing to introduce a new Design and Place State Environmental Planning Policy (DP SEPP). SSROC made a submission to the Explanation of Intended Effect (EIE) which was exhibited in 2021.

The documents on exhibition are:

- the proposed draft Design and Place State Environmental Planning Policy (DP SEPP) 2021
- proposed changes to the Environment and Planning Assessment Regulation 2021 (EPA Regulation)
- proposed direction by the Minister under section 9.1 of the Environmental Planning and Assessment Act 1979 (9.1 Direction)
- the revised Apartment Design Guide (ADG)
- the proposed new Urban Design Guide (UDG)
- updates to residential sustainability (BASIX)
- BASIX sandbox tool
- Design Review Panel Manual for Local Government (DRPM)
- Design & Place - Cost Benefit Analysis (Summary)

Key features of the DP SEPP

Principles-based approach

The DP SEPP will introduce a principles-based approach to planning with 5 design principles supported by 2 considerations and specific measures to satisfy each principle².

Principles	Considerations	
1. Deliver beauty and amenity to create a sense of belonging for people	<i>Overall design quality</i>	<i>Comfortable, inclusive and healthy places</i>
2. Deliver inviting public spaces and enhanced public life to create engaged communities	<i>Culture, character and heritage</i>	<i>Public space for public life</i>
3. Promote productive and connected places to enable communities to thrive	<i>Sustainable transport and walkability</i>	<i>Vibrant and affordable neighbourhoods</i>
4. Design sustainable and greener places to ensure the wellbeing of people and the environment	<i>Green infrastructure</i>	<i>Resource efficiency and emissions reduction</i>
5. Deliver resilient and diverse places for enduring communities	<i>Resilience and adaptation to change</i>	<i>Optimal and diverse land use</i>

The stated aims of the draft DP SEPP are:

- a) to provide a consistent set of principles and considerations to guide the design of the built environment
- b) to ensure a high quality and innovative design of the built environment
- c) to create place that support the health and well-being of the community
- d) to integrate good design processes into planning and development
- e) to recognise the economic, environmental, cultural and social benefits of high-quality design
- f) to ensure sustainable development and conserve the environment
- g) to minimise the consumption of non-renewable energy and reduce greenhouse gas emissions
- h) to achieve better built form and aesthetics of buildings, streetscapes and public spaces
- i) to recognise the importance of Country to Aboriginal people and to incorporate local Aboriginal knowledge, culture and tradition into development.

² Refer to Part 2 of the DP SEPP public consultation draft

Application of the DP SEPP

The DP SEPP will apply to all of NSW and spans places of all scales from precincts, large developments and buildings to infrastructure and public space. Land excluded includes some rural land, industrial land, environmental conservation land and waterways. Small scale development such as detached houses and complying development are excluded from the DP SEPP (except for BASIX requirements).

Guidance

The DP SEPP gives effect to two guides, a revised Apartment Design Guide and a new Urban Design Guide. Changes to update BASIX are also proposed along with an alternative merit-based assessment pathway to meeting sustainability requirements.

Design Skills

The DP SEPP also introduces requirements for qualified designers to prepare a design verification statement for a range of developments to verify that they designed or directed the design of proposals and state how it meets the objectives of the DP SEPP and relevant guidance and to justify any alternative design solutions.

Design Review Panels

Establishment of Design Review Panels, appointed by the Minister, is required for all councils. Panels will be required to adhere to the process set out in a new *Local Government Design Review Panel Manual*.

Timeframe

A delayed commencement of 6 months is proposed following gazettal of the DP SEPP.

Part A: General Comments

Overview

SSROC is supportive of the DP SEPP and welcomes the strengthening of BASIX, the updates to the Apartment Design Guide and the new Urban Design Guide. SSROC broadly agrees with the principles and supports the consolidation of policies and guidance within the SEPP.

There is strong alignment between the intent of the policy, to “put sustainability, resilience and quality of places at the forefront of development”³ and improved design and sustainability outcomes sought by councils and their communities.

SSROC appreciates the Department of Planning and Environment (DPE) decision to extend the timeframe for developing the DP SEPP to enable more consultation with councils and other stakeholders, together with webinars and forums convened during the exhibition period have helped council staff better understand various components of the DP SEPP. However, it is disappointing that the timing of the local government elections in December 2021 has limited the opportunity for newly-elected councillors to engage on this important reform.

While there is support for elevating design in the planning system, and the DP SEPP is broadly supported, SSROC understands councils do have concerns about aspects of the proposed SEPP and its implementation may prove challenging to implement, given the other significant planning reforms underway.

³ <https://www.planning.nsw.gov.au/Policy-and-Legislation/State-Environmental-Planning-Policies/Design-and-Place-State-Environmental-Planning-Policy>

Specific comments on provisions within the DP SEPP, BASIX and the Apartment Design Guide are set out in Parts B and C of this submission.

Principles-based approach

The proposed shift to a principles-based approach is a significant change to the planning system.

SSROC recognises that a principles-based approach to assessing development applications and flexibility in applying design controls that regulate development can support good design outcomes. However, many councils remain concerned that the assessment pathways for approval and refusal are unclear and this will create uncertainty for owners, applicants and the community and lead to longer assessment timeframes, strain council resources and could also result in an increased risk of court cases.

Some councils are of the view that having more transparent minimum standards with merit-assessment for non-compliance would address these concerns. If the DP SEPP is implemented as proposed, these risks will need to be carefully monitored and managed.

It would appear that before the DP SEPP is made, further testing and trialling of the proposed approach is needed to demonstrate that the principles-based approach proposed will not lead to these undesirable outcomes.

Recommendation 1

SSROC recommends that DPE develop a program to test and trial the use of the proposed principles-based approach with local councils prior to making the DP SEPP.

Relationship between DP SEPP and locally developed plans

While the intent of the DP SEPP to lift design quality and outcomes state-wide, SSROC is concerned that the standardised controls may have the unintended effect of limiting local councils' ability to tailor responses to local and regional circumstances. Introduction of the DP SEPP alongside other recent reforms to employment zones and the continued expansion of complying development erodes local community decision-making and place-making are restricting flexibility.

Councils remain unclear about how the DP SEPP relates to other planning instruments. The relationship between the DP SEPP and guidance (Apartment Design Guide and Urban Design Guide) and other State Environmental Planning Policies, Local Environmental Plans and Development Control Plans and what takes precedence when there is a conflict is one example.

While the DP SEPP principles are supported, and many aspects of guidance are welcome, it is difficult to understand how issues that are particularly important to local communities can be planned for and tailored appropriately. For example, state-wide blanket controls such as those proposed for density in the Urban Design Guide may not be appropriate in different local contexts. Supplements to the Urban Design Guide could help illustrate how the Guide works in highly urban, suburban and regional contexts.

Recommendation 2

SSROC recommends that DPE revise the draft DP SEPP in consultation with councils to ensure there is sufficient flexibility and scope for local place-making and clarify the relationship between the DP SEPP and other planning instruments.

Implementation and Resourcing

Introduction of the DP SEPP and elevating design will likely require new skills, additional staff and require establishment of new systems and processes within councils. This will be complex and

there are costs associated with implementation which will be exacerbated by current skills shortages and councils' financial constraints.

It is critical that introduction of the DP SEPP is carefully managed and appropriately resourced by both state and local government. SSROC recommends that a detailed implementation plan be developed jointly with councils before the DP SEPP is finalised. This should map out steps, timeframes and resources needed to ensure that the proposed commencement within 6 months of gazettal is feasible, well-organised and properly resourced.

As with all new policy change, issues will arise, despite the guidance and templates within the Design Review Panel Manual for Local Government which have been developed to support councils to implement the policy. These are certainly a welcome start, but from experience of other planning reforms, there will be a need for proactive real-time support, particularly during the transition period and in the first 12 to 18 months of the policy commencing. SSROC will seek to provide a support network of its councils to enable the sharing of information, documents, templates etc.

Resourcing for implementation should include:

- training for council staff – the DPE has indicated it will be putting together a training program, and we urge the department to work closely with the local councils to identify and understand what technical, professional and administrative training will be needed to support councils. These may vary from region to region.
- funding for additional positions or consultants and sharing of resources for councils that are unable to fund new positions or have difficulty attracting skilled planners
- a facility such as a help desk or hotline within DPE to provide a real-time central point of contact to ensure prompt and consistent responses to queries; and
- an implementation group (or groups) that include councils to resolve issues as they arise and support implementation, particularly during the early days of the policy transition and commencement.

Recommendation 3

SSROC recommends that DPE work with councils to develop an agreed and appropriately resourced implementation plan for the DP SEPP, with consideration of practical real-time support such as training for council staff, a DPE hotline or help-desk, and council support networks and implementation groups.

Recommendation 4

SSROC recommends that the implementation plan for the DP SEPP include a resourcing strategy for councils. The resourcing strategy should identify gaps in capacity, guidance, funding and system improvements to support councils.

Part B: Specific comments on the exhibition documents

SSROC supports the intent of the exhibition documents including the draft DP SEPP, Draft Apartment Design Guide and Draft Urban Design Guide. The comments below are proposed additions and refinements.

Response to draft Design and Place SEPP

Part 2 Design principles and design considerations

SSROC notes the DP SEPP Sections 12 and 13 introduce design principles and design considerations that must be considered by the consent authority. SSROC is supportive of this approach.

20 Design consideration - Green infrastructure

The inclusion of green infrastructure as a design consideration in the SEPP is strongly supported by SSROC. The SEPP considerations include retaining or improving existing green infrastructure to support natural systems and the intention to maximise tree canopy have wider council support. Section 20(b) and (c) highlight the importance of ensuring green infrastructure thrives through the provision of deep soil and appropriate maintenance, both fundamental to the successful creation of green spaces.

SSROC welcomes the inclusion of minimum tree canopy targets across streets, parks and properties as provided in the UDG and ADG. The inclusion of definitions of tree planting rates, prioritising the protection of existing trees, consideration of species diversity to deliver canopy cover and contribute to biodiversity are all supported.

Where trees are not suitable for a site, then greening alternatives, such as green roofs and walls are encouraged to be factored into the design early in the process. The SEPP and its supporting material include strong green infrastructure guidance, important for local development outcomes, creating cooler and more attractive liveable communities.

Recommendation 5

SSROC supports retaining in the final DP SEPP the strong green infrastructure objectives included in the draft SEPP which recognise the essential role of green infrastructure, including tree canopy and other initiatives in creating cooler and more liveable development.

21 Design consideration—resource efficiency and emissions reduction

Section 21(a) excludes as far as practicable, the use of on-site gas for cooking, heating and hot water, for subdivision development. SSROC supports the NSW Government's commitment to reach Net Zero by 2050. Electrifying development, fostering the use of the most efficient technologies available and sourcing electricity from renewable sources is needed to reach net zero. Given the longevity of development, SSROC recommends electrifying all new development not just new subdivisions. This is especially important in apartments where the expense of retrofitting is costly.

Recommendation 6

SSROC recommends that Section 21(a) of the DP SEPP be amended to exclude on-site gas for cooking, heating and hot water apply to all residential development to transition to net zero.

SSROC agrees with and supports the intent of Section 21(b), however the current wording could be improved to convey the circular economy outcomes and place emphasis on the ongoing waste management of the development.

Recommendation 7

SSROC recommends the wording of Section 21(b) of the DP SEPP be amended so that its intent is clearer, for example,

- (b) is designed to minimise waste
- (i) from demolition and construction,
 - (ii) integrating waste management infrastructure to facilitate source separation of waste streams and safe and efficient collection.
 - (iii) by the choice and reuse of building materials,

SSROC supports Section 21(d) promoting water sensitive urban design and water re-use. Water in the landscape is needed to mitigate urban heat and a push for water efficient landscaping could have perverse outcomes.

22 Design consideration - resilience and adapting to change

SSROC commends the inclusion of resilience and adaptation as a design principle. SSROC recommends that Section 22 be amended and updated to ensure the SEPP promotes adaptability over time. There are known climate risks that have near term impacts, that could be addressed if resilience features were adaptable over time.

The impact of natural hazards on development can also be mitigated through the selection of building materials. For example, tiled roofs in areas subject to intense hail are more likely to fail than roofs made from Colourbond or lighter roofs and facades reducing urban heat impacts. The design of the development should also include consider the design life of materials chosen to ensure ongoing resilience. This may be addressed through the Resilience Guideline, which is not on exhibition.

Recommendation 8

SSROC recommends the DP SEPP be amended to include the word 'anticipate' in Section 22(a)(i) and introduce design life considerations in Section 22(b) as follows:

22 Design consideration - resilience and adapting to change

The consent authority must be satisfied that the development is resilient to natural hazards by

- a) incorporating measures to:
 - *anticipate*, avoid or reduce exposure to natural hazards, and
 - mitigate and adapt to the risks of natural hazards, including risks of climate change and compounding risks,
- b) mitigating the impact of expected natural hazards through the siting and design of the development *including materials selection*.

Part 3 Assessment of development

Division 2 BASIX standards for residential development

SSROC supports the application of higher BASIX standards. However, councils would like more flexibility in responding to local risks and the aspirations of their community to set high BASIX standards for their community.

SSROC welcomes the review of the BASIX standards every three years noting that the water use target is a priority as it was not part of the current review.

Recommendation 9

SSROC recommends the DP SEPP be amended to enable local councils to set a higher BASIX standard for their community after a community feedback process.

Schedule 1 Energy and water use standards for non-residential development

SSROC commends the inclusion of sustainability standards across non-residential development. SSROC would like to work with the NSW Government on how implementation of these aspects will impact council assessment processes. There is also a need to understand the verification process and post construction commitments, and a need for training and support for council assessors.

Recommendation 10

SSROC recommends that the implementation phase for non-residential sustainability standards in the DP SEPP should fully define the verification processes for sustainability commitments and provide training for a range of stakeholders.

Part 4 Design review

Design Review Panels

While some councils already have Design Review Panels, many councils have legitimate concerns and questions about the costs and resourcing associated with administration of these Panels. This is particularly acute in light of the current financial plight of councils as discussed in the opening to this submission.

Under the new proposals, many councils will be required to establish Design Review Panels for the first time. SSROC notes that the draft Environmental Planning and Assessment (Design and Place) Regulation 2021 allows for a Panel to be established for two or more councils⁴. This model could address the issue but will require further consideration about how the costs are borne between councils and other logistics to be worked out.

Councils have differing views about how Panels should be established. Some councils have many years of experience appointing and successfully running Panels and are well-equipped to continue to do so. The DP SEPP and Regulation propose that the Minister appoint Panels in consultation with councils. SSROC would like to see these provisions broadened to permit alternative Design Review processes by agreement between local government and the Government Architect NSW, for example, panel members being appointed by council rather than the Minister based on expertise. Further consultation with local government should occur to agree an approach appropriate to the differing circumstances of councils across the state.

Recommendation 11

SSROC recommends that DPE engage with local government to agree a process for establishing Design Review Panels that is responsive to the different circumstances and experience between regional and metropolitan councils and those councils with experience in establishing and operating panels.

Design Verification

SSROC is concerned that the definition of “urban designer” is confusing and vague. It is not clear what constitutes 5 years experience in precinct or master planning. While there are definitions for “architect” and “landscape architect” in the draft EPA (Design and Place) Regulation it does not define a “qualified town planner”. It is unclear whether this a

⁴ See proposed clause 268B in the [Environmental Planning and Assessment Amendment \(Design and Place\) Regulation 2021 public consultation draft](#)

recognised planning degree or a qualification recognised by the Planning Institute of Australia.

Recommendation 12

SSROC recommends that DPE give further consideration to the definition of “urban designer” in consultation with local government practitioners and other bodies such as the Planning Institute of Australia prior to the DP SEPP being made.

Response to the draft Apartment Design Guide

Green Infrastructure (ADG, section 1.5)

The Apartment Design Guide (ADG) provides tree canopy targets, defines tree planting rates, considers species diversity and biodiversity in delivering canopy cover. It also prioritises the protection of existing trees. Where trees are not suitable for a site, then greening alternatives, such as green roofs and walls are encouraged to be factored into the design early in the process. This is aligned with local government advocacy to protect mature urban vegetation and that developments and precincts include measures to alleviate the urban heat island effect.

SSROC supports the modest increases to deep soil and tree canopy requirements and would support the more stringent requirements that were originally foreshadowed in the EIE.

The ADG Guide refers to trees that should be retained as ‘significant trees’. The terminology ‘significant tree’ is problematic. For most councils this means trees listed on a significant tree list or heritage list, however, there are many other trees in local areas which do not meet the ‘significant tree’ criteria but are well established and have considerable canopy and other benefits.

Recommendation 13

SSROC recommends that the reference to ‘significant tree’ in the Apartment Design Guide be replaced with ‘healthy and well-structured established tree’.

Apartment Mix and Diversity (ADG, section 2.3)

The ADG currently requires that a minimum of 20 per cent of apartments incorporate the Liveable Housing Australia (LHA) *Liveable Housing Design Guidelines* (LHDG) Silver Level universal design features⁵. It is disappointing that the opportunity has not been taken to increase these provisions in the Revised ADG, as was foreshadowed in the EIE for a Design and Place SEPP.

SSROC understands that the minimum 20 percent Silver Level has been retained while the NSW Government considers its position in relation to the agreement by Building Ministers in [April 2021](#) to include minimum accessibility provisions for residential housing and apartments in the National Construction Code based on LHDG Silver Level.⁶

SSROC is concerned that retaining the current provisions in the revised ADG will exacerbate the existing significant shortfall in accessible dwellings which limits opportunities for people with disabilities and others to access housing suited to their needs in their community.

⁵ [Apartment Design Guide](#), July 2015, Objective 4Q-1

⁶ [Building Ministers’ Meeting: Communique April 2021](#)

Recommendation 14

SSROC recommends the Apartment Design Guide be amended to increase the percentage of dwellings required to meet the Liveable Housing Design Guidelines (LHDG) Silver Level and require a proportion of dwellings meet LHDG Gold Level or an equivalent or higher standard.

Response to the draft Urban Design Guide

SSROC supports the objectives of the Urban Design Guide and the place-based framework. This aligns with our advocacy around achieving improvements in liveability and sustainability of our communities.

Objective 4 Place-based risks are mitigated, and ecological values sustained to ensure resilient communities

SSROC advocates for developments and precincts to include measures to alleviate the urban heat island effect. Heat kills more Australians than any other natural disaster yet is not specifically mentioned as a risk under Objective 4. For heat mitigation to be incorporated into the design phase, assessment guidance is needed. SSROC noted that LGNSW, in partnership with the NSW Government, has funded Western Sydney Regional Group of Councils to develop the [Cool Suburbs Tool](#) to identify the most appropriate urban heat interventions to existing and new developments which may provide useful guidance for proponents and assessors.

Recommendation 15

SSROC recommends that the Urban Design Guide be amended to strengthen the coherence and implementation of Objective 4:

- Identify heat as a natural hazard e.g. To reduce the impacts of hazards such as *heat*, bushfire, drought or flooding, whether natural or human induced.
- Provide assessment guidance for addressing urban heat at the precinct scale.
- Including references to other hazard related guidance including the Floodplain Management Manual and Planning for Bushfire Protection 2019 guide.
- Provide proponents and assessors with appropriate tools such as the flagged 'design for resilience' template and accompanying guideline.

Objective 10 Tree canopy supports, sustainable liveable and cool neighbourhoods

Objective 10.1 of the UDG relates to enhancing urban tree canopy and includes point 5: *Consider site-specific constraints and requirements when planting trees and ensure future flexibility*. SSROC proposes a strengthening of the wording of 'future flexibility'.

Recommendation 16

SSROC recommends that the wording of objective 10.1 point 5 in the Urban Design Guide be amended to read:

- *Consider site-specific constraints and requirements when planting trees and ensure well designed and constructed spaces for mature trees.*

Species selection is included in point 6 of objective 10.1. It is suggested that this section could also be strengthened by the addition of *species diversity*, not just biodiversity, which focussed on native flora and fauna.

Recommendation 17

SSROC recommends that the wording of objective 10.1 point 6 in the Urban Design Guide be amended to read:

- *For species selection, gain maximum benefits from the urban canopy by considering species suitability for the site attributes and constraints, species diversity and contribution to biodiversity.*

The placement of trees to allow for maximum canopy growth is covered in objective 10.4 requiring the appropriate selection of tree species *to avoid new tree placement that blocks high-amenity views*. However, a 'high amenity view' could be defined and interpreted in many ways and apply to a range of views from water to bushland and city views. Given the complexity of this definition, and the possibility of a wider than anticipated scope, SSROC suggests this point be deleted or reworded.

Recommendation 18

SSROC recommends that objective 10.4, point 2 in the Urban Design Guide be deleted to remove the reference to 'high amenity views'.

Objective 18 Built form enlivens the ground plane and activates and frames public space

Urban heat islands are also influenced by hard, sealed surfaces in the public streetscape. Urban heat could be addressed through *18.5 Consider the impacts of material choices by* listing light finishes or avoiding materials with a low Solar Reflectance Index.

Part C: Specific comments on Waste Management

(Apartment Design Guide, section 3.3)

SSROC councils play a lead role in providing waste, recycling and other resource recovery services to their communities. Waste management is complex, and every council across NSW is required to deliver an increasing range of waste services within their communities, therefore getting it right is vital. Where good waste outcomes are not achieved the implications can impact human and environmental health with significant perverse outcomes.

Some of the key considerations impacting local councils' ability to deliver waste services include:

- Increasing waste generation rates, according to the NSW EPA in 2018–19 the average NSW household generated 21.75 kg of waste a week
- State and Federal mandates to meet waste diversion rates and emissions reduction targets including the Waste and Sustainable Materials Strategy: 2041
- Increasing community expectations borne out of concern for a changing climate
- Pressure from population growth and increasing community diversity
- The need to activate Circular Economy principles
- Changing waste servicing requirements both in terms of storage and collection.

To overcome challenges and meet waste diversion targets and other sustainability objectives a clear regulatory framework is essential. The Waste and Sustainable Materials Strategy (WaSM)

2041⁷ will help guide NSW in achieving the ambitious target of an 80% recovery rate from all waste streams by 2030 through the implementation of multiple strategic priorities. To this end, the draft DP SEPP and ADG offer important vehicles to ensure that the NSW State Government can work collaboratively with local government to implement these strategic waste programs and meet the objectives of WaSM specifically with regard to the management of organic waste (food organics/garden organics).

SSROC acknowledges that the DP SEPP mandates consideration of the ADG and UDG and clarifies that the assessment of new developments is to be against the objectives of the relevant guide.

We make the following comments regarding the proposed waste objectives contained within the ADG. Further detailed comments can be found in Attachment 1.

Objective 3.3.1

Whilst there is minimal change between objective 4W-1 in the current ADG and objective 3.3.1 in the Revised ADG, SSROC would recommend that the term “waste storage” be replaced with “waste infrastructure” as this term has broader application. Waste infrastructure would include “waste storage and collection areas”.

Objective 3.3.1 in its current phrasing also implies that waste storage could impede streetscapes and visual amenity, but this overlooks the opportunity for well-planned infrastructure that is responsive to future needs to be integrated into the overall design of the development so that it contributes to the built form and liveability of the dwelling and surrounds. There is the potential to rephrase this objective to ensure these opportunities are also identified. Refer to Appendix 1 for more detailed advice.

Objective 3.3.2

SSROC supports the change from Objective 4W-2 in the current ADG to Objective 3.3.2 which now reflects additional waste streams such as organics. This is essential, considering the organics mandate proposed under the WaSM strategy and with respect to the safe handling of problem household wastes which could include new collection opportunities in the future. To build upon this positive change this objective could be more prescriptive and identify other waste streams including “bulky waste”. Bulky waste is problematic when inadequate storage leads to residents placing waste on footpaths and kerbsides, impacting amenity, and is difficult and costly for councils to manage. Whilst many councils have bulky waste collections in place there are several key factors which can influence the efficiency and safety of such collections including appropriate storage and access for service providers.

Objective 3.3.2 could also be expanded to make clear that safe and convenient onsite facilities should represent more than one integrated waste storage area. Such facilities should be present within apartment kitchens to maximise organic and inorganic recycling at the source, include safe, hygienic and accessible waste storage within apartment buildings which have clear carting routes connected to a communal integrated storage area. Feedback from councils has repeatedly indicated that having good opportunities to separate waste at the source typically leads to increased resource recovery, greater participation in waste separation and a reduction in contamination.

SSROC also recommends a third objective be included in the revised ADG to adequately address waste collection to avoid poor outcomes, including collection vehicles being unable to access waste storage areas. The proposed third objective covering waste collection could be:

⁷ <https://www.dpie.nsw.gov.au/our-work/environment-energy-and-science/waste-and-sustainable-materials-strategy>

Proposed Objective 3.3.3 - *Provide adequate waste storage capacity and access to ensure that the development can be serviced safely and efficiently and to maximise resource recovery.*

If a third objective is not considered possible, consideration could be given to expanding Objective 3.3.1 to not only include waste infrastructure but also waste collection services.

Recommendation 19

SSROC recommends that the Apartment Design Guide be amended to:

- Expand waste objective 3.3.1 to refer to waste infrastructure;
- Expand objective 3.3.2 to cover the wider range of waste types; and
- Include a new (third) objective 3.3.3 to adequately address waste collection to better support councils with waste management service delivery.

Design Guidance for Waste Collection

Developing appropriate waste servicing arrangements for new developments is a critical aspect of the development application process for councils and the inclusion of council endorsed/standardised (but not mandated) waste servicing plans is one area which can support council planning staff in ensuring good waste management outcomes.

The complexity of waste servicing is set to increase for many councils with the WaSM Strategy setting out priorities for organic waste diversion and a mandated separate collection of food and/or garden organics for all NSW Councils by 2030. This will result in an increase of kerbside bins for all residential properties, meaning greater requirements for internal waste infrastructure to store and relocate organic waste, capacity within waste storage areas for a third type of bin, along with an increase in the area available for bin presentation to the kerb (where applicable). This will be coupled with an increase in waste truck movements to service a third bin.

To provide adequately sized infrastructure, the waste generation calculation needs to be based on local waste data however SSROC supports a minimum standard within the ADG. Waste generation rates may be impacted by population age, diversity and a range of other social variables including size of households and councils should have an opportunity to provide input into this process to determine a localised calculation based upon their specific community profile. Councils may have higher specifications for their community.

Safe access to integrated waste storage rooms is essential and is not fully prescribed within the revised ADG. Although reference is made to safety and limiting residents access to chutes and compactors, the guidance should go further to refer to the safety of service staff including cleaners, building managers and waste collection staff. Furthermore, the guidance could refer to the relevant Australian Standards as they apply to waste collection services and reference better practice options such as the nose in/nose out waste collection vehicle movements which many councils recommend ensuring pedestrian and service staff safety.

Section 1.3 of the revised ADG refers to site access and speaks to design considerations which may minimise conflicts between pedestrians, vehicle access and movement routes adjoining the site. SSROC notes that this could be expanded to make specific reference to ensure waste infrastructure and servicing requirements are integrated into the overall design if the development is to avoid poor amenity and environmental outcomes as displayed in Images 1 and 2.

In the case of large apartment buildings this would include facilitating access by a heavy rigid waste collection vehicle collecting from the site on multiple occasions per week. As such the potential amendment could read; *Minimise conflicts between pedestrians, vehicle access, service vehicles (such as waste collection vehicles) and movement routes adjoining the site.*



Image 1 & 2: pedestrian access and safety impacted plus poor amenity outcomes from inadequate planning for waste collection services.

Design Guidance for Waste Storage

As previously identified, appropriate waste storage infrastructure is critical to ensuring waste is separated at the source, leading to higher rates of resource recovery and lower contamination within apartment buildings. SSROC makes the following comments and recommendations regarding the opportunities to strengthen the design guidance around waste storage.

The revised ADG expands the reference to options for waste separation at the source and SSROC strongly supports this, especially the direct reference to providing two days' worth of storage in apartment kitchens to allow for organics and recycling to be separated from residual waste. There is strong support from within the sector that where the infrastructure exists to make waste separation easy the result is a higher uptake by residents and less contamination.

SSROC concurs with the need to separate commercial waste infrastructure in mixed-use developments both to ensure the safety of residents and tenants and for effective resource recovery.

There are some concerns across the local government sector regarding waste chutes in Figure 3.3.1. It is clear that councils have varying preference to the operation of waste chutes. Whilst waste chutes can offer spatial efficiencies, reference to the individual waste streams should be removed and a more general comment aligning with local practice would potentially be more useful and allow councils the flexibility to manage this based on the waste services available.

Waste chutes in residential apartment buildings (especially for organics) can lead to hygiene issues as well as potentially increasing contamination rates when used incorrectly. Some councils have provided feedback suggesting that a FOGO collection area rather than a chute is a more appropriate option within apartment buildings. Further to this, any storage and disposal option sited within a corridor should be very carefully considered to determine the appropriate mix of chutes and storage along with the method by which stored waste is transported to the integrated area.

Figure 3.3.1 refers to diverter systems which councils have found problematic. Councils have also found issues with the operation of turntables in apartment buildings and prefer to allow front in/front out access for collection vehicles. SSROC recommends removal of the reference to diverter systems and for councils to have the flexibility to recommend these at the council planning level where appropriate.

Both waste storage in residential corridors and integrated waste rooms should be well designed and meet all accessibility standards to ensure the safety of residents and service staff. Access doors should be a minimum double door and/or 2 metres in width to allow for maximum manoeuvrability of the bins within the room and allow bin movements to ensure bins are not overflowing and are easy to access.

Figure 3.3.3 does not necessarily reflect the preference of councils regarding waste room design and potentially should be removed in favour of enabling councils to recommend the design of the room at the council planning level. The revised ADG could refer to the key features that should be considered as part of waste storage design and these may include (but not limited to); minimum door width of 2m/double doors to allow for access, minimum floor size upward of 9m² to cater for recycling, organics and residual waste as well as allowing provision for future waste collections of textiles, e-waste, soft plastics as well as providing for a general bulky waste collection area. Resident and service staff amenity and safety can be impacted by poor design, as shown in Image 3. In addition to the size of integrated waste storage rooms, we concur with the recommendation contained in the design guidance covering the need to include hot and cold water for washing, access to sewer, excellent ventilation and lighting and other measures such as tiling of floors to ensure hygiene and safety.



Image 3: inadequately sized bulky waste storage room.

Recommendation 20

SSROC recommends that updates should be made to the design guidance in the Apartment Design Guide for waste collection and waste storage to ensure good waste outcomes can be achieved.

5 Conclusion

Thank you for the opportunity to comment on the Design and Place State Environmental Planning Policy. The breadth of the proposed SEPP is ambitious and should continue to be developed with extensive input from Councils to correctly navigate the intersections of the SEPP with local plans.

SSROC member councils cover a large portion of Greater Sydney and have a direct interest in supporting and advocating for changes to improve and sustain place-making and urban design and amenity. SSROC would encourage the SEPP review process to consider the opportunities noted in this submission to strengthen what has been proposed through supporting local councils' strategic planning role. Local planning strives to both adopt and adapt sound planning and design principles to place-making in ways that respond to their local contexts, with their built and natural environments, to better meet community and business needs and aspirations will responding to the challenges of growth and a changing climate.

In order to make this submission within the timeframe for receiving comments, it has not been possible for it to be reviewed by councils or to be endorsed by the SSROC. I will contact you further if any issues arise as it is reviewed. If you have any queries, please do not hesitate to contact me or Mark Nutting, SSROC Strategic Planning Manager on 8396 3800.

The new SEPP's provisions will no doubt have a major impact on facilitating place-making and our local councils' role in delivering and implementing changes in support of good design for our communities.

Again, thank you for the opportunity to comment on the draft Design and Place SEPP. SSROC would welcome the opportunity to assist with further information during this review to ensure the views of our member councils continue to be considered.

Yours faithfully



Helen Sloan

Chief Executive Officer

Southern Sydney Regional Organisation of Councils

Attachment 1: Design and Place SEPP and Apartment Design Guide

Feedback on principles related to waste and resource recovery

1. Design and Place SEPP - Design Principles and Design Considerations

Design Principle	Design Consideration	Recommendations
To deliver sustainable and greener places to ensure the well-being of people and the environment	<p>21 - Resource efficiency and emissions reduction</p> <p>(b) is designed to minimise waste from associated demolition, construction and during the ongoing use of the development, including by the choice and reuse of building materials.</p>	<p>Amend Design Consideration clause (b) to instead read:</p> <p>b) is designed to:</p> <ul style="list-style-type: none">• minimise waste from associated demolition, construction and during the ongoing use of the development, including by the choice and reuse of building materials;• ensure there is adequate space and access for the separation, storage and collection of waste and recycling; and• ensure circular economy design principles are embedded into the design and construction of the building. <p>Rationale - Waste and recycling from ongoing use of the development needs to be separated, as the type of waste produced by residents is very different to demolition and construction waste. This will also support objectives proposed in the Apartment Design Guide (ADG), to ensure there is a link between the ADG and SEPP with regards to operational/ongoing use waste.</p> <p>The draft DP SEPP represents a significant opportunity to apply circular economy principles across the life cycle of new developments in ensuring new buildings are both durable and adaptable and accord with state adopted circular economy principles that feature across a number of endorsed state government policy such as:</p> <ul style="list-style-type: none">• <i>Greater Sydney Region Plan and supporting District Plans</i>• <i>Circular Economy Policy Statement</i> (February 2019)• <i>NSW Waste and Sustainable Materials Strategy 2041.</i>

Promote productive and connected places	19 - Sustainable transport and walkability	<p>Insert new sub clause:</p> <p>(f) minimise the impact of waste storage and collection on public spaces.</p> <p>Rationale: On-street waste presentation (of bins and bulky waste) and collection can create hazards for active travel and pedestrians and detracts from walkability and amenity. Councils receive numerous complaints from people trying to negotiate kerbs lined with bins. Council is also aware of the risks this creates when pram and wheelchair users are forced into the street because bins have formed an impassable barrier, or when bins are placed on the roadway causing traffic and pedestrian hazards.</p> <p>This will support ADG objective 3.3.1, which is not currently addressed in the SEPP.</p>
	<p>21 - Sec 21(c) minimises greenhouse gas emissions as part of the goal of achieving net zero emissions by 2050, including by incorporating the following:</p> <ul style="list-style-type: none"> I. Passive design II. Energy efficiency III. The use of renewable energy 	<p>Amend to include:</p> <ul style="list-style-type: none"> I. Passive design II. Energy efficiency III. The use of renewable energy IV. Resource recovery principles <p>Rationale: The reduction of carbon emissions from recycling and resource recovery is key to achieving net zero emissions. This has been demonstrated in several studies and reports from State and Federal government indicating that organics diversion from landfill is paramount. Although the generation of methane (21 times more potent than carbon) occurs off-site, methane generation indirectly from developments must be taken into consideration for an effective zero carbon emissions commitment.</p>

2. Apartment Design Guide (Guide)

General comments:

Councils are concerned that the waste section did not include “design criteria” but only “design guidance. To remedy this, the objectives need greater detail and strength. If adequate waste collection, storage and access for a council’s service vehicles are not prioritised at the design stage then the financial and safety consequences for the occupants, surrounding street and councils waste services are highly deleterious. Currently, in Sydney there are many examples of apartments that did not allow sufficient ceiling heights or adequate space to be serviced onsite by council waste collection services creating a number of costly ongoing impacts for affected streets:

- impassable barriers of bins on collection days creating traffic and pedestrian hazards;
- increased dumping and high contamination of recycling in buildings due to inadequate waste storage, and
- occupants having to pay higher fees for bespoke arrangements to get their building serviced by a private company.

Objectives		
Objective (revised)	Recommendations	Rationale
3.3.1 Minimise waste storage impacts on the streetscape, building entries and amenity of residents.	Amend to instead read: Waste storage and collection areas are designed to minimise impacts on the streetscape, building entry and amenity of residents, neighbouring sites and pedestrians.	Critical to minimise both storage and collection impacts. Collection impacts typically effect an entire street (e.g., bins wheeled out to the kerbside, verge or placed on the road can create safety and traffic hazards for all users).

Introduction text: Well-designed infrastructure for safe and convenient collection and storage can help to minimise waste by promoting best practice management, including separation of waste streams for recycling.	Amend introduction to instead read: Sustainable waste management is relevant throughout the life cycle of a development and best considered early in the design process. Best practice waste management involves source separation to allow for better use of resources and the minimisation of waste disposal. The effective management of resources from domestic and commercial waste contributes to residents' and neighbours' visual and physical amenity and limits potential harmful environmental impacts.	'Source separation' is required for the efficient management of waste resources. Inclusion of the word 'sustainable' in the 'waste management' sphere is recommended. This activity is not only about managing waste to keep a safe and healthy environment, but also about ensuring that waste has a value, which in turn will drive the Circular Economy (alignment with State and Federal Direction) and ensure waste minimisation. Recycling should be mandatory.
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3.3.1 Minimise waste storage impacts on the streetscape, building entries and amenity of residents.	Amend to instead read: Minimise waste storage and collection impacts on the streetscape, buildings entries and amenity of residents and the neighbourhood.	It is critical to minimise both storage and collection impacts on the streetscape.
3.3.2 Minimise occupants' waste to landfill by providing safe and convenient onsite organic and inorganic waste and recycling facilities.	Amend to instead read: Minimise occupants' waste to landfill by providing waste and resource recovery facilities that promote waste stream separation, including safe and convenient onsite organic and inorganic waste and recycling facilities. Bin capacity and bin storage areas to be calculated with reference to current waste/recycling generation rates.	The proposed expansion of Objective 3.3.2 would require new developments to consider and demonstrate how the efficient waste separation of general waste, recycling and organics as well as problem waste occurs on site.

<p>Proposed new objective (3.3.3)</p> <p>Provide adequate waste storage capacity (for minimum 3 days generation) and access to ensure that the development can be serviced safely and efficiently and to maximise resource recovery.</p>		<p>This objective would strengthen the need for developers to design waste storage spaces and truck access that can be serviced as part of the standard council service, avoiding the need for bespoke arrangements, high frequency of servicing and unintended on-street servicing due to access issues.</p>
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Design Guidance

Waste Collection	Recommendations	Rationale
Integrate waste management infrastructure to facilitate separation of waste, recycling and organics at the point of disposal – for large buildings, on each residential level.	Agreed, but some SSROC councils suggested expanding the reference to include storage for 3 days of waste, and recycling on each residential level.	Some designers or developers may not realise that these buildings may not be serviced daily.
Prepare an operational waste management plan for residents (and other occupants in mixed-use developments) addressing waste collection, separation and storage, including locations of collection points, bin cart routes and equipment such as chutes	<p>Amend to include additional points in blue below:</p> <p>Prepare an operational waste management plan for residents (and other occupants in mixed-use developments) addressing expected waste generation rates, waste collection, separation and storage, including the number and location of bins / collection points, bin cart routes and equipment such as chutes.</p> <p>The Plan should also detail responsibilities for how waste will be collected and managed for the development. For large buildings a loading dock management plan should be included along with maintenance agreements for any large- scale infrastructure such as turntables, hoists, and bin lifts.</p>	<p>The proposed amendment expands the considerations and inclusions for the preparation and submission of a waste management plan for new residential apartment buildings.</p> <p>The waste management plan is a valuable tool in demonstrating how the consideration of waste and resource recovery has been integrated cohesively within the development and will support the delivery of the local council waste service.</p>
For safety, limit direct resident access to any areas that house chute systems and compactors.	<p>Amend to include additional point in blue below:</p> <p>For safety, limit direct resident access to any areas that house chute systems and compactors. Some local councils do not permit the use of compactors and may have different rules for chute systems. [Check the local development control plan].</p>	Some councils have different rules regarding the use of compactors and some styles of chutes such as e-divertors. It is important that they check the local development control plan at the design stage.

Integrate all waste management facilities and collection infrastructure within the built form of the development to improve amenity for residents and the neighbourhood.	Amend to include "collection staff": Integrate all waste management facilities and collection infrastructure within the built form of the development to improve amenity for residents, collection staff and the neighbourhood.	The health and safety needs of collection staff such as cleaners aren't always considered at the design stage.
Proposed new design guidance: Integrate development design with local council waste collection service. For some developments this may include an on-site waste collection service, on-site loading, maneuvering and access by Councils Heavy Rigid Collection Vehicles (Australian Standard 2890.2 Parking Facilities: Off Street Commercial Vehicle Facilities).		An additional design guidance for waste collection is proposed that responds to the need for new developments to give early and adequate consideration of a council's waste collection service to ensure safe, affordable and sustainable outcomes for the community. Unfortunately, there have been many examples of developments where waste management (particularly designing for waste collection) has been an afterthought, resulting in impeded access of essential waste collection vehicles, inadequate kerbside space resulting in bins on road thereby impacting amenity and public safety, additional costs to the ratepayers and services unable to be provided by Council, resulting in residents left without recycling and bulky waste services. An additional design guidance for waste collection is proposed to ensure new developments are integrated with a council's waste collection service and reflect that waste collection services for residential apartment buildings vary across local government boundaries.

Design Guidance		
Waste Storage	Recommendations	Rationale
In mixed-use developments, separate residential waste infrastructure from commercial waste infrastructure to facilitate secure management.	Amend to include additional point in blue below: In mixed-use developments, residential and commercial waste infrastructure must be separate, to facilitate secure management, and to maximise source separation and recycling.	Important that residential and commercial waste infrastructure is not only separate but is set up to separate each type of waste to maximise recovery.

Allocate communal space for residents to temporarily store unwanted bulky items such as furniture, appliances and mattresses awaiting disposal through council's clean-up service, or to be available for re-use by other residents.	Amend to include additions in blue below: Allocate separate, self-contained communal space (e.g., room or caged area) for residents to temporarily store unwanted bulky items such as furniture, electrical items, textiles, soft plastics and mattresses awaiting disposal through council's clean-up service, or to be available for re-use by other residents.	Safety – bulky items can topple over or become trip hazards. Expanded to refer to hard to recycle items that are not accepted in the yellow bins or bulk waste collection services, including textiles, soft plastics and electrical items. Guidance on the collection of bulky waste is not included nor the space required for storage of bulky waste; one of our councils have suggested a minimum of 9m ² for large unit blocks.
Locate communal waste and recycling storage rooms in convenient and accessible locations for each vertical circulation core.	Amend to include: Locate communal waste, organic waste and recycling storage rooms in safe, convenient and accessible locations for all users (including collection staff) , for each vertical circulation core.	Organic waste will be collected in most high-rise developments to meet the NSW Government mandate for organics collection by 2030. All users including collection staff but the needs of both occupants and collection staff need to be considered in the design.
Where applicable, allow for vehicle access (as required by Australian Standards) on site for local council or contracted waste collection service vehicles.	Define Heavy Rigid Vehicle as per Australian Standard 2890.2 Parking Facilities: Off Street Commercial Vehicle Facilities.	
Locate collection infrastructure for council waste collection services wholly within the development's basement and within close proximity to the onsite loading dock to permit	Amend: Where feasible , locate collection infrastructure for council waste collection services wholly within the development's footprint and within close proximity to the onsite loading dock to permit unobstructed access for waste collection staff .	Not all sites can physically fit a Council HRV in the basement and the site needs to be of adequate size to accommodate Council's largest vehicle on-site. Most residential apartment buildings of 3 or more storeys will be required to have on-site collection. Locate collection infrastructure for council waste

unobstructed access for contractors.		<p>collection services wholly within the property, and within close proximity to the onsite loading dock to permit unobstructed access for contractors.</p> <p>Collection vehicles must be able to enter and exit the site in a forward direction, with clear driver sight lines of footpaths and roadways.</p> <p>Waste collection from basements incurs potential for damage to parked cars and infrastructure, adds safety risks for waste crews, takes additional time, and adds health and amenity problems. It also requires ceiling heights of 4.5m, which are very contentious for some developers, as well as a host of other requirements including gradient, load bearing, turning opportunities and overhead space that is free of utilities.</p>
<p>Proposed new design guidance:</p> <p>Adequately sized waste storage area that meets Council requirements for storage and separation of streams.</p>		<p>This is in current ADG but is missing in draft ADG.</p>
<p>Proposed new design guidance:</p> <p>Waste storage area is designed to allow bins to be easily maneuvered within and between storage and collection points.</p>		<p>This is in current ADG but is missing in draft ADG. This needs to be reflected within the diagram figures.</p>
<p>Proposed new design guidance:</p> <p>Demonstrate that organic waste can be managed in the development through measures such as:</p> <p>Multiple options for on-site organic waste management to maximise recovery</p>		<p>It is proposed that additional design guidance for waste storage be included that addresses how new developments will integrate organic waste separation and collection within new developments.</p> <p>While some local councils may not be ready to provide an organic waste service to all new residential apartment buildings, it is important that new buildings are designed to future proof developments to ensure compatibility with future organic waste service.</p> <p>The <i>Better practice guide for resource recovery in residential developments</i> (EPA) identifies that “food waste can make up 70% of the average residential bin and is a highly recyclable product when source separated”.</p>

<p>(e.g.</p> <ul style="list-style-type: none"> • communal composting, worm farms, individual composting, dehydrators; • Organics and recycling service to all households; • Consolidated organic waste drop off points designed to minimise any potential odour and vermin risks. This includes the provision of rooms that are temperature controlled and suitably ventilated. 		<p>The importance of ensuring new developments support separation of organic waste should not be underestimated and would support achieving adopted targets and commitments within the Waste and Sustainable Materials Strategy.</p>
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Other Areas of the ADG linked to Waste:

Section of the draft ADG	Design consideration	Recommendations
1.3 Site access and address	<p>Accessibility and serviceability:</p> <p>Minimise conflicts between pedestrians, vehicle access and movement routes adjoining the site.</p> <p>Provide clear sightlines where vehicles cross pedestrian pathways.</p>	<p>Minimising conflict and maintaining safety of residents, staff and visitors providing services is vital.</p> <p>Proposed amendments:</p> <p>Minimise conflicts between pedestrians, vehicle access, service vehicles (such as waste collection) and movement routes adjoining the site.</p> <p>Ensure the safety of all users including services (such as waste collection) and provide clear sightlines where vehicles cross pedestrian pathways</p>

<p>1.4: Relationship to the street</p>	<p>Utilities and building services:</p> <ul style="list-style-type: none"> • Reduce the visual impact of utilities and building services on public space by locating them in basement car parks wherever possible, including substations, pump rooms, water tanks and waste storage areas. • Where building services are required to be located at or above ground level, including waste facilities, loading areas, car parking vents, rainwater goods, and infrastructure for electrical, fire, hydraulic or mechanical services, ensure they are: <ul style="list-style-type: none"> ○ visually and physically recessive ○ integrated with the development's built-form and landscape ○ not in front of the primary building frontage ○ screened with planting or other design elements. 	<p>See previous comments regarding basements. Some sites are unlikely to accommodate onsite basement due to size of blocks and street frontage. Needs to also note that vehicle access is required to meet the applicable waste collection service provided by Councils.</p> <p>Waste facilities must be located within the applicable bin carting distance.</p>
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1.6 Parking	<p>Vehicle entries:</p> <p>Balance the visual impact of vehicle entries so they are clearly visible but also recessive to the overall building form and streetscape.</p> <p>Locate car park and vehicle entries behind the building line.</p> <p>Design and locate vehicle access points to achieve safety, minimise conflicts between pedestrians and vehicles, and create high-quality streetscapes. Where possible locate vehicle access to the site for servicing and car parking on secondary streets, to minimise the impact on public space.</p> <p>Minimise the width and number of vehicle access points, ramp length and visual impact.</p>	<p>It should be reflected within the ADG that waste collection vehicles require specific height clearances for movement, circulation and operation to ensure that waste collection safely and efficiently takes place.</p> <p>This factor needs to be considered in the overall design and site layout to minimise impacts on the built form and streetscape.</p> <p>Proposed amendments:</p> <ul style="list-style-type: none"> • Balance the visual impact of vehicle entries so they are clearly visible but also recessive to the overall building form and streetscape without limiting the ability to safely and efficiently service (such as waste collection) and access the site. • Design and locate vehicle access points to achieve safety, minimise conflicts between pedestrians and vehicles, and create high-quality streetscapes without limiting the ability to safely and efficiently service (such as waste collection) and access the site. Where possible locate vehicle access to the site for servicing and car parking on secondary streets, to minimise the impact on public space. • The dimensions of service vehicles need to be considered and integrated into the overall development to reduce the impact on the built environment and streetscape.
	<p>Car parking:</p> <p>Consider deep soil zones, stormwater management and the retention of trees during initial design stages, as these can affect the size and shape of a car park footprint.</p>	<p>This requirement needs to consider access requirements for services, including waste collection if located in the basement.</p> <p>Proposed amendment:</p> <p>Consider deep soil zones, stormwater management, the retention of trees and servicing requirements (such as waste) for the development during initial design stages, as these can affect the size and shape of a car park footprint and basement design (including height clearances).</p>

Appendix 5.2	Kitchen furniture schedule	<p>Support the inclusion of waste bin and recycling bin, however the diagrams should include:</p> <p>A recycling bin (in all diagrams);</p> <p>Drawing and dimensions for waste, recycling and organics bins for all apartment types. Bin sizes should increase in size relative to number of bedrooms; and</p> <p>An additional bin for the storage of recyclables such as batteries, textiles, soft plastics and light globes.</p>
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Section 2.6 Panel member induction and training	<p>Panel members should complete an induction and training before the first session of a design review panel. As a minimum, training should cover:</p> <ul style="list-style-type: none"> • Understanding conflicts of interest and codes of conduct • Confidentiality • The NSW protocols for good design review • How to use the DP SEPP design • Principles to frame a discussion and provide advice • The local planning context • Local council waste service • Confirmation of the panel members • Availability for all sessions. 	<p>Amend to include 'Local council waste service' in the training topics.</p> <p>It is essential that panel members have a strong understanding of the local waste service including waste collection vehicles (sizes) and how waste is collected so that they can provide design advice that also aligns with individual council waste servicing requirements. Failure to provide due consideration and correct advice regarding local council's waste service responsibilities and requirements can have significant impacts on the design of the development that are often costly and timely for both the applicant and local council.</p> <p>These costs are often then passed on to the wider community, who are left with not only the financial burden but adverse amenity and safety impacts.</p>
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28 February 2022

Ms Felicity Greenway
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Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Sent via e-mail to designandplacesepp@planning.nsw.gov.au
<https://www.planningportal.nsw.gov.au/draftplans/exhibition/basix-higher-standards>

Dear Felicity

Re: The BASIX higher standards exhibition

Thank you for the opportunity to provide feedback on the BASIX higher standards exhibition.

The Southern Sydney Regional Organisation of Councils Inc (SSROC) is an association of eleven local councils in the area south of Sydney Harbour, covering central, inner west, eastern and southern Sydney. SSROC provides a forum for the exchange of ideas between our member councils, and an interface between governments, other councils and key bodies on issues of common interest. Together, our member councils cover a population of about 1.7 million, one third of the population of Sydney, including Australia's most densely populated suburbs. SSROC seeks to advocate for the needs of our member councils and bring a regional perspective to the issues raised.

SSROC population and housing data¹, in the period from 2011 to 2016, reveals a very diverse socio-economic area marked by rapidly rising numbers of dwellings and underlying growth in the number of households in the area. The estimated resident population increased by over 150,000 during this five-year census period.

Although the urban growth of the SSROC area is unique, our region shares a number of issues and drivers with many other urban areas managing rapid population and housing growth sustainably while enhancing liveability.

Because of its size and diversity, issues experienced within SSROC often reflect statewide trends. The experience of strong growth and related housing development across both highly urban as well as more suburban parts of Sydney has provided a number of valuable insights and has helped to shape our feedback on the exhibition of BASIX Higher Standards.

SSROC welcomes the introduction of the Design and Place SEPP (the SEPP) and the integration of SEPP 65 and SEPP BASIX. The move to higher BASIX standards that will

¹ Source: Australian Bureau of Statistics, Census of population and Housing 2011 and 2016, compiled by id <https://profile.id.com.au/ssroc/>

increase energy efficiency and thermal performance of new residential developments is strongly supported.

SSROC appreciates this opportunity to help shape and contribute to the policy to enable higher standards that deliver better outcomes for residents living in SSROC and other parts of the State through cheaper energy bills, more comfortable homes and fewer carbon emissions.

1 Understanding

BASIX is a scheme created by the Environmental Planning and Assessment Regulation 2000 and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 which aims to improve the environmental sustainability of residential developments in NSW. It requires certain development applications to be accompanied by a list of environmental sustainability commitments in a certificate issued by the Planning Secretary. This certificate certifies that the proposed development meets the Government's requirements for sustainability, which currently relate to mains-supplied potable water consumption, thermal efficiency and greenhouse gas emissions.

The NSW Government has committed to achieving net zero emissions by 2050. This aims to improve the quality of life for the people of NSW, protect the environment and maintain a strong economy.

The Net Zero Plan Stage 1: 2020–2030 sets out how the NSW Government will deliver on our commitment to achieving net zero by 2050.

The Building Sustainability Index (BASIX) will reduce water and energy consumption, and greenhouse gas emissions from new houses and apartments. This will help our communities reach net zero.

The Higher BASIX Standards propose to increase the standards for energy efficiency and thermal performance for all new residential developments, except for apartment buildings of up to five storeys and homes in the North Coast climate zones.

The cost of complying with the Higher Standards for developers is modelled to be \$7,152 for the average home. However, the energy efficiency of these homes is modelled to save homeowners \$845 in 2022 and \$7,200 over 12 years. Further details are explained in [a Cost Benefit Analysis report accompanying the Higher Standards](#).

The DPE has foreshadowed that BASIX requirements will be reviewed 'every few years' to meet the State's net zero objectives.

The document foreshadows other BASIX-related changes which the NSW Government intends to integrate with its proposed Design and Place SEPP. These include:

- A new BASIX materials index to assess the embodied greenhouse gas emissions of the material used to build a home.
- Rebuilding and integrating the BASIX Tool with the Planning Portal ([a sandbox version of which is currently available to test](#)).
- Updated BASIX methodologies.
- A new '*merit assessment pathway*' by which a recognised professional can complete a sustainability assessment of a proposed development using accredited modelling software and submit it with a development application as an alternative to a BASIX assessment.

2 General Comments and Recommendations

SSROC strongly supports the retention of the BASIX policy and the move to higher BASIX standards to reduce greenhouse gas emissions and potable water consumption and improve thermal comfort in the residential sector and is pleased to provide the following.

2.1 BASIX Energy Standards

SSROC supports the NSW Government's commitment to reach Net Zero by 2050, and NSW's continued leadership in delivering sustainability reform to the residential sector.

Therefore, we recommend higher BASIX Energy Standards, so that all new homes built in NSW to reach net zero by 2035. This will enable government to turn its attention to retrofitting the existing housing stock, in time to meet the 2050 Net Zero goal for the state.

The continuation of measuring the BASIX Energy Index using carbon emissions is supported. In the future, moving this index to a units of energy measurement, once the penetration of renewables reaches close to 100%, will ensure maximum building energy efficiency is achieved.

SSROC is unclear as to what proportion of the Energy score increase is due to the change in Emissions Factor (EF) of grid powered electricity, and which is due to stringency increases. If the majority of increase is due to the EF increase, then the increased stringency gains seem relatively small, which is why we are advocating for increased energy standards.

It is noted that different dwelling types have different targets. For example, a small single dwelling (<100m²) has a lower target than a large single dwelling (>100m²). Secondly, single dwellings are required to reach higher targets than multi-unit apartments. In the interests of equity, greenhouse reduction targets should be consistent across all dwelling types. If there is a reason underpinning this differentiated policy, we request that this is communicated in a clear and transparent manner.

For residential under 5 storeys there is no increase in stringency for thermal performance or energy standards. This appears to be a major opportunity for improvement that will be missed. This proposed position was informed by a cost benefit analysis (CBA). The detailed CBA report rather than the summary needs to be released to better understand that the justification and this outweighs the equity considerations for these apartment dwellers and is consistent with the NSW Government's commitment to reach Net Zero.

It is noted that the number of targets in the BASIX tool has increased from 20 across NSW (4 building types x 5 climate zones) to a total of 114 targets (6 building types x 19 climate zones). The principle that differentiated climate zones should be a base consideration for housing design is supported, however this large number of targets generates complexity and may present communication and compliance challenges for local Councils and industry.

It is disappointing that Councils are not able to set higher targets in low carbon precincts within their LGAs and recommends that this position be reconsidered. As place managers, Councils should be empowered to manage risks, and meet community and strategic planning commitments in the Eastern City and South District Plans. Enabling Councils to set higher BASIX targets is supported by the Planning Principle 1.8 The planning system should enable councils to plan for their local areas, provided they promptly meet their responsibilities in achieving the strategic visions, priorities and targets set out in regional and district plans.

Recommendations:

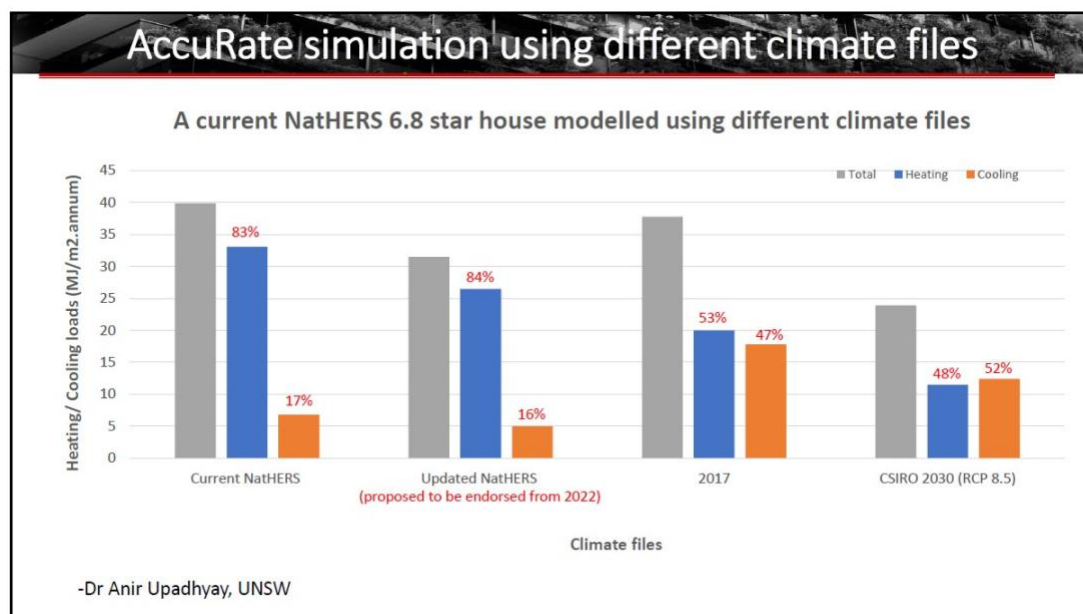
1. That through National Construction Code harmonisation, NSW does not lose its leadership status and continues to exceed national minimum standards, by maintaining the highest performing residential energy standards in the country.
2. That unified requirements for all dwelling types are applied to ensure adequate, safe, efficient, equitable and affordable housing standards for all. This will ensure that dwellers of low to mid rise development (< 5 storey) are not penalized by having less efficient housing due to the results from the Cost Benefit Analysis.
3. In line with meeting NSW emissions reduction targets, that the BASIX Energy Standard delivers, in a staged and timely manner, all electric homes in NSW which include:
 - Efficient building envelopes,
 - LED lights plus efficient controls,
 - Heat pump/solar-electric hot water systems,
 - High-efficiency air conditioners for heating and cooling,
 - Electric cooking,
 - High-efficiency swimming pool pumps,
 - Onsite renewable energy.
4. That local government are supported to apply higher BASIX standards in identified high-efficiency low carbon precincts, where outlined in the District Plans and other relevant strategic plans.
5. That DPE dedicate considerable resources to communicating how the BASIX benchmark and carbon reduction/water reduction standards work so that the strength and benefits of the policy can be appreciated by a broad range of stakeholders.

2.2 Thermal Comfort targets in BASIX

While the improvement of updating climate data from 1970-2004 to 2015 data is acknowledged and welcomed, the use of historic climate data in the NatHERS engine and BASIX tool, when designing and building housing stock that will last for the next 50-70 years is not supported. Data from Dr Anir Upadhyay (2021) indicate that the last six years of warm weather (2015 to 2021) is significantly hotter than pre-2015 climate data.

Homes must be designed to mitigate and adapt to risks of natural hazards, that include climate change effects. This must be addressed to adequately meet the Resilience Design Considerations of the new Design and Place SEPP.

Further data from Dr Upadhyay (UNSW) indicates that a house modelled through the proposed BASIX settings (2022) will have a heating load to cooling load ratio of ~ 4:1. However, the same house modelled using future climate data (2030) will have a more even 1:1 ratio for heating: cooling load. NSW homes must be designed to meet the predicted increased cooling load, rather than historic climate data, where the heating load is dominant.



Modelling work funded by DPE as part of the *Future Proofing Residential Development to Climate Change* project indicates that a detached house with a cooling load of 20.8 MJ/m² in 2020 had a modelled cooling load of 37.3 MJ/m² in 2030 and 91.6 MJ/m² in 2070. Under the proposal, the model dwelling is non-compliant with current and proposed caps by as soon as 2030. This will result in uncomfortable and unsafe homes and workplaces that will require mechanical cooling, making the occupants vulnerable to energy network failures during heatwaves.

The increase to 7 stars in line with the National Construction Code's energy efficiency provisions as part of the national Trajectory for Low Energy Buildings is supported.

The proposed reduction in heating and cooling loads (max) for Climate Zone 56 and the separate heating and cooling caps is supported.

It is noted that there is no increase in stringency for Low Rise and Mid-Rise apartments (<5 storey) due to the Cost Benefit Analysis finding that improvements to this sector were not cost-beneficial.

Concerns with the limitations of the Cost Benefit Analysis have already been noted. Low-midrise apartments should be as thermally comfortable and safe to live in as all other dwelling types. Apartments < 5 storey should also be as energy efficient and affordable to live in as all other dwelling types.

Some inconsistencies are noted in the definitions for low rise between the Thermal Comfort Standards and the Energy Standards. E.g., Thermal Comfort has a ruling for < 5 stories and Energy defines low rise as < 3 storey and mid-rise as 4-5 storey.

Recommendations:

- That future Climate Files for the period that (CSIRO Climate File for 2050 or 2070) are adopted as the required data input for NatHERS and BASIX in 2022, to ensure that NSW's homes (and workplaces) are designed to be thermally safe for a warming climate, for the lifetime of the dwelling.

2.3 Greenhouse Gas Emission Factor for grid electricity

An update to the Emissions Factor² for grid electricity is supported. The NSW electricity grid has become greener as more electricity is produced from renewable energy sources. The proposed new energy standards will use updated the greenhouse emissions factor of grid electricity.

A 10-year average from 2022 to 2031 (or 0.67 kg CO₂-e/kWh) will be adopted for calculating BASIX energy scores from 2022.

To ensure the consistency, accuracy and the rigor of the higher BASIX model the energy performance calculations need to capture both the predicted benefits of future improved performance through the Emissions Factor as well as energy performance in the forecast warmer climate for the same period.

While acknowledging that the Emissions Factor from grid electricity will be reduced significantly over the next decade, the proposed methodology, which averages the greenhouse gas emission factor over ten years means that the future oriented emissions factor effects the final 'standard/target significantly and gives the impression that a higher greenhouse reduction score is being achieved in BASIX.

Recommendations:

7. Update the Emissions Factor to be an accurate representation now and continue to update it every year based upon the National Greenhouse Emissions Reporting (NGERs) data when it is made available.

2.4 Achieving net zero emissions by 2050

The NSW Government's commitment to reach Net Zero by 2050 is strongly supported. Electrifying the housing stock, fostering the use of the most efficient technologies available and sourcing electricity from renewable sources is the best way of achieving this target for residential development.

A house built under BASIX in 2022 is expected to last 70 years, until 2092, therefore gas appliances should be heavily disincentivized under BASIX. Whilst single dwellings may more easily be able to remove gas infrastructure in the coming decades, retrofitting centralized gas boilers out of multi-unit apartments is extremely challenging and expensive. To enable this, gas could be excluded from multi-unit development.

Potentially, the installation of gas appliances should incur offset penalties under BASIX to discourage the use of this energy source. This could be built into a broader plan for how the whole residential sector, including existing dwellings, will meet net zero emissions as soon as possible.

Recommendations:

8. That BASIX considers how all new dwellings will meet the Government's net zero emissions targets by 2050.

² The greenhouse gas emission factor is the amount of emissions (expressed as kilograms of carbon dioxide equivalent (kg CO₂-e)) generated and transmitted from each unit of grid electricity to households. BASIX currently uses an emission factor of 1.062 kg CO₂-e for each kilowatt-hour (kWh) of electricity.

2.4 Other changes to the BASIX Energy section

The alignment of BASIX calculations with the NatHERS whole of home calculator is supported, where the methodology is published, peer reviewed and is best practice.

The parts of BASIX that are in addition to the current NatHERS whole of home tool are retained and improved, so that NSW continues to lead the way for the national tool to follow e.g., how BASIX handles swimming pool energy consumption and its inter-relation with the Water Index. Requirements to have an indoor clothesline have made a significant impact on apartments to improve internal drying amenity and have reduced the use of clothes dryers in apartments.

Other updates to the BASIX Energy Index listed in the consultation, including updating appliance efficiencies, the removal of some whitegoods from the multi-unit tool, improving lift (elevators), ventilation and centralized hot water system calculations, are supported.

In regard to lighting, the mandate of LED lighting only with best practice lighting controls is strongly supported. The installation of fluorescent lamps in common area carparks and fire stairs, often with no lighting management controls, locks body corporates into higher common area bills and expensive and wasteful retrofits. Additionally, fluorescent tubes contain mercury which is considered a problem waste for local governments. There is no longer a case for allowing fluorescent lamps to remain eligible under BASIX going forward.

Either fluorescent, incandescent and halogen lamps are removed from the tool. Alternately if fluorescent lamps or no lighting controls are selected for common areas in BASIX in the multi-unit tool, a pop-up help note is instigated to guide the proponent to make a better choice.

Recommendations:

9. That the NSW Government publish the BASIX methodology and any future changes to the methodology, to ensure that the calculations behind the tool are available for peer review in an open and transparent manner.
10. That the NSW Government review all calculations in the BASIX Energy section of the tool before the BASIX 2022 upgrade.
11. That the BASIX tool mandates LED lighting only with best practice lighting controls.

2.5 Cost Benefit Analysis

While the CBA did quantify some costs and benefits to both the individual dwelling occupiers and society as a whole, in our opinion it fails to adequately account for:

- Health benefits of people living comfortably, safely, sleep properly, ability to be productive e.g., work from home as climate warms. Here it is important to consider the differential equity issues for renters/users on lower incomes, especially to those who can't afford air conditioning.
- Cost to society of increased heat affected unwellness, lack of productivity, heat stroke/death, added impetus for older people to move to residential care. This would include impacts on the health and aged care budgets.
- Cost of inaction of not urgently lowering greenhouse gas emissions as we are currently all in a climate and biodiversity emergency.
- Cost of offsetting all carbon emissions from the residential sector post 2050 (currently trending at \$40/tonne).

In this regard, the CBA is limited, and its findings should be considered in this context.

Recommendations:

12. That apartments < 5 storey are required to have an increase in thermal comfort and energy efficiency stringency in line with other multi-unit buildings.
13. That future scope of works for a Cost Benefit Study are expanded to include environmental and social costs and benefits in respect to a warming climate, as NSW Treasury has modelled in its 21-22 Intergenerational Report.

2.6 Communications & Reporting

Use of the term 'Targets' as opposed to 'Standards' is preferred, as the term target implies that we are trying to meet a goal, and is clearer to the general public.

The Future Proofing Development to Climate Change project identified the need to better support the ongoing implementation of the Building Sustainability Index (BASIX) to improve the sustainability outcomes and climate resilience of our housing stock.

Recommendations:

14. That the NSW Government develop BASIX training/explainer videos aimed to:
 - a. improve the plan marking at Development Assessment (DA) and Complying Development Certificate (CDC) stage for BASIX and NatHERS commitments for new homes
 - b. improve the Consent Authorities' confidence in assessing BASIX/NatHERS requirements as part of the planning process.
 - c. improve understanding of the requirement for a BASIX Compliance Receipt to be issued at Occupation Certificate (OC) stage.
 - d. improve general understanding of the BASIX policy, its aims, objectives, how the methodology works, real outcomes on the ground etc.
15. That the BASIX "help notes" and "pop ups" are reviewed, to educate BASIX tool users about the most efficient housing options in BASIX. E.g. if a user selects to install a less efficient technology, that a help note pops up outlining the best selection and the \$ savings p.a. from the most efficient technology, to help guide improved decision making

2.7 Monitoring & Evaluation

The commitment to review and update where required the BASIX targets/standards at least every few years to meet the government net zero objectives is supported, noting that the success of BASIX is not reported on publicly and that this is a missed opportunity to build confidence in NSW leadership and regulatory effectiveness in regards residential development.

Recommendations:

16. That a BASIX Monitoring & Evaluation protocol is published with set dates for large updates and target/standard reviews.
17. That the BASIX Monitoring & Evaluation project be reinstated to ensure that utilities and the NSW Government monitor the on-ground greenhouse and water savings actually made by BASIX dwellings, report this publicly and that the tool is refined accordingly.
18. That more support is given to ensure that BASIX is implemented in practice, including:
 - a. Working with the plumbing industry to ensure that rain tanks are installed and connected for internal water uses correctly, and issues such as sedimentation in toilets from tank water is resolved.
 - b. That NatHERS compliance issues are resolved, and that the existing Quality Assurance pathway is substantially improved.

- c. That training is introduced to planners, certifiers and industry practitioners.
- d. That the NSW Government conducts audits and compliance checks on BASIX/NatHERS certificates at DA stage.
- e. That the NSW Government conducts audits and compliance checks of private certifiers and BASIX compliance at OC stage.

2.8 New requirement for embodied Carbon emissions

The development of a new BASIX Material index is supported.

The development of an embodied carbon emissions target is supported as long as it is separate to the existing operational energy carbon emissions target.

Recommendations:

- 19. That the NSW Government exhibits the BASIX Material index once it is ready for testing, including the methodology.

2.9 Merit Assessment Pathway

It is noted that an alternative pathway to BASIX compliance is being proposed, called the 'Merit Assessment Pathway' (MAP). Clear requirements around the professions that are authorised to perform assessments are supported.

Recommendations:

- 20. That the MAP has a strong governance process and a transparent methodology which is published in the public domain.
- 21. That the MAP is required to use the front end of BASIX to ensure electronic data is still captured in relation to the building, e.g., thermal loads.
- 22. That assessment of developments going through the MAP occurs through a non- Council process, such as the NSW DPE's BASIX Team for assessment, and not through Council's normal DA process as Councils are not resourced to deal with multiple systems.
- 23. That the MAP must be as robust as the current BASIX tool, meet clear carbon/water reduction targets, be able to quantify greenhouse/potable water savings, be built for all residential building sectors.
- 24. That the BASIX Completion Receipt continues to apply, and that adequate funding is given to educate certifiers to ensure that this is completed as legislated.

2.10 BASIX Water and BASIX Alterations & Additions

It is noted that neither the BASIX Water Index nor the Alterations & Additions tool are currently being revised.

The *Future Proofing Residential Development to Climate Change* project has highlighted concerns with outdated calculations in the BASIX Water tool in regard to landscaping and outdoor irrigation, especially in relation to future climate scenarios.

The *Future Proofing Residential Development to Climate Change* project also conducted a review of the BASIX Alterations & Additions tool, which would help to inform a broader review by the Department.

Recommendations:

- 25. That the BASIX Water index is reviewed in 2022.
- 26. That feedback from Councils is sought regarding compliance around landscaping in the tool, and as part of this, species lists are updated with Future species lists (such as identified

through the Which Plant Where tool) to ensure that the species we are planting today will be resilient as the climate warms.

27. That the BASIX Alterations & Additions tool is reviewed as soon as possible.

3 Detailed Comments

Further detailed comments on the design and implementation of Higher BASIX are made in Appendix 1, with regard to:

- Sustainability in Residential Buildings
- BASIX Proposed Higher Standards
- BASIX related parts of the State Environmental Planning Policy (Design and Place) 2021
- Proposed requirements for BASIX in 2022 Cost Benefit Analysis.

4 Conclusion

Thank you for the opportunity to comment on the BASIX Higher Standards.

SSROC member councils cover a large portion of Greater Sydney and have a direct interest in supporting and advocating for changes to improve and sustain place-making in a warmer climate and deliver higher residential amenity. SSROC would encourage the review process to consider the opportunities noted in this submission to strengthen what has been proposed for BASIX. New sustainability standards for homes should help all residents save on energy bills, provide more comfortable homes and help to reduce the State's carbon footprint as we move to net-zero emissions by 2050.

In order to make this submission within the timeframe for receiving comments, it has not been possible for it to be reviewed by councils or to be endorsed by the SSROC. I will contact you further if any issues arise as it is reviewed. If you have any queries, please do not hesitate to contact me or Mark Nutting, SSROC Strategic Planning Manager on 8396 3800.

Again, thank you for the opportunity to comment on the BASIX Higher Standards. SSROC looks forward to participating in further consultations around the implementation of Higher BASIX standards once the Design and Place SEPP is adopted.

Yours faithfully



Helen Sloan
Chief Executive Officer
Southern Sydney Regional Organisation of Councils

Appendix 1

Further detailed comments on the design and implementation of Higher BASIX

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
Sustainability in Residential Buildings (SIRB)		
Sustainability in Residential Buildings (SIRB) Page 2	Introducing a new requirement for embodied carbon emissions “a new requirement for embodied carbon emissions ...we plan to add a new BASIX materials index”	<ul style="list-style-type: none"> · Support in principle, although there is insufficient information about embodied carbon emissions provided in the exhibited documents. There is currently a lack of information to determine how per person embodied carbon emissions will be calculated. · The Cost Benefit Analysis (CBA) does not include potential costs / benefits of the new materials index and thus the CBA work is incomplete. · BASIX Sandbox tool does not have an operative embodied carbon emissions index · It is unclear how the assessment of embodied emissions will occur. Will there be an auto-calculation within the BASIX tool based on dwelling dimensions and construction materials such as walls, floor, ceiling, roof? · No reference to the life cycle / embodied emissions method that will be used for calculations - this would need to use an Australian or international standard methodology · There is no way to determine whether user can improve their ‘embodied emissions’ score by nominating different materials. · Presumably if users can nominate particular materials to improve embodied carbon emissions score then consideration should be given to collection of evidence at construction stage for compliance. · No background is provided on how the single dwelling and apartment values of 12.5 tonnes and 9.4 tonnes (in the SEPP) have been derived and where the boundaries are established. Are common areas and carparks included? · Driveways and garages not attached to dwellings are presumably excluded (for single dwellings) yet could involve as much concrete as a house slab, and are an obvious improvement option re: concrete with lower embodied emissions · If user has to input construction materials into NatHERS rather than DiY thermal performance tool, will that information need to be manually re-entered into BASIX? Or will there be an auto-upload mechanism from NatHERS modelling direct into BASIX? <p>Recommendation</p> <ul style="list-style-type: none"> · Draft materials calculation methodology needs to be made publicly available (as soon as possible) and several months prior to implementation of the proposed new index · The way in which the two proposed per person embodied carbon emissions targets (in the SEPP) have been established needs to be transparent

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
		<ul style="list-style-type: none"> Implementation of the embodied carbon emissions provision should be deferred until the tool and policy settings have been fully tested for practicality and effectiveness.
SIRB Page 2 + BASIX Website	Updating the BASIX tool General comment	<ul style="list-style-type: none"> Support update to tool interface. Lack of transparency about how new tool methodology and calculations compare to existing methods (see specific comments below) <p>Recommendation</p> <ul style="list-style-type: none"> As per original BASIX policy exhibition in 2004 all revised calculations should be released publicly before finalisation. This allows time for further refinement and comment. A tabular format describing how new calculations and methodologies differ from existing should be provided to improve stakeholder understanding of the changes proposed.
SIRB Page 2 + BASIX Website	Updating the BASIX tool Lighting	<ul style="list-style-type: none"> Support within-dwelling changes to lighting assumptions and the simplification of lighting Not yet clear if changes are proposed for common area lighting too? <p>Recommendation</p> <ul style="list-style-type: none"> Clarify whether there are proposed improvements for common area lighting
SIRB Page 2 + BASIX Website	Updating the BASIX tool Appliances	<ul style="list-style-type: none"> Support update on appliances, including removal of some appliance selection options for apartments Detail needed on the proposed default assumptions for ratings of new appliances, citing sources (e.g., ABS / industry sales) <p>Recommendation</p> <ul style="list-style-type: none"> Revised appliance energy end use assumptions should be released in public before finalisation of new appliance policy setting
SIRB Page 2 + BASIX Website	Updating the BASIX tool Lifts	<ul style="list-style-type: none"> Support lift calculations update Transparency required around impact of new lift selection options and calculations on BASIX scores <p>Recommendation</p> <ul style="list-style-type: none"> New and revised lift options and calculations should be made available to stakeholders for comment before finalisation of new lift policy settings

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
Website	Updating the BASIX tool Apartment Hot Water calculations	<ul style="list-style-type: none"> Support apartment hot water calculations update Transparency required around impact of the new calculations on BASIX scores <p>Recommendation</p> <ul style="list-style-type: none"> Apartment hot water calculations should be released in public before finalisation of new hot water policy setting
SIRB Page 3 + BASIX Website	Incorporating the NatHERS whole-of-home calculation to align with the national requirements planned in the NCC	<ul style="list-style-type: none"> Support alignment with NCC calculations methodology Transparency required around impact of new calculations on BASIX scores <p>Recommendation</p> <ul style="list-style-type: none"> Provide a table showing how the new calculation methodology compares with existing BASIX methodology. Confirm and state if new method assumes increased or decreased per-person energy use (carbon emissions) associated with particular components of 'whole of home' energy end use.
SIRB Page 2	Introduction of new merit assessment pathway (MAP)	<ul style="list-style-type: none"> Exhibition material lacks detail about MAP, so it is difficult to comment on the proposal's appropriateness and efficacy. Support the implementation of an audit process to ensure MAP delivers to acceptable standard Due to a lack of evidence or analysis of current standards of compliance, it is not reasonable to assume that BASIX compliance standards are currently strong, especially for the apartment sector. An audit process should be required for BASIX at DA and building completion stages. Good governance and scheme integrity require that DPIE apply an audit standard for BASIX so that scheme is held to account as per MAP audit During stakeholder consultation (mid 2021), the City of Sydney advocated for MAP to require connection to BASIX interface via MAP projects entering headline project data and BASIX Completion receipt still being required. <p>Recommendation</p> <ul style="list-style-type: none"> Governance framework for MAP must be developed and finalised <i>before</i> MAP implemented Users of MAP should be required to enter 'front end' information into BASIX MAP should require BASIX completion receipt to close out developments at O.C. stage Establish a desktop audit process for BASIX to show commitment to improving and maintaining scheme integrity in line with proposed MAP audit process.
SIRB Page 3	BASIX water saving standards will stay the same	<ul style="list-style-type: none"> There is no verification of compliance with BASIX Water standards at building completion stage, and the proposed update does not address this situation. <p>Recommendation</p> <ul style="list-style-type: none"> Establish a desktop audit process for BASIX, including compliance with BASIX Water standards.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
SIRB Page 3	No change to low rise apartment energy and thermal performance standards (5 storeys or less)	<ul style="list-style-type: none"> · This does not align with NCC 2022, as NCC does not propose to exempt low rise from '7 Star' Standard · This development type is especially suited to solar PV, due to adequate roof space and it is a cost- effective energy performance design solution, compared to high rise development. PV costs are falling annually. This raises the question of the correctness of CBA for this typology. · Is there a cost penalty assumption in CBA for Class 2 buildings, on the grounds that they may face practical difficulties in installing solar PV? Many solutions have been identified to overcome these challenges. · Has the CBA assumed that an apartment target uplift must be achieved via an 'all equipment pathway' and if so, this is unnecessarily costly? <p>Recommendation</p> <ul style="list-style-type: none"> · CBA needs to be reviewed in light of existing critique associated with ABCB proposed changes to NCC exhibited in 2021 – including combined critique commissioned by ASBEC, GBCA and the Property Council · Apply Standards uplift to this category of apartment developments as per all other development types. It is not logical to exempt one sector, when a state-wide policy is being applied under a 'higher standards' banner, and all other housing is affected.
SIRB Page 5	Indicative compliance pathway diagrams – figures 3, 4, 5	<ul style="list-style-type: none"> · Many development proposals for dwellings of the size indicated in the diagrams are already installing solar PV to meet BASIX compliance targets. It is unclear how new settings are a 'higher standard' · Irrespective of current average BASIX air conditioning commitments, promoting 1-2 star rated air conditioning (figure 4) as a compliance pathway undermines the 'higher standards' claim - given that this represents a low performance standard · Typical compliance pathway diagrams for apartment development are needed to convey design/technology improvements anticipated to meet the 'higher BASIX standard' <p>Recommendation</p> <ul style="list-style-type: none"> · Prior to implementation, provide updated and clear illustrated guidance on anticipated compliance pathways for single dwellings (large/small) and the various apartment categories – indicating the most cost-effective design/technology solutions required to meet new 'higher standard' compared to current BASIX standards. · The <i>Your Home</i> guide provides some appropriate building designs for single dwellings that are logical to use for communications purposes. Appliance annotations could be attached to these diagrams.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
	Existing air conditioning assumptions “Less than 5% of houses in NSW have specified air conditioners with the same efficiency as the 3-	<ul style="list-style-type: none"> · The assumption that the average Energy Efficiency Ratio (EER) of new air conditioning (AC) installed in NSW housing can be based on BASIX on-line certificates is problematic · Industry sources should be consulted and cited to establish current average ratings for split systems installed in single dwellings
	star rating. The analysis considered that 3-star air conditioners will be specified in Option A (electric hot water system) and Option B.”	<ul style="list-style-type: none"> · If average installed rating is higher than 1-2 stars then the ‘higher average installed’ rating should be used in CBA and also in energy end use assumptions <p>Recommendation</p> <ul style="list-style-type: none"> · Review assumed current AC average EER rating, and update CBA
	Air conditioner rating system has changed	<ul style="list-style-type: none"> · While not addressed in the publicly exhibited material, the way that residential air conditioning (AC) units are rated has changed under the GEMS scheme. The star rating for any specific appliance varies depending on climate zone – with two different climate zones applying in NSW. · The BASIX tool will need to determine, for the user, which AC climate zone is applicable to a development, so that the right rating for the appliance is applied · The Sandbox Tool appears to do this, which is positive · The new level of complexity in the AC rating scheme may increase BASIX compliance issues <p>Recommendation</p> <ul style="list-style-type: none"> · Confirm that the BASIX tool will automatically determine the designated AC climate zone (GEMS - Zoned Energy Rating Labelling) relevant to the residential project location · Review wording in BASIX certificates to ensure confusion around rating labels is minimised · Consider communications needs and content for CPD for building certifiers to address existing compliance issues around BASIX AC commitments

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
SIRB Page 9	Energy price modelling “ACIL Allen modelled the price of gas and electricity going up over time from 2022 to 2061. The forecast prices of gas and electricity generally increase from 2022 to 2040 and remain steady from 2040 to 2061.”	<ul style="list-style-type: none"> · Energy price estimation beyond the next 5-7 years is highly speculative. · The prediction that electricity prices will remain steady for two decades seems unrealistic · Overestimating the cost of electricity and/or underestimating the cost of gas will impact electrification of buildings, which is part of many tier one developers design solutions to achieve net zero buildings. <p>Recommendation</p> <ul style="list-style-type: none"> · A peer review (including a confidence rating) be undertaken of the CBA report, given existing critique of the CBA assumptions (both for the ABCB and BASIX policy review)
BASIX Proposed Higher Standards (BPHS)		
BASIX Proposed Higher Standards (BPHS) Page 2	Proposed new single dwelling maximum allowable space heating and cooling loads “revised to align with the updated NatHERS star band”	<ul style="list-style-type: none"> · It is not possible to determine, from the exhibited material, what material changes to envelope design are likely to occur for new single dwellings under new thermal load limits. · As per comment above for SIRB Page 5, the diagrams for single dwelling compliance options for the new ‘higher standard’ appear to describe business as usual design solutions. · If the most common design ‘solution’ that will be used to meet the new standard is additional insulation and changed glazing selections, then provide illustrative examples of these upgrades for the 9 dwelling types modelled across various climate zones. · To respond to resilience and climate risk and improve the comfort of occupants in the future when designing and building housing stock that lasts for the next 50-70 years, use more realistic climate files in NatHERS model rather than 2015 files. <p>Recommendation</p> <ul style="list-style-type: none"> · To be transparent and demonstrate the evidence base - provide practical examples of design changes (small and large), needed to respond to lower heating and cooling load allowances, for each of the 9 single dwellings used in the modelling analysis. · Advocate to CSIRO and NatHERS administrator to apply future climates within modelling settings in NatHERS thermal performance assessment tools.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
BPHS Page 3	Apartments 5 storey and less - maximum allowable thermal performance loads “For multi-unit developments (5 storeys or lower), there are no changes from the current thermal comfort requirements”	<ul style="list-style-type: none"> · Not increasing the thermal performance standards for 1-5 storey apartment development does not appear to align with NCC, which NSW Government advise elsewhere in exhibited documentation, is an intended outcome of the BASIX policy refresh. · Justification cited in the BASIX CBA states improvements to envelope for this typology are not deemed cost effective. However, the low-rise multi-unit residential building typology is widely considered by design professionals as being much easier to modify for improved thermal performance than taller residential development. · The NCC proposal for 7 Star standard requires modest changes to insulation, double glazing and ceiling fans. No structural changes to building form are proposed, thus costs cannot be considered unreasonable in terms of making apartments more climate resilient. · The separate piece of work completed by Acil Allen, Consultation Regulatory Impact Statement (CRIS) for the for NCC 2022 has been widely critiqued and is not considered robust. ASBEC, Property Council of NSW and the Green Building Council of Australia commissioned an extensive review of the CRIS. The shortfalls identified in the NCC workflow directly through to the BASIX CBA. <p>This issue is a major concern to SSROC councils.</p> <p>Recommendation</p> <ul style="list-style-type: none"> · All residential apartments should meet the same thermal envelope performance standard. If this is not possible, and before finalisation of Higher BASIXs, DPE provide a definitive, plain English explanation (table format) of the specific design changes and attributed costs, that warrant no change to thermal performances standards for lower rise apartments.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
BPHS Page 4	Apartments 6 storey and above maximum allowable thermal performance loads	<ul style="list-style-type: none"> · In relation to “values of maximum allowable loads are revised to align with the updated NatHERS star band” it is very difficult to gauge the actual design changes that will be driven by the proposed new thermal performance targets, as there is insufficient information. · Analysis of the design changes needed to move from 6 stars to 7 stars NatHERS undertaken by Tony Isaacs for proposed changes to NCC indicate the new standard would be largely achieved through wall insulation upgrades (typically R0.2), a shift to tinted glazing and some reduced glazing areas, and introduction of ceiling fans. · The City of Sydney currently sees extensive modelling inclusion of performance glazing for apartments thus this may not be a readily accessible compliance pathway for 7 Star equivalency; likewise all external walls are already modelled as insulated – so cost benefit assumptions carried from NCC modelling (simple apartment typologies used) to BASIX for Sydney mid and high rise contexts may not be valid. · Insulation and glazing are often currently poorly documented in apartment development proposals (evidenced by previous City of Sydney analysis presented to DPE’s Thermal Comfort Protocol Working Group 2019/20, and current CoS 2022 analysis of apartment DAs from Greater Sydney councils -Support increased stringency in principle. But NSW Government need to be confident that the new standards will be met by actual design changes that improve building performance · There is a risk of increased non-compliance with NatHERS, if the new standard is not accompanied by improvements in compliance monitoring (i.e. DPE / Fair Trading- led auditing) - Training/re-training is needed for assessment staff and building certifiers on thermal rating documentation requirements - Uplift is needed in NatHERS administration quality assurance methods and much stronger communication to design and construction industry stakeholders of standards and compliance requirements. <p>Recommendation</p> <ul style="list-style-type: none"> · Provide illustrations and tabular guidance on the compliance pathways used in the BASIX CBA to demonstrate “7 Star average, 6 Star minimum” performance standard specifically for apartments · Work with NatHERS Administrator to reduce non-compliance issues for apartments, including improvements to the NatHERS quality assurance framework. NatHERS assessors need to be held more accountable for their assessments and transparent reporting of QA findings (e.g., annually published to NatHERS website).
BPHS Page 5	Table D: Proposed energy standards for single dwelling and multi-dwelling developments	<ul style="list-style-type: none"> · The significant increase in the number of energy targets to align with the climate zones/regional sensitivity adds unnecessary complexity to BASIX implementation and future reviews triggered by DP SEPP Division 2, Clause 28. - While logical for thermal performance targets to vary by climate zone (as per current policy), whole of home GHG emissions per person do not vary geographically with the degree of granularity implied by the proposed new BASIX Energy targets. The granularity has no strong relationship to differential energy end use across NSW.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
		<p>Recommendation</p> <ul style="list-style-type: none"> · Avoid unnecessary complexity by removing theoretical granularity not reflected in real world · Maintain current range of map zones of BASIX Energy targets · Maintain BASIX Energy targets at 5 Point intervals
BPHS Page 5	<p>New BASIX typology – small single dwellings (“floor area less than 110m2”)</p>	<ul style="list-style-type: none"> · No explanation has been provided on the rationale for the introduction of a new category of single dwelling – “Small (floor area less than 110m2)”. · if this is to do with small dwellings (‘especially ‘granny flat’ scenarios) historically struggling to meet current BASIX Thermal Performance target, then that explanation needs to be provided. · A different target for smaller dwellings is not an unreasonable approach but transparency is needed to explain the rationale <p>Recommendation</p> <ul style="list-style-type: none"> · Plain English explanation and accompanying diagram(s) is needed on how small dwelling compliance will differ from large dwelling compliance pathway.
BPHS Page 5	<p>New BASIX typology – additional category of apartment development 6 storeys and above now expanded to ‘6-20 storeys’ and ‘21 storeys and greater’</p>	<ul style="list-style-type: none"> · Support new high-rise apartment development categories. SSROC propose that further sub-categories would be appropriate, 6-10 storeys, 11-20 storeys, 21-30 storeys and 30 storeys and greater, as per the City of Sydney Performance Standards for Net Zero Energy Buildings informed by a cost benefit assessment and developer engagement. This finer grain approach will also be more appropriate for guiding the 6 Cities planning. <p>Recommendation</p> <ul style="list-style-type: none"> · Undertake additional analysis to identify whether more granular categorisation of apartments will deliver stronger policy outcomes

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
BPHS Page 5	Generally, the new proposed target for very high rise (20+ stories) is higher than the new target for 6-20 storeys	<ul style="list-style-type: none"> · A higher BASIX Energy target for 20+ storeys than 6-20 storeys runs counter to previous research and feedback from industry that it is more difficult for taller apartments to reach current BASIX targets. It also runs counter to the existing scenario of BASIX Energy Targets reducing with building height. · It is unclear if the new target for 20+ storeys is a result of changed calculations within the BASIX tool or other changes. <p>Recommendation</p> <ul style="list-style-type: none"> · A plain English explanation is needed for why the proposed new targets are higher for high rise over 20 storeys versus 6-20 storeys. The explanation should include any calculations that have changed to enable revised BASIX scoring for high rise development.
State Environmental Planning Policy (Design and Place) 2021 - BASIX related content only		
State Environmental Planning Policy (Design and Place) 2021 (SEPP) Page 12 Division 2 Clause 27	“Development consent must not be granted to BASIX affected development that involves the erection of a BASIX affected building unless the consent authority is satisfied that the development is capable of achieving the.... standards for (c) embodied emissions ”	<ul style="list-style-type: none"> · Support in principle this policy change but there is insufficient detail to understand how the benchmarks have been created · ‘embodied emissions’ should be expressed as ‘embodied carbon emissions’ · In principle this is a progressive policy change but there is significant lack of detail, which prevents stakeholder comprehension of how benchmarks have been created · The BASIX Sandbox tool does not provide any further detail on the methodology of this new BASIX index <p>Recommendation</p> <ul style="list-style-type: none"> · Change terminology to ‘embodied carbon emissions’ · Re-exhibit this part of the SEPP with sufficient supporting information on methodology to allow engagement and effective feedback · As an alternative to re-exhibition, establish a stakeholder reference group, with clear governance be established to refine the proposed new BASIX index to ensure the methodology is fit for purpose for use in a regulatory mode.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
SEPP Page 12 Division 2 Clause 27	<p><i>“Consultation note—</i> The final version of this Policy will include the standards for energy use, water use and thermal performance for other BASIX affected development, such as alterations and additions.”</p>	<ul style="list-style-type: none"> · It is not possible to provide feedback on the alterations and additions policy revision when no details are provided in exhibited documents. <p>Recommendation</p> <ul style="list-style-type: none"> · In line with good governance and transparency principles, DPE need to exhibit alterations and additions policy settings for comment before finalising proposed changes to BASIX.
SEPP Page 13 Division 2, Clause 27 (2)	<p>“Subsection (1) [BASIX mandate] does not apply to development involving a heritage item or within a heritage conservation area if the Planning Secretary is satisfied that the development is not capable of achieving the standard ...</p>	<ul style="list-style-type: none"> · Heritage exemption clause as written, implies that a new building within a heritage conservation area (HCA) might be BASIX exempt if the Planning Secretary deems it so. · It is unclear why an all-new building (as opposed to alterations and additions) would not be able to comply with BASIX and still be sympathetic to any heritage context · It is unclear why this change is being proposed when this has not been a significant or unresolvable matter for new dwellings over the past 15 years. · More likely that other urban design issues will determine whether a particular new dwelling design is appropriate in a HCA – BASIX compliance will not be a key determinant · Lack of clarity about the process by which an applicant would request an exemption. <p>Recommendation</p> <ul style="list-style-type: none"> · Do not support the inclusion of a BASIX exemption pathway for new buildings within heritage conservation areas as set out, and request this draft clause be rewritten.
SEPP Page 13	3 yearly Review of BASIX standards	<ul style="list-style-type: none"> · SSROC supports a legislated regular review of BASIX policy settings every 3 years.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
Division 2, Clause 28	“The Planning Secretary must review the standards specified in Schedule 2— (a) as soon as practicable after the beginning of 2025, and (b) at least once every 3 years after that”	<ul style="list-style-type: none"> · This is a significant improvement to when a previous change to BASIX Energy Targets in 2017 took 4 years to implement from commencement (commissioning of a cost benefit assessment by Acil Allen in 2013) to implementation · Provide the rationale for any changes. · To align with the NSW Government’s Net Zero Emissions Plan, and recognising the degree of urgency of economy-wide response needed to address climate change, <u>the BASIX Review trigger proposed in the Draft SEPP should be time bound – i.e. specify that recommended changes to Targets be implemented within 12 months of commencement of 3 yearly review cycle</u> · 3 yearly review should include a public statement on the existing GHG baseline, whether any change is proposed and if so the rationale for that change. It should also include a public statement on the existing baselines, whether any changes are proposed and if so, the rationale for any changes. · A clear, succinct BASIX policy review procedure is required defining (i) what the minimum review requirements are (for example review of calculations methods, carbon intensity metrics, on ground building outcomes, new policy settings beyond planning system that could impact on BASIX) (ii) the consultation process (stakeholder notification and engagement) and (iii) time frames that will apply to the review process <p>Recommendation</p> <ul style="list-style-type: none"> · Support new BASIX clause requiring a 3-year review - The clause needs extending to provide a definition of how long the review process may take and the timeframe (12 months is appropriate) within which review outcomes must be implemented · A concise review procedure document is required to ensure good governance is applied to each 3- yearly review. This procedure document should be developed in conjunction with stakeholders
SEPP Page 19	“(2) The standard represents a percentage	<ul style="list-style-type: none"> · Support the continued use of a science-based carbon metric ie. modelled carbon dioxide emissions per person per annum, rather than the societal cost metric that is proposed for NCC.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
Schedule 2 Energy use	reduction in the amount of carbon dioxide emissions resulting from the use of energy attributable to each occupant of the particular type of development over a year compared to a baseline amount determined by the Planning Secretary. ”	<ul style="list-style-type: none"> - The BASIX metric is easy to communicate to general public and focusses on the key challenge - carbon emissions and abatement. - “per person” is a logical metric that the public can engage with. <p>Recommendation</p> <ul style="list-style-type: none"> · Support the continued use of a science-based metric for the BASIX Energy standard
SEPP Page 20 Schedule 2 Table of Energy targets	Many more Energy targets across the state due to increased BASIX ‘zones’ on map and increase in building typologies (extra categories of apartments (21 stories and over) and single dwellings	<ul style="list-style-type: none"> · Do not support the approach to additional granularity of BASIX Energy targets i.e., more energy targets to align with climate zones. - This proposed change is highly theoretical - energy end use does not differ across the state to this level of granularity. It makes sense for thermal performance standard to differ by climate zone but not Energy Targets. - If the proposed change is being driven by significantly different energy end use assumptions for space heating and cooling these new calculations and how BASIX handles them needs to be presented transparently · The addition of a larger number of energy targets adds significantly to the future policy review task (e.g., future Benefit Cost assessments) <p>Recommendation</p> <ul style="list-style-type: none"> · Maintain the existing approach to BASIX Energy Targets, i.e., fewer targets, that reduce policy complexity.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
SEPP Page 21 Schedule 2 Part 4	Embodied Emissions for BASIX affected development	<ul style="list-style-type: none"> · Currently the Draft SEPP refers only to ‘embodied emissions’– this is clearly meant to refer to greenhouse gas emissions or carbon emissions and should state this also in clause 5 (1) and (2) · No background is provided on how the single dwelling and apartment values of 12.5 tonnes and 9.4 tonnes have been derived and where the boundaries are established (which materials) · No reference at this stage to the approved life cycle / embodied emissions method (international standard) that will be used for calculations. An Australian or international standard methodology should be used and referenced in Schedule 2 to address any ambiguity on calculations <p>Recommendation</p> <ul style="list-style-type: none"> · Clarify terminology in the SEPP to make explicit reference to embodied <u>carbon</u> emissions · Engage in a wider consultation process with stakeholders · Re-exhibit the proposed new BASIX index, with full methodology and boundaries explained and provide adequate time for stakeholders to respond, prior to implementing the proposed new BASIX index · Alternatively, a stakeholder reference group, with clear governance be established to refine the proposed new BASIX index to ensure the methodology is fit for purpose for use in regulatory mode.
SEPP Page 20 Schedule 2 Part 3	Water use for BASIX affected development	<ul style="list-style-type: none"> · Confirms BASIX will continue to use modelled mains potable per person per annum as the metric for the NSW residential Water Standard · No change is proposed to the water efficiency standard for residential development in the Draft SEPP <p>Recommendation</p> <ul style="list-style-type: none"> · Support the continued use of a science-based metric for the BASIX Water standard.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
SEPP Page 21-24 Schedule 2 Part 5	Thermal Performance for BASIX affected development (1) This Part specifies the standard for thermal performance for different types of development ... (2) The standard represents the maximum amount of energy required to heat and cool a dwelling, measured in mj per m2 of total floor area of the dwelling over a year	<ul style="list-style-type: none"> · BASIX proposes different thermal allowances for low rise (Table 3) and high-rise apartments (Table 4) – this is not what the NCC is proposing – how does this represent ‘better alignment’ between BASIX and NCC? · Current work by the NatHERS administrator on recalibration of the NatHERS Star Bands, such that maximum allowable loads are revised, makes it difficult to assess what practical changes in building design will be driven by the new NCC and BASIX thermal performance standard · Compliance issues for apartments are already an issue (due to poor documentation); the shift to 7 Star average will exacerbate compliance issues unless NatHERS Quality Assurance framework is improved and NatHERS assessors are held more accountable · Clause (2) should refer to “maximum amount of <u>modelled</u> energy required” <p>Recommendation</p> <ul style="list-style-type: none"> · Make clear, in Schedule 2, Part 5 Clause (2) that this clause relates to <u>modelled</u> energy use not actual energy use for space conditioning · When implementing this new standard advocate to the NatHERS Administrator on the issue of poor compliance standard of NatHERS modelling work submitted with apartment development applications, including advocating for a specific Quality Assurance program for apartment sector.
Proposed requirements for BASIX in 2022 Cost Benefit Analysis (BASIX CBA)		

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
Proposed requirements for BASIX in 2022 Cost Benefit Analysis (BASIX CBA) Exec Summary Page iii & Page 27	<p>“Savings from the installation of smaller appliances”</p> <p>“As thermal performance improves, the dependence on these appliances to provide comfort decreases and smaller appliances can be installed to provide the same level of comfort.”</p>	<ul style="list-style-type: none"> · It is unrealistic to model that a significant proportion of development applicants will down-size the capacity of air conditioning based on proposed new policy settings. Floor area and total number of rooms to be serviced by AC are the key determinants of installed AC capacity used by builders and AC installers during construction of new dwellings. · Air conditioning installers may be motivated to install larger capacity systems - drivers for this outcome include (i) the financial benefit that may accrue to them from installing larger AC units, (ii) awareness of a warming climate (more frequent extreme heat days and heatwave events) and not wanting to receive complaints from clients that systems are not effective on days of more extreme heat · The estimate capital cost savings provided (page 27) are so small that a consumer is more likely to retain the ‘over capacity’ option · “ it was suggested that these appliance savings are applied to dwelling types that achieve 5.5 – 6 stars from the minimum compliance and over-compliance scenarios under the BAU.” – this appears optimistic and no evidence base has been provided to validate this assumption. · “Importantly, while these appliance savings have been included in the CBA, EES noted that these benefits may not be achieved in practice due to a number of issues” (p 27) – <i>this is a more realistic observation</i> and should have been the default approach taken in the BASIX CBA.
BASIX CBA Page 8	<p>appliance lifespans</p> <p>“heating and cooling equipment is assumed to have a lifespan of 12 years”</p> <p>hot water equipment is assumed to have a lifespan of 12 years.”</p>	<p>The modelled lifespans for appliances are shorter than real world experience, especially for water heaters.</p> <p>Recommendation</p> <ul style="list-style-type: none"> · Revisit these assumptions and seek industry association validation of replacement rates of appliances to give greater confidence to the modelled assumptions.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
BASIX CBA Page 26	Section 2.2.3 Assumed response to the new BASIX requirements: upgrade pathways Photovoltaics / apartment buildings – Option B “The BASIX energy outcomes of the apartment buildings are aimed at 3 – 5 points higher than the over-compliance scenario in the BAU, corresponding to PV systems of 4.5 – 20 kW to be supplied to these buildings.”	<ul style="list-style-type: none"> Many apartment development applications received by some councils already include solar PV (with a range of capacities but commonly more than 20 kWp). Solar PV is being nominated by proponents as the most cost-effective way to meet current BASIX energy targets. If this is a current outcome under existing policy setting it is not evident that the proposed new BASIX standards are actually higher (in terms of building design responses) than the current standards, even taking into account “differences in some of the underlying assumptions such as specifications of household appliances” (p.24) <p>Recommendation</p> <ul style="list-style-type: none"> Develop a table that compares new BASIX Energy targets to existing policy setting. This table can compare modelled anticipated design and technology changes for different categories of BASIX affected development.
BASIX CBA Page 68 Table 4.6	Retraining needs: “Number of Thermal performance (NatHERS) assessors needing upskilling :- 2026”	<ul style="list-style-type: none"> Irrespective of the citations Acil Allen have drawn upon, the number of assessors cited in the BASIX CBA appears to be incorrect. ABSA is the dominant accrediting organisation for most practitioners undertaking ratings in NSW. ABSA has less than 1,000 accredited assessors Australia wide. The figure should be around 400 at most, not the 2000+ cited.
BASIX CBA Page 69 Table 4.6	Training costs incurred by each stakeholder needs	<ul style="list-style-type: none"> The assumed cost cited on page 70 (over \$22 million) appears to be a significant over-estimate The industry leaves almost all NatHERS matters to accredited NatHERS assessors, there is very little time spent understanding scheme requirements within design and construction companies.

Exhibited document reference	Change proposed to BASIX scheme	Comment and recommendation
	<p>"In addition to this, it has been assumed that 20 per cent of architects and building designers would also undertake four hours of additional training on NatHERS to understand how to use NatHERS to comply with the new requirements.</p>	<p>- 'Compliance' is largely outsourced to accredited assessors.</p> <p>Recommendation</p> <ul style="list-style-type: none"> · Support formal training of planning and building assessment professionals · Given the lack of formal training or instruction to planning and building assessment professionals regarding checking for BASIX compliance over the past 15 years this is where DPE need to focus its training effort, in order for BASIX to deliver intended outcomes. Costs would be very modest compared to BASIX CBA.



4 April 2022

Design and Place SEPP Team
Government Architect NSW
Email: designandplacessepp@planning.nsw.gov.au

Dear Sir/Madam

RE: Exhibition of Design and Place State Environmental Planning Policy

On the 11 February 2022 Sutherland Shire Council made a submission to the exhibition of the draft Design and Place State Environmental Planning Policy. In that submission Council expressed its disappointment that the exhibition period did not reflect the reality of the local government elections and was inadequate for the elected Council to be able to consider the implications of the DP SEPP. As a result, Council officers made a draft submission ahead of Council's formal consideration of the matter.

Sutherland Shire Council debated the merits of the Draft Design and Place SEPP at its Shire Strategic Planning Committee of 4 March 2022 (PLN004-22) 18 and at the Council meeting of 18 March 2022. Sutherland Shire Council endorsed the views of Officers that the proposed Design and Place State Environmental Planning Policy (DP SEPP) and the suite of documents that support its introduction, build on the State Government's commitment to deliver well-designed places that enhance quality of life, the environment and the economy. The principles embodied in the reforms represent current best practice and are supported.

However, Council raises concerns in relation to the cost implications of the reforms. The higher design standards and the mandatory reliance on architects, landscape architects and urban designers will come at a cost to local government. It is appreciated the cost benefit analysis commission be the Department of Planning and Environment demonstrates that, over the long term, the benefits of the reforms significantly exceed the costs imposed, but this does not help councils in the short term. Additional resource allocation will be required to apply the DP SEPP and the Apartment Design Guide (ADG) and Urban Design Guide (UDG). Assessment teams will require greater design expertise and more design professionals will be needed. Very few architects and landscape architects working in local government maintain professional registration. If this is required by the DP SEPP, it is yet another cost that will be transferred to local government. Similarly, the requirement under the UDG for design verification statements means that urban design expertise will have to be commissioned to prepare and support planning proposals. Again, there is no avenue for councils to be able to recoup this cost, despite the fact that most planning proposals deliver windfall gains to proponents and landowners. Sutherland Shire Council calls for a review of the fee structure for development applications and planning proposals so that it provides sufficient revenue to support council's ability to retain the expertise required. Council would reasonably expect compensation for the shift of costs to local government inherent in the reforms, or provision to be made for cost recovery. Alternatively, additional costs should be borne by the State Government.

Council remains concerned that applying uniform standards through the ADG erodes Council's ability to tailor controls to address issues that are of local concern. Greater Sydney

is a diverse city and local character changes remarkably across regions. Built forms and design outcomes that may be appropriate in one locality are not necessarily appropriate everywhere. It is Council's view that Development Control Plans should be able to give guidelines for infill development that are appropriate within their local context.

Council is particularly concerned that the non-discretionary parking standards within the ADG will fail to meet the needs of its community. Despite being well served by the rail network, Sutherland Shire residents have high car ownership rates. The rail network is relied upon by those who work in the harbour CBD, but it does not serve those who work in Parramatta, Liverpool, at ANSTO, at the Randwick medical cluster, or in dispersed locations across Greater Sydney. 41% of residents leave Sutherland Shire to work – only a small fraction of these trips can be made by the rail network. Sutherland Shire Council requests that the draft framework be amended so that it is exempt from the non-discretionary standards for parking.

It is also important to remember that Sutherland Shire forms the southern edge of Greater Sydney. Its centres and residential flat zones are set within a context of surrounding low-density development. They are not walkable communities in the sense that residents can access the full range of retail, entertainment and personal services on foot. Residents move between centres to serve their needs. Sutherland Shire residents also have active lifestyles with one of the highest participations rates in organised sport in Australia. Residents choose Sutherland Shire because of its access to beaches, regional parks and National Parks. However, residents need multiple vehicles to achieve an active lifestyle. Organised sport is dispersed across the Shire and our beaches and National Parks are at its edges. It is entirely reasonable for households to have more than one vehicle when they live at the edge of Greater Sydney, even if they choose to live in an apartment. Sutherland Shire Council strongly objects to the nondiscretionary parking standards on this basis.

If you require any further information please contact Manager Strategic Planning, Mark Carlon on 9710 0523.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'MC' followed by a stylized flourish.

Mark Carlon
Manager Strategic Planning

Submitted on Thu, 24/02/2022 - 12:30

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

1.1 NAME

First name

Louisa

Last name

Agyare

I would like my submission to remain confidential

No

1.2 INFO

Email

l.agyare@tamworth.nsw.gov.au

Suburb/Town & Postcode

Tamworth 2340

Please provide your view on the project

I am just providing comments

Submission file

[tamworth-regional-council---submission-to-2022-public-exhibition-design-and-place-sepp.pdf](#)

Submission

Please see attached file.

Kind Regards,

Tamworth Regional Council

I agree to the above statement

Yes

Department of Planning and Environment
The Design and Place SEPP Team

Dear Sir / Madam,

SUBMISSION IN RESPONSE TO 2022 PUBLIC EXHIBITION OF DESIGN AND PLACE STATE ENVIRONMENTAL PLANNING POLICY

Ref: Ir/LA/GV Document Set ID 1095955

Tamworth Regional Council appreciates the opportunity to comment and provide feedback on the draft *Design and Place State Environmental Planning Policy 2021*.

Council agrees that this Policy is a critical step towards achieving better built form in the State of NSW.

Design in the Tamworth Region - Blueprint 100

In 2020, Council delivered a significant long term strategic planning initiative, titled Blueprint 100. [Blueprint 100](#) is presented in two parts and provides an overarching strategy with the aim of increasing the current population growth rate for the Tamworth Region to achieve a target population of 100,000 people. The preparation of Blueprint 100 included extensive consultation with, and input from, the Department of Planning and Environment (the Department), the development industry, State agencies and a wide range of community leaders and organisations.

The Blueprint 100 project included the production and adoption of the *Tamworth Regional Local Strategic Planning Statement 2020* (Blueprint Part 2) which was subsequently endorsed by the Department.

Design ('*Design with Nature*') and amenity are key themes explored throughout Blueprint 100, reinforcing Council's clear commitment to both aspirational growth and liveability. The key actions relating to design articulated in Blueprint Part 1 are:

- *Awards for innovation in business, development and urban design for reduction in usage of electricity, water, sewer, waste. [Action 1.4.3]*
- *Completing the Tree Plan and providing incentives for the planting and maintenance of trees in accordance with the Tree Plan. [Action 1.4.4]*
- *Building effective public open spaces that are not expanses of lawn. [Action 1.4.4]*
- *Community Greenspace to replace yards for multi-unit buildings. [Action 1.4.4]*
- *Designing beyond basic BASIX / NATHERS requirements. [Action 2.6.3]*
- *Include in urban design guidelines advice to improve the design quality of affordable housing. [Action 2.7.4]*
- *Promoting safe and inclusive public space through better urban design. [Action 4.11.11]*
- *Ensure sustainable design of facilities, infrastructure and development. [Action 6.3]*
- *Require the quality of development designs submitted to the Council to be improved, including their sustainability aspects. [Action 6.3.3]*

The draft *Design and Place SEPP* is therefore generally consistent with the goals and aspirations of Blueprint 100, Council's overarching strategic document.

Design Review Panel

It is of concern that the requirements of the SEPP for the establishment of design review panels may present significant challenges due to the limited number of qualified design professionals in the New England North West (NENW) Region. The draft *Local Government Design Review Panel Manual* specifies that a pool of between seven (7) and ten (10) people is necessary to achieve a minimum of three (3) panel members, all of which are required to be experienced design professionals.

As of February 2022, there are:

- 11 architects in the New England North West Region registered with NSW Architects Registration Board (Tamworth: four (4), Armidale: five (5), Inverell: one (1), Moree: one (1) and one (1) landscape architect in the NENW region registered with Australian Institute of Landscape Architects (Gunnedah).
- There is an unknown number of planning professionals with least five (5) years' experience in precinct or master planning.

Multiple Councils and the development industry across the Region will all need to access the same pool of architect and designers in their roles as applicants, assessors, reviewers and plan-makers. It is expected that the pool of available design professionals will be further reduced due to conflict of interests for various applications, particularly as the same small pool of architects will be the designers of the majority of applications requiring referral to a Design Panel.

It is acknowledged that professionals from locations outside of the NENW region can be engaged. However, it is noted that the ability to conduct site visit(s) is vital for designers to appropriately understand and respond to local context, which can vary greatly from region to region.

Tamworth Regional Council does not currently have a design review panel. The draft *Local Government Design Review Panel Manual* requires Council staff to support, and a panel coordinator to schedule and run sessions, and coordinate council technical staff and facilities.

It is estimated that resourcing a Design Review Panel may cost Tamworth Regional Council annually **in excess of \$100,000**. The need for travel to sites should professionals from other regions be appointed as panel members will also mean additional cost implications for Council. Council does not have budget available for this purpose.

Council advocates the following concepts as more achievable alternatives:

- Access to the nearest metropolitan design review panel, such as City of Newcastle; or
- Creation of a New England North West Design Panel, similar to the Northern Regional Planning Panel, consisting of four (4) state design professional members and three (3) architects from within the region; or
- Expansion of the capabilities of the existing Northern Regional Planning Panel. Where required, design professionals could be added to the panel to assess relevant applications. The practical running of this Panel has worked well for a number of years and this arrangement would provide efficiencies of scale.

Should none of the above options be supported, Council would argue that the state should take responsibility for the funding of all regional and rural Design Panels. While Council supports the objectives of the draft SEPP and the concept of Design Panel, it is unreasonable to expect that regional and rural Councils have the funds to establish and operate the panels, particularly under the current rate peg limitation.

Responding to Country

Under the draft SEPP, development applications and planning proposals need to demonstrate how they respond to Country and how they have been informed by contributions from Aboriginal stakeholders of the land, where they have been provided.

Council agrees that consideration of indigenous culture and local indigenous community input is appropriate and beneficial. However, Council has some concerns regarding the capacity of Local Aboriginal Land Councils to provide comment, and the potential impact upon DA assessment and planning proposal processing timeframes, noting that Department processing deadlines apply to both processes.

Public Open Space

Tamworth Regional Council is supportive of the SEPP's alignment of open space provisions with park hierarchy and walking distances.

Council is supportive of minimum percentages as a guide for public open space provision. However, Council would still reserve the right to negotiate the distribution of public open space in accordance with its adopted Open Space Management guide, so as to avoid an excess of small/local parks that are often underutilised but require significant resources to maintain.

Density

Tamworth Regional Council is supportive of minimum density targets. Land use conflict and servicing issues are created by peri-urban land and continuous urban sprawl. In addition, higher density targets represent the opportunity for future enhancements to public transport service levels within the Tamworth urban area, by concentrating population and providing demand for these services.

Council is introducing its first density targets within two planning proposals that are currently being processed, both of which relate to large land releases of greater than 800 homes. The minimum density targets proposed for these areas are (ten) 10 dwellings/ha, which represents a new high for local statutory requirements and the local development industry.

The identification of a density of 15-30 dwellings/ha will likely be too high for most precincts in the Tamworth Region, although it is understood these levels would be relevant to city and metropolitan growth precincts. However, these figures are a good place to start a discussion about this issue, acknowledging that different locations around the state will have different characteristics.

Canopy Targets

Tamworth Regional Council is supportive of the objectives of canopy targets within this draft SEPP. It is noted that the Tamworth urban area currently has low canopy levels which exacerbate already hot temperatures and low thermal comfort levels in streets and public spaces during spring and summer periods. Council is therefore supportive of measures to encourage increased canopy cover, and has recently adopted a Greening Strategy 2022 for Tamworth City.

Summary

Thank you for the opportunity to lodge a submission in relation to the exhibition of the draft *Design and Place SEPP 2021*. I trust Council's feedback is of assistance. Should you require any additional information or clarification, please do not hesitate to contact the undersigned or Council's Integrated Planner, Louisa Agyare, at the details below.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'G. Vereker', with a large circular flourish at the end.

Gina Vereker

Director, Liveable Communities

Contact: Gina Vereker – (02) 6767 5421
Louisa Agyare - (02) 6767 5507

24 February 2022

Submitted on Thu, 24/02/2022 - 09:09

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

1.1 NAME

First name

Gideon

Last name

Tam

I would like my submission to remain confidential

No

1.2 INFO

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Suburb/Town & Postcode

2153

Please provide your view on the project

I am just providing comments

Submission file

[thsc-submission-and-attachments---sepp-\(design-and-place-2021-\(fp58.docx.pdf](#)

Submission

Hi there,

Please find attached submission on the draft DP SEPP from The Hills Shire Council.

Thanks,

Gideon

I agree to the above statement

Yes



22 February 2022

Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Our Ref: FP58

Dear Sir/Madam,

SUBMISSION TO DRAFT SEPP (DESIGN AND PLACE) 2021 AND ASSOCIATED AMENDMENTS (FP58)

Thank you for the opportunity to make a submission on the draft *State Environmental Planning Policy (Design and Place) 2021* (DP SEPP) and associated draft design guides, policies and supporting documentation.

At its Ordinary Meeting of 22 February 2022, Council considered a report on the key issues and policy implications for Council and resolved to make this submission. A copy of the Council report and minute is provided as Attachment 2 to this submission and forms part of Council's submission.

Council previously made a submission on the draft Explanation of Intended Effects in April 2021 and many of the concerns that have been previously raised remain relevant in this current exhibition, as summarised in Section 2 of the Council Report of 22 February 2022. As such, it is requested that your consideration of Council's submission should also include the comments previously raised in Council's Report and Minute from 27 April 2021, which is provided as Attachment 3 to this submission for your reference.

The following comments are raised as additional concerns with respect to the DP SEPP exhibition package. Technical comments with respect to the Urban Design Guide and Apartment Design Guide are provided as Attachment 1 to this submission.

1. A Principles-based Approach

Attempting to legislate a principles-based approach presents many challenges, given that fundamentally, the achievement of any given principle can be highly subjective if it is not reinforced and underpinned by tangible development standards or other performance measures. This is a key theme throughout the DP SEPP and supporting design guides and policies. It has significant implications for its interpretation, enforceability, accountability and ambiguity for the planning framework, both within the exhibition material as well as in its relationship with the broader existing planning framework.

Key examples of this occurring throughout the exhibition material are provided as follows:

- The DP SEPP design principles are high-level and aspirational in nature. This may be appropriate if they are supported by a hierarchy of tangible and measurable outcomes underneath each principle that would establish clear and defined parameters for

determining whether a principle has been successfully implemented. Instead, they refer to another set of design principles within the Urban Design Guide (UDG).

- The UDG comprises 'Objectives', 'Design Criteria', 'Alternative Solutions', 'Design Guidance' and 'Assessment Guidance'. The differentiation between each of these is unclear, is not applied consistently throughout the UDG and each category isn't given legislative effect in the SEPP with respect to elements that must be satisfied prior to granting consent. This is an unnecessarily convoluted approach to establishing compliance with design objectives.
- While some objectives comprise measurable 'Design Criteria', it is scarce throughout the Guide. Further, the weight of this criteria is eroded through 'Alternative Solutions', which implicitly condone breaching of criteria and comprise broadbrush statements such as 'where possible' and 'where it can be demonstrated'.
- Much of the Design Criteria cannot be achieved through most types of applications, for example block lengths, proximity to shops, open space, and public transport options. This was raised in Council's previous submission.
- The enforceability of 'Alternative solutions' is unclear as they are statements of design outcomes that be 'may be considered'. It is unclear whether Council's existing DCPs can be utilised as appropriate alternative solutions. The justification of an alternative solution should first be grounded in clear demonstration of why a proposed development is unable to reasonably comply with the UDG objectives through Council's DCP. The SEPP should make provision that development is to consider Council's DCP as the primary design control, given the SEPP and UDG's emphasis on mandating that urban design development be supported by an appropriate DCP (including a potential site specific DCP).
- The 'Assessment Guidance' remains so broad and principles-based that it creates further ambiguity and exacerbates the issue. For example, "*the proposal demonstrates how the design response has been informed by place analysis*" is an Assessment Guidance for the first objective of the UDG. Place analysis is not defined in the UDG. It is also unclear what constitutes being 'informed by'.
- The enforceability and measurability of the 'Design Guidance' is unclear, for example "*encourage car sharing*" and "*Consider reducing on-street parking oversupply*". Neither of these statements would necessarily result in any material implications for the design of a development.

It is unclear as to who is ultimately accountable for the interpretation and implementation of these principles due to the flexibility in their application and the lack of clear or objective measure to determine when a design has been achieved. Concern is raised with the potential contradictory interpretation of these design principles (and design guidance, criteria and objectives within the supporting UDG) between consent authorities, applicants and design review panels.

It is ultimately unclear how these deliberations and compliance or otherwise with outcomes that are often highly subjective would be addressed through the Land and Environment Court process. It may lead to instances where the Land and Environment Court is ultimately responsible for weighing up any inconsistency between a Council's development controls, design principles in the SEPP (and associated Guidelines) and the potentially subjective views of relevant parties in the context of an individual development. Any subsequent decisions would likely produce case law and 'informal' minimum standards as a precedent for other developments also and how the principles will be enforced.

2. Relationship with other Instruments and the Broader Planning Framework

Within the DP SEPP exhibition package, the relationship between the SEPP and the UDG is unclear. The SEPP states that development consent must not be granted unless the consent authority is satisfied that development meets the applicable 'Design Criteria' in the UDG, but as mentioned above, most objectives within the UDG do not have stated 'Design Criteria'. Where Design Criteria is specified, it is largely unachievable for individual sites or outside of applicant's and Council's control (e.g. the provision of public transport services).

The relationship between the DP SEPP exhibition package and the existing planning framework should be clarified. The extent to which other instruments and policies prevail in the event of inconsistencies is unclear. Broadly, the objectives of the DP SEPP package appear to directly contradict the objectives of existing legislation and policies. Examples of this are provided below.

Sydney Region Growth Centres SEPP

SEPP Sydney Region Growth Centres (SRGC) 2006 will not be amended to reflect the principles of the DP SEPP and UDG objectives. Applications in these areas will be unable to achieve some of the key urban design considerations, particularly as they relate to tree replacement planting, street design and minimum density targets. Greater consideration should be given to aligning both SEPPs to ensure compliance with the DP SEPP is achieved when assessing developments under the SRGC SEPP.

Local Character

It is noted that the preceding EIE expressed the role of Council's local character statements in establishing local character, the means for development applications to address the local context and references to State Government's *Local Character and Place Guideline (2019)*. However, it would appear these considerations have been removed from the draft UDG that is currently on exhibition. Concern is raised with the reliance on the UDG's design guidance which has little regard for local context.

Further, the UDG's reliance on existing proximate development as a means to measure the 'desired' character of a place is not necessarily commensurate with infill areas identified for substantial urban renewal and changed future character, such as those located along the Sydney Metro Northwest Corridor.

The preparation of local character statements are identified in Council's LSPS and Implementation Plan, as Assured by the Greater Sydney Commission, and are proposed to be established as part of a local character layer in Council's LEP.

Local character statements and Council's DCPs should prevail to the extent of any inconsistency with the UDG as it relates to local character. This sentiment is shared in the exhibited draft ADG, which rightly states the desired local character of an area is typically described in Council's DCPs and housing strategies. This is an example of inconsistency between policies within the DP SEPP package.

Local Strategic Planning Statement and Housing Strategy

As mentioned above, Council's Local Strategic Planning Statement has received Assurance from the Greater Sydney Commission. In some instances, particularly with respect to precinct planning for Council's Strategic Centres, the LSPS comprises details on future envisaged outcomes for these precincts, as well as a body of work required to be completed before site specific planning proposals can be appropriately considered. It is unclear how outcomes in the LSPS (and the outcomes of the investigative work required) are given effect through the DP SEPP framework, and whether it will prevail to the extent of inconsistency with the UDG.

Similarly, Council's Housing Strategy has been endorsed by the Department of Planning and Environment. It sets the expectation for residential development to 2036 with respect to meeting State Government housing targets, appropriate locations for development and other development

considerations. It is unclear how the DP SEPP relates to this endorsed policy, particularly with respect to proposed minimum residential density targets in light of recent findings that The Hills Council is the only Metropolitan Council that has met its 2021 housing target and is the only Metropolitan Council currently on track to meet its 2026 housing target (all within Council's current planning settings and strategic policy directions).

It is clear that Council's local strategies and policies have effectively delivered a strong pipeline of residential development and as such, Council's local policies should prevail as the predominant approach to housing supply.

The Hills Local Environmental Plan 2019 (LEP 2019)

It is unclear how Design Criteria such as minimum residential densities relate to existing maximum Floor Space Ratio provisions in the LEP. FSR is the primary regulatory control for density and the need for minimum residential density targets is questioned, given most applications seek to maximise and/or breach the maximum allowable density on a given site. The relationship and hierarchy between these controls should be clarified.

Development Control Plans

The DP SEPP material states that the amendments do not affect existing LEPs and DCPs, nor do they modify place strategies and master plans prepared before the SEPP comes into force. However, the proposed application of the SEPP and the legislative weight placed on certain aspects of the SEPP and supporting UDG inadvertently reduces the enforceability of Council's DCP and renders its role and function as a regulator of local context and character obsolete.

Specifically, clause 24 of the DP SEPP requires development to meet the objectives of the Urban Design Guide, which effectively seeks to act as a state-wide DCP, albeit without prescriptive development controls. Explicit provisions should be made to require applicants to justify why the UDG design criteria and guidance cannot be complied with through Council's DCPs, and only then should alternative solutions be considered.

Clause 25 of the SEPP requires that development consent must not be granted for urban design development unless a development control plan applies to the land. The intent of this control may be to require more site specific DCPs, however Council currently has at least one (or multiple) DCPs in effect that apply to all land within the Shire, depending on zone, development typology or site constraint. The existing framework therefore already meets the requirements of this clause. It should be further clarified if the intent of this clause is to require more site specific development control plans.

Section 9.1 Ministerial Directions

The Ministerial Direction appears to have a broader applicability for planning proposals relating to industrial land than would be required under the SEPP for industrial development applications. The SEPP states that the policy would apply to DAs on industrial land with a site area greater than 1 hectare and a CIV of \$30 million or more. However, the Ministerial Direction applies to planning proposals for industrial land greater than 1 hectare, regardless of CIV. The reason for this inconsistency is unclear.

The Ministerial Direction states that a planning proposal must "give effect to relevant residential density, connectivity and open space guidance and criteria" in the UDG. This statement is contradictory to the DP SEPP and UDG that reinforce the importance of a flexible application. It also appears to override other planning controls, such as applicable FSR controls within the LEP, or require applications to meet requirements they are unable to comply with on a site specific basis (proximity to open space), or purely because Council and the Proponent are not the providers of such services (proximity to public transport). This issue has been previously raised by Council. On this basis, this requirement should be removed from the draft Direction.

Further, existing Ministerial Direction 6.3 Site Specific Provisions appears to directly contradict the intent of the DP SEPP framework. This Direction requires that a planning proposal must not

comprise unnecessarily restrictive site specific planning controls. In order to achieve compliance or enforce good urban design outcomes, more restrictive site specific planning controls will likely be necessary in most instances, particularly as it is noted that the assessment of planning proposals does not effectively 'lock in' development concepts for the development application stage. This Direction should be reviewed and revoked.

Planning Proposals and Development Applications

It is unclear how the DP SEPP would be applied for development applications that have already been through a rigorous assessment process at the planning proposal stage, especially where the planning proposal has resulted in the adoption of an accompanying site specific DCP that was developed with regard to the principles of the DP SEPP. It is likely that duplication of assessment will occur, with the potential for different interpretations of a good urban design outcome that achieves the broad objectives of the SEPP and UDG, depending on the parties, authorities and panels involved in each individual process.

It is unclear to what extent a planning proposal should seek to assess an application against the DP SEPP and seek to secure the outcomes proposed in indicative development concepts, noting that a planning proposal application does not approve or stamp architectural plans submitted in support of the proposal. It is therefore likely (as is currently the case with planning proposal applications and subsequent development applications) that development concepts and design outcomes will differ significantly between what is submitted at planning proposal stage and development application stage. It is unclear how the DP SEPP will address these issues.

Clarification is sought on whether referral to the DRP is necessary as part of the subsequent development application process, if a development complies with a DCP that has been prepared as part of a preceding planning proposal that was already referred to the DRP. Unnecessary duplication of submission or assessment requirements and costs should be avoided where they occur.

Under current legislation, the DRP can comment on draft LEPs and DCPs. It is noted that in the draft EP&A Regulation, the Panel's function has been expanded in scope and application. It proposes the function for DRPs to review and provide advice to Council about the provisions of an in force LEP or DCP. The DRP can also give advice on mechanisms and initiatives to improve the implementation of design principles and design considerations, as well as whether or not the Panel endorses a LEP or DCP in force. It is unclear of the ramifications of an 'unendorsed' LEP or DCP, especially given that the planning framework allows the elected Council to finalise an LEP or adopt a DCP.

The draft legislation affords these functions to DRPs with respect to development applications, not planning proposals. It would be more appropriate for this advice to be issued *only* in relation to planning proposals, being the relevant stage of the process where LEP mechanisms and DCPs are being developed and assessed.

Given the time and costs involved with amending LEPs and DCPs, should such advice be provided by the Panel at development application stage, Council would not be in a position to routinely amend these instruments in response to such commentary from the Panel. Further, it is unclear whether the expectation is for such amendments to occur prior to granting development consent for a DA, which would result in substantial delays to DA approvals until such time as the lengthy planning proposal and DCP amendment process is undertaken.

Given that the elected Council is the determining authority for the progression of planning proposals and adoption of DCPs, it is unclear whether Council is required to act on the advice of the Panels. The process is also unclear in instances where Council considers a report on potential amendments in light of the Panel's advice and resolves not to proceed. This has additional implications for the requirement for design verification statements (which are required at DA stage) to demonstrate consistency with the Panel's advice.

Local Planning Panel and Design Review Panel

With respect to planning proposals, clarification is sought as to the timing and order of referring an application to the Local Planning Panel and the Design Review Panel, both of which are required to provide advice on a planning proposal application. Furthermore, clarification is required on how inserting additional steps into the planning proposal process will align with the concurrent policy reforms which seek to drastically reduce assessment timeframes. Holistic consideration is required of all current policy reforms being pursued by the Government (employment zones and complying development, contributions reform, a new approach to rezonings and the DP SEPP), as many of these policies have contradictory elements in application.

NSW Government Planning Reform Action Plan

As part of the NSW Government Planning Reform Action Plan, DPE is requiring Councils to fast track their assessment timeframes, with key milestones and timeframes stipulated in Gateway Determinations for planning proposals.

Council has 90 days to obtain a decision from Council on whether to progress a planning proposal to Gateway Determination before a Proponent is able to lodge a rezoning review in response to Council's failure to advise its support. This 90 day period already encompasses the requirement to review and assess a planning proposal, seek the advice of the Local Planning Panel (with associated lead-in times) and report the matter to Council for determination (with associated lead-in times). The introduction of a further requirement, to seek the advice of the Design Review Panel, creates an additional obligation that must be met within 90 days and is at odds with the Government's Reform Action Plan. While it is acknowledged that the DRP may be able to provide valuable input in the context of certain planning proposals, consideration should be given to how the proposed DP SEPP package conflicts with other competing Government policy.

3. Car Parking

While technical matters are generally discussed in Attachment 1 in response to specific objectives of the Urban Design Guide and Apartment Design Guide, the importance of car parking within The Hills requires more detailed consideration of critical changes proposed.

While the current ADG specifies design criteria for minimum parking rates that are specified in the RTA Guide to Traffic Generating Developments, there is currently flexibility to allow further discussions to occur between Council and the Applicant with respect to an appropriate parking rate, having regard to this Guide and Council's adopted DCP. The DP SEPP package proposes to mandate these parking rates as non-discretionary development standards for residential apartment development.

The prescribed rates are lower than Council's required minimum parking rates and effectively erodes Council's ability to determine appropriate parking rates in a local context for residential apartment development (unless subject to Council's housing diversity provisions under Clause 7.11 of LEP 2019).

Whilst it is acknowledged that the SEPP seeks to reduce car dependency and promote public transport patronage, the imposition of mandated minimum parking rates as set out by the RTA is inappropriate as it does not have regard to the local context or place-based planning. While Council's strategic centres are serviced by higher frequency public transport, parking demands and general strategic context of these centres differ greatly to other strategic centres where these rates may be more appropriate, such as the Sydney CBD which is more substantially serviced by a fully integrated and established public transport network.

More broadly, the prescriptive minimum parking rates within the ADG do not account for essential workers that commute when public transport is less frequent or unavailable, as well as larger families that require private vehicles to support their lifestyle outside of normal peak hour travel (this is especially relevant in the context of urban infill development which, due to insufficient and expensive land, is serviced by active open space facilities outside of the walkable catchment and

at the urban fringe, not accessible by public transport). This demographic is very much reflective of the higher reliance of private vehicles within The Hills. The issue is two-fold whereby should car parking be limited, the needs of residents cannot be met, which in turn deters families from higher density living.

It is further acknowledged that The Hills has recently benefited from a Metro line, however travel between suburbs remains largely car dominant with little support from local bus services to connect to the broader public transport network. Travel within The Hills (and other areas beyond The Hills outside of the Metro Corridor like Parramatta) should be acknowledged as a substantial trend that will not be resolved through reduced car parking rates.

It is also noted that Council is awaiting the outcomes of regional traffic modelling to more accurately determine appropriate parking rates in its strategic centres and the associated cumulative impact on the local and regional road network. This work will also inform Council's Car Parking Strategy and review of parking rates, which is an identified action in the State Government-endorsed LSPS. It would be irresponsible and premature to impose parking rates prior to the completion of these strategic investigations.

The removal of prescribed car parking rates from the draft UDG is highly commendable and demonstrates the understanding that car parking rates are dependent on local circumstances. However, the Assessment Guidance "*car parking is minimised*" and "*where feasible, maximum parking rates are encouraged in setting development controls*" appears to undermine this, notwithstanding the ambiguity surrounding the weight and enforceability of such Assessment Guidance.

The Hills does not advocate for maximum parking rates due to the lack of supporting public transport infrastructure throughout the Shire (including within the station precincts) along with the larger family demographic that are already reliant on private vehicles and regular trips that are outside of public transport lines (e.g. child care, sporting facilities, schools). It is reiterated that many of these trips may occur outside of peak hour and are important lifestyle considerations for residents looking to reside in new housing within The Hills. Whilst it is anticipated that The Hills' station precinct's will eventually lead to increased reliance on public transport, the Assessment Guidance can only be considered and actualised when the adequate public transport network is pre-existing, well-integrated and provides access to all infrastructure and services that residents need to access.

4. Design Review Panel

Council's DRP largely follows the format described in the draft Design Review Panel Manual and as such, this document and its contents are generally supported.

It is noted however that the Manual proposes a 2 week timeframe for administrative preparations for a meeting. Council currently operates with a 3 week timeframe, which is already extremely challenging to meet as it involves the submission of drawings, review of material and revisions where necessary, enquiries from panel members and meeting scheduling.

Concern is raised that a 2 week timeframe will not be achievable with current resourcing and does not afford the opportunity for revised architectural drawings to be submitted and further reviewed if required. It is recommended that the Manual stipulate a 3 week timeframe.

Further clarification is required as to whether design verification statements are required at planning proposal stage, particularly in the context of issues raised above where planning proposal applications do not approve or lock in concepts or architectural outcomes. It is also difficult for Council to enforce and/or confirm the requirement for a design verification statement to be prepared by a suitability qualified person. The accountability for enforcing this requirement is unclear.

The Manual is also generally ambiguous as to whether re-referrals to the DRP are required for both DAs and planning proposals in instances where a substantially revised scheme is submitted. Again, this would further increase assessment timeframes, duplicate assessment between the development application and planning proposal stage, and is considered unnecessary for planning proposal applications which provide indicative development concepts only. It is also unclear who would be responsible for determining whether or not the extent of revisions to a proposal warranted reconsideration by the DRP.

Please refer to Attachment 1 for technical comments on the Urban Design Guide and Apartment Design Guide.

Thank you for the opportunity to provide comment. Should you require any further information or wish to discuss these matters further please contact Gideon Tam, Town Planner on (02) 9843 0188.

Yours faithfully



Nicholas Carlton

MANAGER – FORWARD PLANNING

ATTACHMENT 1: TECHNICAL COMMENTS – URBAN DESIGN GUIDE AND APARTMENT DESIGN GUIDE
ATTACHMENT 2: COUNCIL REPORT AND MINUTE, 22 FEBRUARY 2022

Attachment 1: Council Comment on Urban Design Guide and Apartment Design Guide

URBAN DESIGN GUIDE	
1. Projects start with nature, culture and public space	Integrated Water Cycle Management design in private and public space needs to incorporate ongoing maintenance contract and cost sharing agreement between stakeholders, builders or landowners.
4. Place-based risks are mitigated and ecological values sustained to ensure resilient communities	Clarification is required on the 'design for resilience' template, which does not appear to form part of the exhibition material.
5. Walkable neighbourhoods are vibrant and protective	The alternative design solutions are potentially as unachievable as the design criteria, given that Councils and Proponents are not the providers of public transport or schools.
6. Block patterns and fine-grain street networks define legible, permeable neighbourhoods.	<p>Maximum block lengths for industrial areas should be reconsidered, given buildings can be substantially longer than 250m.</p> <p>Consideration should be given to shorter block lengths in TOD environments.</p> <p>Consideration should be given to alternative measures to achieve movement and connection in infill precincts, where subdivision patterns are already established.</p>
7. Walking and cycling is prioritised, safe and comfortable for people of all abilities	Consideration should be given to a 6m minimum width for pedestrian cross site links through high density residential areas and 12m through new mixed use areas to allow for multi modal transit and pavement dining.
10. Tree canopy supports sustainable, liveable and cool neighbourhoods	<p>The tree canopy targets are ambitious and unlikely to be achieved, due to an overreliance on street tree canopy alone. There is a mismatch between the tree canopy targets and the actual canopy cover that would be achieved using the specified tree planting rates e.g. the tree planting rate required for a small residential single dwelling (300m² site area) would result in 9% canopy cover, well short of the 20% target required.</p> <p>The State Government-rezoned North West Growth Centre Precincts would be unable to achieve these targets given that the lot sizes are not conducive to providing substantial landscaping opportunities.</p> <p>Tree and landscaping strips every 5th car space for industrial developments is supported. This should be extended to require podium planter boxes, as many industrial developments have on podium open air parking.</p> <p>It is unclear from the street width sections whether dedication or acquisition is required and who is ultimately responsible for absorbing the associated financial burden.</p> <p>This objective may create tension with other objectives such as minimum residential density targets or APZ requirements that apply to many developments.</p>
11. Water is retained and water quality improved in urban places	<p>Aesthetically pleasing design options should be chosen for large design structures, such as detention basins.</p> <p>All public open space infrastructure should meet the requirements of the consent authority for flood management.</p>

	<p>Greater consideration should be given to the promotion of green roofs on all building types to reduce stormwater runoff.</p>
12. Public open space is high-quality, varied and adaptable	<p>Further clarification is required as to the calculation of public open space with respect to the statement that it does not include streets, private roads or laneways leading to public plazas.</p> <p>Public open space should experience no overshadowing between the hours of 10am and 2pm. It is difficult for Council to enforce the preservation of solar access to public spaces and any stronger guidance on this is welcomed.</p>
13. Streets are safe, active and attractive spaces for people	<p>As above, street design opportunities can be limited in infill redevelopment settings and consideration should be given to design measures in this context.</p>
15. The lot layout supports green neighbourhoods and a diversity of built form and uses	<p>As mentioned above, the North West Growth Centre lot sizes are not conducive to achieving the outcomes identified under this objective.</p> <p>While Council's DCPs should be the appropriate location for establishing setbacks, the recommended consideration of a 4m rear setback would likely be insufficient for a useful shade-providing tree.</p> <p>While a mix of typologies is encouraged, development will more often achieve the highest and best use on each site.</p>
17. Scale and massing of built form responds to desired local character	<p>All references to DPE's Local Character Guidelines and Overlays has been removed from the material, which is contrary to this objective.</p> <p>Flood modelling should utilise 1% annual exceedance probability (AEP) instead of the proposed 100-year. Built form should avoid 1% AEP extents and flow paths.</p> <p>Building platforms should not be provided above overland flow paths. Development consent will not be granted in these instances and appears to be at odds with the existing flood management planning framework.</p> <p>Evacuation measures should be considered as a site planning consideration.</p> <p>Further information should be provided on how wind speed guidance has been developed.</p> <p>Terms such as infiltration trenches, sand filters, porous paving, sedimentation basins and buffer strips should be defined within the guide.</p>
18. Built form enlivens the ground plane and activates and frames public spaces	<p>Consideration should be given to the treatment of the street interface in mixed use areas so that block lengths are not dominated by access ways and services facilities.</p> <p>Street activation should occur on all street frontages of a block within mixed use areas, rather than just a few. This would ensure better street interface.</p> <p>Infrastructure such as ventilation shafts and structures comprising blank walls of concrete should not dominate main street frontages. This should also be applicable to State-owned infrastructure, which may be considered exempt development and therefore would not trigger the</p>

	<p>requirement to consider the SEPP and UDG. However, these types of developments have a major impact on the quality of the surrounding and nearby public spaces.</p>
APARTMENT DESIGN GUIDE	
Building separation	<p>The minimum building distance separation is likely unachievable for courtyard developments over 8 storeys.</p> <p>30m distance separation should be provided between development blocks 15 storeys and above regardless of habitable or non-habitable rooms.</p> <p>Tower floor plates should be defined as being above 8 storeys to align with increased distance separation controls stipulated in the Guide.</p>
Relationship to the street	<p>Provisions enabling dwellings below adjacent pedestrian at grade pathways should be removed to improve safety and amenity.</p> <p>Concern is raised with visual and acoustic privacy, limited cross ventilation opportunity and solar access provision.</p> <p>It is difficult to regulate approved landscape treatments that are regulated by a Strata management and beyond the control of Council.</p> <p>Utilities infrastructure should not obscure pedestrian movements within the street and front setback.</p>
Deep soil zone	<p>Reducing the minimum width of deep soil from 6m to 3m contradicts the sustainability and green canopy objectives of the UDG and DP SEPP. It is not wide enough for deep soil root growth which grows horizontally, not vertically. It will significantly decrease the achievability of tree retention, will only allow for 'containerised' tree planting and will prevent unobstructed growth of large trees and the subsequent achievement of canopy targets/required tree planting rates.</p> <p>The achievement of tree retention and deep soil requirements often requires significant redesign for apartment developments (and in many cases a reduction in yield) and is therefore a contentious issue to resolve with applicants. The 6m deep soil requirement was an added justification for council officers to enforce these outcomes.</p> <p>The use of 'where it is not possible' erodes the intent of these requirements and the ability to achieve compliance with the objectives of the UDG. Developments will more likely choose the alternate options, resulting in no true deep soil or tree retention.</p> <p>Consideration should be given to the discouragement of soil mounding to ensure that soil volumes and true soil depth are achieved.</p>
Bicycle parking	<p>Bicycle parking should not be included in the calculation of storage volumes as it can substantially reduce residents' storage provision.</p> <p>Bicycle theft from basement areas is a common occurrence in apartment buildings and consideration should be given to storage requirements that would allow bicycles to be more safely stored within apartments.</p>
Building design	<p>Limiting the number of apartments per floor to 8 is supported with respect to circulation core and reducing bulk and scale of building envelopes. 12 apartments per floor plate is not desirable in this respect.</p>

Configuration and layout	<p>A minimum unobstructed corridor width needs more clarification.</p> <p>Council is only able to enforce disability circulation minimums because elements such as fire hose reels and electrical boxes can be provided post-development consent stage. These elements can compromise corridor width.</p>
Equitable access	<p>It is difficult to enforce universal access design principles.</p> <p>Consideration should be given to every bathroom having a universal design to cater for visitors with permanent or temporary disabilities.</p>
Common access	<p>Tenants should be provided with common access to fire stairs from a safety and accessibility perspective.</p>
Communal spaces	<p>Consideration should be given to solar access provision between the hours of 12pm and 2pm given the recent increase in working from home conditions.</p> <p>The previous design criteria term “principal usable part of the communal open space” should be retained with respect to solar access.</p> <p>Basement car parking shafts should not protrude or expel air over any common open space area.</p>
Apartment mix and diversity	<p>All family friendly apartments should be required to meet minimum solar access and ventilation requirements.</p>
Apartment configuration	<p>The previous control requiring minimum floor to floor heights of 3.1m for residential levels should be reinstated.</p> <p>Access to daylight provision through the means of a skylight in lieu of a window is not considered acceptable.</p>
Private open spaces and balconies	<p>The 3m minimum width has the potential to remove a significant portion of the soft landscaped setback area if a 5m minimum setback is applied. This adds to the urban heat island effect as building footprints occupy substantial portions of the total lot. The 3m courtyard area should be restricted to extending no more than 2m into the site setback area. Paved courtyard areas should not account for more than 40% of the façade length to allow substantial planting between private open spaces.</p>
Solar access, thermal comfort and ventilation	<p>The requirement to insulate ceilings should be mandatory design criteria, as it is crucial to aid noise and impact mitigation as well as ceiling mould growth below balconies and terraces.</p> <p>The same amenity design measures should be provided for affordable rental housing accommodation.</p> <p>Light wells should not be relied on as a means to achieve solar access or natural ventilation.</p> <p>Windows should be reinforced with double glazed thermal barriers.</p> <p>It is difficult for buildings to achieve solar access compliance within a SEPP65 minimum design courtyard arrangement when the building exceeds 6-7 storeys. This includes building lengths for solar access and ground plane breezes into the central courtyard and other apartment</p>

	<p>blocks within a lot.</p> <p>Consideration should be given to adding insulation into roof structures for upper level apartments for all roof forms, and should be incorporated into floor to floor heights.</p>
Acoustic privacy, noise and pollution	<p>The design guidance fails to consider the acoustic implications of failure to achieve adequate building separation distance.</p> <p>Consideration should be given to requiring soft landscaping between buildings.</p>
Storage	<p>Consideration should be given to better co-location of storage provisions with the corresponding apartment. Storage facilities should not be on sold as a separate entity from the relevant apartment.</p> <p>Storage areas should be dry and free from flooding or overhead water damage.</p> <p>Storage areas should be lit during all hours of the day and night.</p> <p>Minimised storage as an alternative design solution in affordable rental housing is not appropriate, particularly noting that in future, such apartments could then be released to the broader market without adequate storage.</p>
Building articulation	<p>Maximum site coverage should be limited to 50% to maximise soft landscaping and tree canopy opportunities.</p>
Water	<p>Consideration should be given to design of green infrastructure, such as features of Water Sensitive Urban Design.</p> <p>Independent building surveyors should be involved in verifying the ongoing water re-use systems.</p> <p>Overland flow paths should be incorporated into landscape treatments during the site planning stage, rather than relying on engineered solutions.</p>
Landscape maintenance	<p>Greater consideration should be given to promoting rainwater collection as a source of irrigation.</p>
Submission requirements	<p>Clarification is required on whether sun diagrams are to be interpreted as sun-eye diagrams.</p>
Appendix	<p>Council does not necessarily have the resources to undertake technical verification of alternative design responses for natural ventilation and cross ventilation.</p>

ITEM 4	FURTHER REPORT - PUBLIC EXHIBITION OF DRAFT DESIGN & PLACE SEPP (FP58)
THEME:	Shaping Growth
GROUP:	SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS
	TOWN PLANNER
AUTHORS:	GIDEON TAM STRATEGIC PLANNING COORDINATOR KAYLA ATKINS
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING NICHOLAS CARLTON

PURPOSE

This Report recommends that Council make a submission on the proposed Design and Place State Environmental Planning Policy (SEPP) and supporting documentation, which is currently on public exhibition by the NSW State Government until 28 February 2022.

An Explanation of Intended Effect (EIE) discussion paper describing the Government's intent of the proposed policies was previously exhibited between February and April 2021. On 27 April 2021, Council resolved to make a submission on the EIE, and a copy of the previous Council Report and submission is provided as Attachment 2 to this Report for reference.

Following the Government's consideration of submissions received during this preliminary exhibition, the proposed legislation and associated policies have now been drafted and released for further public comment. The amendments seek to enshrine what are described as high quality design outcomes as a key consideration at the forefront of all planning and assessment decisions through a principles based approach. They aim to encourage innovative design that maximises public benefit as well as simplifying and consolidating how good design is delivered in NSW.

While the intention of the reform is supported in principle, concern is raised that the mechanisms proposed may not actually lead to achievement of the underlying design objectives and principles when applied in practice. The most critical issue relates to an over-reliance on a 'principles based' approach through planning assessment processes, in the absence of any clear or objective measures to determine when a design outcome has been achieved as part of an individual proposal. This is especially true in the context of 'design quality', where different parties may have different and subjective views with respect to optimal outcomes ('good' design can often be subjective).

Council officers have prepared a draft submission in response to the current public exhibition material, which is provided as Attachment 1 for consideration and endorsement.

RECOMMENDATION

Council make a submission on the Design and Place SEPP policy package in accordance with the draft submission provided in Attachment 1.

IMPACTS

Financial

This matter has no direct financial impact upon Council's adopted budget or forward estimates. However, a number of new or expanded processes proposed as part of the Design and Place SEPP would likely incur additional administrative costs to Council and would require additional resources from Council staff. The new assessment requirements would likely increase assessment and approval timeframes, creating further costs to Council.

Strategic Plan - Hills Future

The stated objective of the proposed Design and Place SEPP is to regulate the built environment through amendments to the planning framework to deliver well planned and liveable neighbourhoods. However, as detailed within this report and submission, there are numerous implications that would inhibit Council's ability to implement local policy and a number of suggested measures would appear to be directly contrary to outcomes sought by the SEPP.

The formulation of a submission will ensure that the community is effectively represented, governed and managed at all levels of government, and that there is input into new legislation that affects local issues.

LINK TO HILLS SHIRE PLAN

Strategy:

5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.

Outcome:

5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.

REPORT

This Report provides an overview of the draft Design and Place SEPP and associated guidelines and supporting documentation (Section 1). It identifies the key issues and matters for Council's consideration (Section 2) and recommends that Council make a submission to Department of Planning and Environment (DPE). A draft submission is provided as Attachment 1 for Council's consideration. Further background on the intent of the proposed reforms is contained within the Council report from 27 April 2021 (Attachment 2).

1. EXHIBITION MATERIAL

The Design and Place SEPP exhibition package comprises nine (9) documents in the form of draft legislation, guidelines and supporting documentation. The amendments seek to enshrine high quality design outcomes as a key consideration at the forefront of all planning and

assessment decisions through a principles based approach. They aim to encourage innovative design that maximises public benefit as well as simplifying and consolidating how good design is delivered in NSW.

The Design and Place SEPP public exhibition comprises the following material:

- *Draft Design and Place SEPP legislative instrument*: an Environmental Planning Instrument that consolidates two existing instruments, being SEPP No 65 – Design Quality of Residential Apartment Development and SEPP (Building Sustainability Index: BASIX) 2004. The consolidated SEPP gives legal effect to new design principles and objectives that must be considered before granting development consent for large scale developments.
- *Design and Place SEPP overview document*: a summary document that provides an overview of the intent of the public exhibition and supporting material. It will not form part of the planning framework once the proposed amendments are in effect.
- *Cost Benefit Analysis*: supporting analysis undertaken in response to feedback received during the preliminary public exhibition period, where stakeholders had expressed concern with respect to the impact of the proposed amendments on development feasibility. This document will not form part of the planning framework once the proposed amendments are in effect.
- *Draft Apartment Design Guide (ADG)*: a legislated document that sets mandatory design criteria for applications relating to residential apartment development, such as residential flat buildings, shop top housing or mixed use development with a residential accommodation component. This document repeals and replaces the existing Apartment Design Guide and is a companion document to the Urban Design Guide. The Guide aims to prescribe how large scale development can achieve the principles of the Design and Place SEPP.
- *Draft Urban Design Guide (UDG)*: a legislated document that provides further guidance on improving the design of the built environment, including large scale developments. The Urban Design Guide is a companion document to the Apartment Design Guide and supports the principles of the Design and Place SEPP.
- *Draft Design and Place Section 9.1 Ministerial Direction*: a Direction from the Minister that Council's must consider during the assessment of planning proposals. In dealing with large scale planning proposals, a planning authority would be required to consider the design principles and design considerations established within the Design and Place SEPP, the ADG and the UDG. The Ministerial Direction seeks to ensure that good design is considered early in the planning process.
- *Draft Local Government Design Review Panel Manual*: a legislated document that provides guidance on the operation, role and function of Design Review Panels and ensures that Panels operate and align with the objectives of the Design and Place SEPP.
- *Draft Environmental Planning and Assessment Regulation Amendment (Design and Place) (EP&A Regulation)*: an amendment to the existing Environmental Planning and Assessment Regulation 2000 to include provisions relating to operational requirements for design review panels, conditions of consent and development application submission requirements.

- *Draft BASIX Amendments Discussion Paper*: Updates to the existing BASIX (Building and Sustainability Index) standards, which seek to improve the energy, water use and thermal performance of development. The undated standards seek to achieve the State Government's Net Zero Emissions Plan and introduce an alternative merit assessment pathway for meeting sustainability requirements.

The Design and Place SEPP is established on five design principles relating to amenity, public spaces, connectivity, sustainability and resilience. Figure 1 below illustrates the hierarchy of the proposed framework.

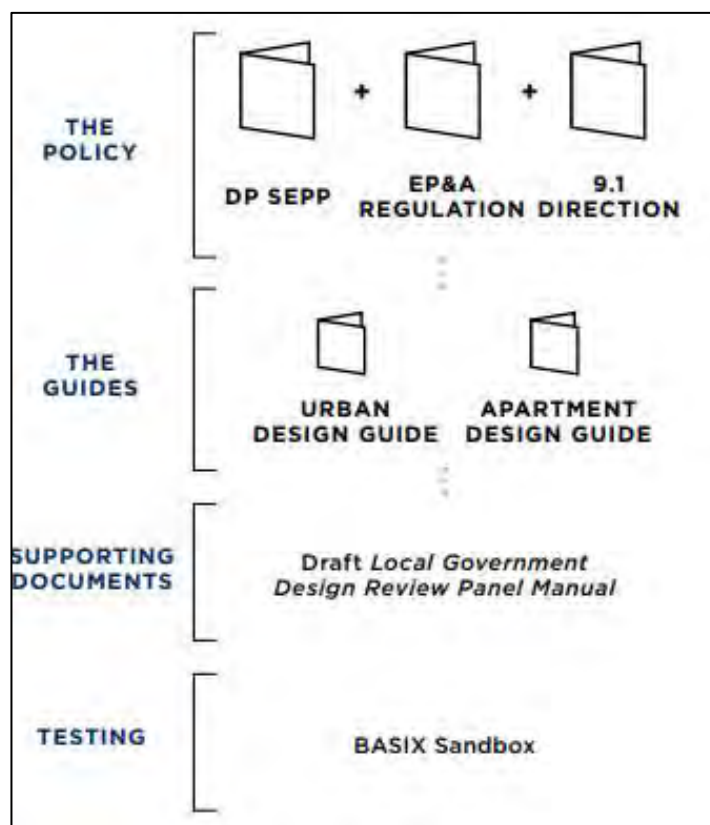


Figure 1

Hierarchy of Design and Place SEPP Policy Package

2. ISSUES

Council previously made a submission on the preliminary exhibition material in April 2021 (refer to Attachment 2). The submission raised concern with a number of proposed amendments.

A number of these matters have been addressed in the exhibition package and draft instrument, however many of Council's concerns remain relevant, such as:

- Concern around the proposed minimum residential density targets (dwellings per hectare) given the existing minimum lot size and floor space ratio development standards already regulate residential density effectively. Additionally, such a broad brush approach to density regulation would remove the ability to tailor outcomes of a precinct or development to local circumstances;

- The requirement for car parking rates specified for residential apartment development under the 'RTA Guide to Traffic Generating Developments' to become non-discretionary development standards. This means that Council Officers and applicants would no longer have the flexibility to agree on an appropriate car parking rate having regard to Council's DCP rates, given that they are higher than those specified in the RTA guide.
- Reduced focus on prioritising local character, which would potentially create an allowance for future development to not adhere to Council's well-founded development controls which seek to reinforce the community's established views and vision of their locality;
- The assessment criteria for new housing precincts to be within a certain walking distance from amenities such as shops, local and district open space, schools and public transport would be difficult to implement at a local level given the provision of many of these items are the responsibility of Government;
- The proposed tree replacement rate and tree canopy target will be difficult to measure, given that the tree canopy targets are potentially difficult to achieve on a site specific basis, noting smaller lot sizes in Council's growth centres, which do not provide sufficient areas for landscaping that results in tree canopy;
- A broadened scope for types of development that will trigger the requirement for a Design Review Panel, which will likely add cost and time to the development assessment process. This broad trigger is not necessarily reflective of the complexity and range of proposals that would meet this threshold and would, in some instances, unnecessarily hinder competing objectives around expedient assessment of development applications;
- A principles based approach is difficult to interpret and enforce through prescriptive/objective measures. This will create challenges with respect to interpretation and enforcement of outcomes at the assessment level; and
- Ambiguity over the hierarchy of proposed amendments and their relationship with existing LEP and DCP standards, where these would be contradicted. Attempts to achieve consistency on design throughout NSW would erode the crucial role of Council's LEP and DCP to enforce development standards and controls that best regulate the local context and character for development.

The most critical issue with the proposed amendments is that a 'principles based' approach will be open to interpretation, without any clear or objective measures to determine when a design consideration has been achieved as part of an individual proposal. The Government has sought to partially address this issue by introducing 'Assessment Guidance' criteria throughout the framework. However, unfortunately this criteria itself remains so broad that it is likely to create further ambiguity and exacerbate the problem as it does not achieve the intended effect of establishing clear measures of success that can be applied in assessment processes.

While the intent of elevating high quality design outcomes as a key consideration at the forefront of planning and assessment decisions is supported, the proposed framework which has been exhibited by the Government does not necessarily achieve this, given the range of ambiguities it would create in the interpreting, enforcing and measuring success against the core objectives of the Design and Place SEPP.

This may lead to instances where the Land and Environment Court is ultimately responsible for weighing up any inconsistency between a Council's development controls and design principles in the SEPP (and associated Guidelines) in the context of an individual development. Any subsequent decisions would likely produce case law and 'informal' minimum standards as a precedent for other developments also.

Another critical concern with the draft amendments is the expanded function proposed to be afforded to Design Review Panels (DRPs), enabling them to scrutinise ~~draft and/or~~ in force LEPs and DCPs, advise whether they 'endorse' such instruments and recommend improvements at the same time as providing advice on development applications.

Notwithstanding the time and costs involved in the lengthy process of amending Council's LEP and DCP, the elected Council is ultimately the determining authority for the progression of planning proposals (LEP amendments) and adoption of DCPs. Currently, a Council has the discretion to seek the advice of a DRP in exercising its duties with respect to the LEP and DCPs. This remains appropriate; however concern is raised that a DRP could now be given the ability to recommend amendments to Council's planning instruments based on experiences in reviewing individual Development Applications. Should this occur, it is unclear whether Council is required to act on the Panel's advice and consider amendments to its DCP and LEP. The ramifications and subsequent planning processes of this change are unclear in instances where the Panel does not "endorse" an LEP or DCP, or where Council considers a report in response to Panel advice and resolves not to progress with LEP or DCP amendments. It is recommended that Council raise strong objection to this proposed change to the role of the DRP.

A draft submission has been prepared by Council officers and is provided as Attachment 1. The draft submission comments on these major issues detailed above, as well as a range of other technical matters identified during a review of the material. It is recommended that Council make a submission on the proposed Design and Place SEPP package, as provided in Attachment 1.

ATTACHMENTS

1. Draft Submission on Design and Place SEPP Policy Package (13 pages)
2. Council Report and Minute, 27 April 2021 (127 pages)

ITEM 4**FURTHER REPORT - PUBLIC EXHIBITION OF DRAFT
DESIGN & PLACE SEPP (FP58)**

A MOTION WAS MOVED BY COUNCILLOR HODGES AND SECONDED BY COUNCILLOR TRACEY THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

74 RESOLUTION

Council make a submission on the Design and Place SEPP policy package in accordance with the draft submission provided in Attachment 1.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr P Gangemi
Clr M Hodges
Clr F De Masi
Clr V Ellis
Clr M Blue
Clr J Brazier
Clr R Boneham
Clr J Cox
Clr R Jethi
Clr Dr M Kasby
Clr Dr B Burton
Clr R Tracey
Clr A Hay OAM

VOTING AGAINST THE MOTION

None

Draft SEPP Design and Place - TSC Key Issue Submission Table

TSC Comment No	Topic/Theme	Comment
Overall SEPP Design and Place Exhibition Package		
1	General support for promoting better design	The introduction of State-wide Urban Design Guidelines and updating of the Apartment Design Guidelines is a positive step towards promoting good urban design, as is the introduction of Independent Design Review panels across the state as a means of peer reviewing and improving design outcomes.
2	Lack of Local Government Resource to implement	<p>A fundamental issue in the implementation of this policy will be the lack of Council resources in terms of limited staff numbers, current workloads, expected Development Assessment times, and need for additional staff upskilling to have input into and facilitating design review processes and assessing additional information as part of the merits assessment process. Without adequate staff resources and skill levels to assess and determine additional design and sustainability requirements, one unintended outcome could be significant additional delays to assessment timeframes driving up costs for Councils and developer alike.</p> <p>Much of the focus on the SEPP is also for proponents to address site analysis and context in a more detailed way upfront with the introduction of design review panels. This however would necessitate an almost full merits assessment of a scheme by Council prior to a development application being lodged and the ability of Council's to charge a development assessment fee. It is noted that the capped \$3000 design review panel fee (EP&AR Clause 248) would not adequately cover Council costs.</p> <p>Another unaccounted cost to Council will be the need to amend and revise several development control plans to ensure that they align with intended effects of the SEPP and adequately cover off on development outside of the SEPP applicable thresholds. This will be necessary to avoid inconsistencies and thereby uncertainty in those existing development control plans.</p> <p>There is opportunity for GANSW to undertake a series of local government cost implication 'case studies' which seeks to better understand the likely associated costs to Councils and resource needs. Such case studies would also highlight the resource divide between metropolitan and regional councils where significant development pressure across large development sites is currently being experienced.</p>

3	Development Industry Uptake Questionable	The implementation and success of the SEPP relies heavily on the ability of the development industry to engage in more detailed site, context analysis and iterative design review processes as the 'starting point' of projects. Council's experience to date is that many developers typically start with an overlay of the prevailing planning development standards with a general approach of maximising yield and then negotiating non-compliances with development standards and controls to best achieve that yield. The requirement to provide more of that detailed information upfront for design review panel appraisal, and outside of a merits assessment framework is questionable.
4	Ability of Design Review Panel to consider all planning considerations	<p>Council currently has a development assessment panel (DAP) which enables proponents to present and receive advice on proposals often prior to lodging a DA. It is currently unclear whether the proposed design review panel would replace this existing process that many Councils have in place.</p> <p>Councils current DAP process bring together all disciplines of Council including development assessment planning, strategic planning, urban design, engineering, structure, roads and traffic, environmental and open space professional staff who prepare technical review and advice on the subject proposal. Each of those professional staff directly communicate this advice including key issues directly with the proponents. If a proposal requires amendment, reconsideration and or is unlikely to be supported this is clearly communicated.</p> <p>Whilst it is recognised that the proposed design review panel process would require the submission of a planning summary statement and would be able to adequately comment on the design quality it is questionable whether a DRP, which would typically be made up of three design experts, would be able to adequately understand the depth and breadth of planning, environment and infrastructure issues which need to be concurrently considered.</p> <p>If the intent is to not replace Council's existing DAP process, then there would be a clear overlap of both process and content. This would increase Council's workload for each proposal and contribute to uncertainty or confusion about what review process is required for proponents.</p> <p>As previously highlighted, in many instances the capped design review fee would not sufficiently cover costs to Council.</p>
5	Greater flexibility may lead to greater uncertainty	The principles-based approach and intended 'flexible' application of the urban design guideline and apartment design guideline provides opportunities for developers to table alternative 'better' design solutions.

		<p>Whilst the notion of providing flexibility to achieve better design outcomes is generally supported, this will undoubtedly be exploited by developer proponents seeking to maximise development yields and development return. This ultimately places additional burden on Council's assessing planners and elected representatives who would need to balance any alternative designed outcomes and design review panel advice along with the prevailing suite of planning, environmental constraint, infrastructure, and public interest considerations.</p> <p>An unintended effect of increasing flexibility in a suite of new additional design considerations is that it leads to a great sense of ambiguity in terms of what is or isn't acceptable and thereby a great level of both development assessment and proponent uncertainty.</p>
6	Lack of mechanism to leverage costs to cover social infrastructure, open space, public facilities and public domain improvements.	<p>Although the SEPP and urban design guidelines talk to the benefits of improving the public domain and landscape requirements across development sites, there is still a lack of clear guidance or mechanism to ensure adequate social infrastructure, open space, landscape public domain improvements are appropriately 'designed in', costed and developed. In most cases Councils are reliant on capped contributions plans which do not cover the real cost of development. The guidelines would benefit from additional guidance or frameworks which enable Council Governments to leverage required contributions to cover the actual costs of development.</p>
7	Better line of sight and readability between the SEPP and Urban Design Guideline Documents	<p>There is an opportunity to use the same design principles and design considerations as stated within the SEPP to be identical to or correspond more closely with the headings, and objectives used within the Urban Design Guidelines or vice versa. Using common headings, objectives and principles would provide a great line of sight between documents and enable the urban design guidelines to articulate the intent of the SEPP more directly. One option would be to code or cross reference the design principles and design considerations of the SEPP against each of the Urban Design Guideline objectives.</p> <p>This would also avoid the inevitable duplication or cross over of information when proponents are seeking to full address the provisions of both the SEPP and Urban Design Guidelines as part of future development applications.</p>
8	Review use language for wide understanding and interpretation	<p>While the overall intent of the design considerations is supported there is opportunity of the narrative and language to be refined to use less subjective and nebulous terminology which would in turn be difficult to interrupt / apply / measure / implement in the context of Planning Proposal and DA functions. For example, how do you define 'beauty' across a very broad range of land uses and building typologies which this SEPP would encapsulate? What are productive and</p>

		<p>connected spaces? How do you ensure the well-being of people? What is an enduring community?</p> <p>Also of note is that the term ‘residential apartment development’ also covers off on shop top housing and mixed-use development. There may be circumstances where a mixed-use building doesn’t contain any residential accommodation and as such this categorisation is confusing.</p>
9	Applicability of certain provisions to regional councils and context	<p>There are several matters within the SEPP package of documents which are more metropolitan centric and have less relevance to the regional context. This includes some of the objectives and guidance related to public transport routes, density, walkable neighbourhoods, traffic, road and carparking provisions which are described in more detail in sections below.</p>
Draft Design and Place SEPP (Instrument		
10	Design principles and design considerations	<p>Many of the design principles and design considerations are generic and broadly termed and as such proponent’s likely responses to the principles and considerations are likely to be equally broad and generic.</p> <p>In many cases this will make it equally difficult for design review panels and assessing planning officers to determine whether a proposal sufficiently addresses a given design principle and design consideration. As Council has experienced in the past with SEPP 65 verification statements, they have generally tended to be very high level without adding to the content of a proposals assessment and consideration with little or no recourse when not done more comprehensively (i.e., rejecting a development application). There is a risk that proponent acknowledgement of the design principles and design considerations will also be similarly cursory and superficial.</p> <p>In doing so there is an opportunity to rationalise the content against which proponents, design review panels and assessing officers will be required to address in a more meaningful and thoughtful way. The design principles don’t really add anything to the interpretation or intent and could be repurposed or integrated with the SEPP aims. As previously described, there is opportunity for the design considerations to align more closely with the heads of consideration in the urban design guideline for greater readability, line of sight between documents and articulation of the intent of the design considerations in greater, more tangible detail.</p>
11	Clause 25 and the need for a DCP	<p>Clarification is sought regard the meaning of Clause 25. It says “urban design development” cannot be granted to UDD unless a DCP applies to the land. Does this mean a site specific DCP or would existing ‘shire wide’ DCPs meet the intent of this clause? Within the Tweed there are a number of large greenfield development sites that currently do not have site specific development control plans.</p>

12	Commercial land thresholds	The 1ha threshold in context of commercial zones (future E1, E2, E3) may be insufficient as land, particularly in cities' central precincts is in most cases subdivided into very small lots, creating a high probability that planning proposals will focus on land smaller than 1ha and Design SEPP will not be triggered. The Department should be encouraged to consider another threshold, for example capital investment value – as is the case for industrial zones.
13	Lack of infrastructure related design considerations	<p>There are no design considerations that relate to the provision of, connection to, or protection of, public infrastructure and utilities, such as water, sewerage, stormwater, roads, telecommunications, electricity etc. If this is not incorporated into the design of urban design development, including residential apartment development, non-residential development and subdivision, there will be inevitable conflicts and delays in approvals and escalation of costs. The development may not be able to be adequately serviced (e.g., fire protection due to water supply volumes and pressures, access for garbage services) or may unduly impact on the servicing of adjoining development (e.g., stormwater flooding, traffic congestion, sewage pumping stations being over capacity).</p> <p>Large sites, particularly those in an urban infill context, are often highly constrained by existing services, easements, and the surrounding infrastructure networks, which are critical to the design process. A site cannot ensure healthy, affordable, efficient, or resilient places without consideration of infrastructure services. The details of infrastructure servicing need not be spelt out in the SEPP or the design guides, as these are typically provided by local authorities, but require proper acknowledgement in the SEPP.</p>
14	Design considerations: Overall design quality	The overall intent to improve design consideration and quality across significant development sites is supported. The ability to assessing the overall design quality is however dependent on the quality and detail of the documentation submitted for review and assessment. Guidance around what level of documentation is expected in this regard is required. As per comment 7 above, a better line of sight with the UD guidelines would provide its assessment with more tangible considerations.
15	Design Consideration: Comfort, inclusive and healthy places	As per comment 8 above the language and terminology warrants additional definition; for example, what are inclusive design measures? The consideration of passive heating and cooling of buildings don't seem to be directly aligned with impacts on residents and public amenity.
16	Design consideration: Culture character and heritage	Additional guidance as to what constitutes or is required as a 'response to country' should be cross referenced with UD Guidelines and Connecting and Country / Designing with Country guidelines. In addition, TSC and TBALC already have in place the Tweed Aboriginal Cultural Heritage Management Plan.

17	Design Consideration: Sustainability transport and walkability	<p>The objectives of “minimising private car parking” and “minimising car parking on public space” are counteractive, for regional areas where there remains high car dependency due to limited public transport alternatives and housing being located significant distances from employment, services, education, and recreation opportunities.</p> <p>If the SEPP allows for minimal allowance for on-site parking for new development, then any overflow parking will have to occur in streets and other public spaces. The wording of the SEPP to “minimise private car parking” potentially limits Council’s ability to properly enforce its existing parking code, which also includes things like bike parking, service deliveries and loading zones.</p>
18	Design Consideration: Public Spaces and public life	<p>Public spaces and public life considerations are generally supported.</p> <p>Refer to comment 6 above.</p>
19	Design Consideration: Vibrant and affordable neighbourhoods	<p>None of the criteria in this design consideration talk specifically to ‘affordability’. Suggested renaming this consideration to vibrant and walkable communities.</p>
20	Design Consideration: Sustainable transport and walkability	<p>Suggest renaming this consideration ‘public and active transport’. Noting that many of these criteria would be difficult to achieve in regional areas where there is limited public transport and often long distances between urban / rural village settlements.</p>
21	Design Consideration: Green Infrastructure	<p>The term green infrastructure is used widely throughout the UD guidelines. The inclusion of many ‘built’ green infrastructure require certain specific site conditions to be appropriate and thereby won’t always be achievable. Within the road reserve this also needs to be balanced against existing infrastructure and standards relating to road design. Other forms of legislation and Council controls mandate vegetation management, land clearing, offset planting requirements. This design consideration and corresponding UD guidelines criteria should more fully integrate with those existing requirements. Many of Council’s current revegetation maintenance periods far exceed 12 months. As such the lesser SEPP requirement would prevail to the extent of the inconsistency in the way in which vegetation and vegetation rehabilitation is currently planned and managed.</p>
22	Design Consideration: Resource efficiency and emission reduction	<p>There are opportunities to identify more high level and influential considerations of resource efficiency and emissions reductions than focussing on a specific form of energy within the SEPP such as minimising land forming, reducing hard stand, considering embodied energy of building materials, promoting passive design strategies, and promoting onsite water harvest and reuse and energy production. The focus on exclusion of gas as one approach may be better suited within the guidelines. This would also require further clarification around whether reticulated gas is suitable rather than on-site gas or whether gas overall is to be discouraged.</p>

23	Design Consideration: Resilience and adapting to change	<p>Consideration of hazards is already a requirement under the EP&A Act 1979, LEP standard Instrument and criteria in the preparation of planning proposals.</p> <p>Recognition of risks and hazards is a fundamental concern that should be considered in the earliest of design phases and underpinned by specialist and technical inputs into understanding those hazards and mitigating impacts where possible.</p> <p>It is unclear how a design review panel, consisting of design experts, would be able to adequately assess and determine technical reports which is typically the realm of specialist staff. An example of this would be whether a design review panel would have the ability to request the required information to determine flood risk across a partially flood affected greenfield.</p>
24	Design Consideration: Optimal and diverse land uses	<p>Whilst the intent for encouraging diverse land uses is encouraged there will be development scenarios, such as single land use developments (SSD including school, hospital) where this cannot be achieved.</p> <p>The criteria that new subdivisions should include a mix of lot types is also encouraged, however the overall lot configuration, including size and width should also be contextual and climatically (orientation) based.</p>
Draft Design and Place Regulations		
25	Design verification statements	<p>Whilst it is encouraging that emphasis is being placed on design verification, refer to comment 10 in this submission table which relates to the risk of DVS being high level and cursory. This also raises a question of process on whether Council can reject a development application under Schedule 1 of the EP&A Reg for an insufficiently detailed DVS.</p>
26	Embodied energy reports and net zero statements	<p>There are currently no staff members within Council that would be able to assess and determine the adequacy of embodied energy reports and net zero statements. This would require either appointing or upskilling staff or having that information externally reviewed. This imposes an additional cost of generating the reports on proponents and an additional cost on Council in addition to likely extending determination timeframes. There is also ambiguity as to where this information is ultimately recorded and how it will be used and measured.</p>
27	Electric vehicle charging points for class 2 buildings	<p>As applying to all development, secondary dwellings located below a principle dwelling above are categorised as Class 2 buildings. The provision of electrical charging point in this context may be considered onerous.</p>
28	Clause 248 - Fees for Design Review Panel	<p>The capped fee for facilitating a design review panel of \$3000 is not sufficient to cover the costs of facilitating the meeting, paying the design experts, and covering Council costs in the</p>

		<p>generation of planning summary reports. In the context of the current Tweed development assessment panel meetings, the compilation of cross disciplinary design and planning advice can involve upwards of 10 staff and complexity dependent can take over a week to generate.</p> <p>It is also noted that the draft Local Government Design Review Panel Manual calls for 2 or 3 meetings per project whereas proponents typically once meet once with Council prior to lodging a DA. This would significantly increase current Council workloads to generate internal advice, facilitate the meetings and circulate DRP advice.</p> <p>There is also ambiguity of whether the capped \$3000 fee relates to each DRP session or would need to cover off on a package of sessions (i.e., \$3000 for 2-3 meetings per development).</p>
29	268B - Constitution of design review panels	<p>Tweed Shire Council currently does not have a design review panel. There will be a lead time and costs associated with setting up the design review panel framework including alignment of internal review and referral processes as well as compiling a pool of design experts. Given the reduced number of design professional operating within the regions compared to metropolitan areas, one risk is that practitioners will be well known to each other which raises potential conflict of interest concerns.</p> <p>However, drawing on design expertise from metropolitan areas into the regions may result in the context of specific sites and specific local planning issues being unfamiliar to those panel members.</p>
30	268D - Constitution of design review panels	<p>The stated timeframes are extremely tight and not realistic in terms of a regional council's ability to facilitate a meeting within 14 days and generate a cross disciplinary review of a significant project within 5 days. These timeframes need to be reviewed in consultation with local councils (including regional councils).</p>
Draft Urban Design Guideline		
31	Place based approach supported	<p>The approach to place-based planning and design, site and context analysis, and embedding good urban design principles early on in a project is supported. In fact, many of objectives and themes identified within the UDG were to be the basis of amendments to TSC DCP A5 Subdivision Manual review.</p>
32	Requirement of developers to engage in upfront design processes	<p>Council recognizes the need for clear guidance in relation to Urban Design and acknowledges that the document sets out best practice. However, the practical reality from Council's development assessment perspective is that a significant number of developer-led projects</p>

		<p>don't start with consideration of 'nature, culture, and public space'. Rather they typically commence by overlaying required development standards and controls and projecting an anticipated maximum yield. Anything which is not presented in terms of absolutes is deemed to be a point of negotiation as part of the pre-DA and development assessment process.</p> <p>Often by the time Council become involved in larger scale projects, developers have already undertaken their project viability and due diligence investigations where significant project design budget has already been invested. Whilst the design review panels may strengthen the urban design requirement of this upfront process, there will also need to be a requirement for more of the technical considerations (especially DCP requirements and infrastructure considerations) to also be adequately addressed in the consideration of project viability.</p> <p>In this regard the success of the SEPP and UD Guidelines will be the willingness of developers to undertake the additional upfront design requirement and the ability of local governments to adequately resource and assess the proposed framework requirements and its process. In doing so this place a significantly increased resource requirement (additional staff, staff upskilling, assessment timeframes) on local governments.</p>
33	Better line of sight and readability between the SEPP and Urban Design Guideline Documents	Refer comment 7 above within this submission table.
34	Regional Urban Design Guidelines	Significant time and resources were involved in the establishment of regional urban design guidelines. It is unknown how this document is related to the SEPP and UDG consideration. Some of the information and guidance within the RUDG is of more relevance in terms of project type, scale and context than that of the UDG.
35	Design guidelines for preparing local planning strategies	The guidelines 'application' section identified that the UDG will directly influence the preparation of a suite of 'local planning documents' including precinct plans, master plans and DCPs etc. However, the guidelines do not provide any further information on how these plans, particularly site specific DCPs, should be informed by the UDG. Additional guidance in this regard, which may be a case study or template, would be beneficial.
36	Urban Structure: General	As highlighted in comment 32 above, projects (for developers) often start with understanding the commercial viability based on yield. The success of the SEPP and UDG is dependent on development industry uptake and adequately resourced and support local governments to facilitate design review and undertake the consideration and assessment of more detailed and voluminous information which the SEPP will generated.

37	Urban Structure: Metropolitan centric objectives	Many of the urban structure plan objectives that seek to position density and walkable neighbourhoods around public transport hubs is supported but more metropolitan centric. Some of these objectives are more difficult to achieve in the regions where there is substantially less public transport.
38	Urban Structure: Place based risk	Understand the key opportunities and constraints through a context and site analysis process is key to the commencement of any project. As such it is recommended that this objective be elevated to objective 2.
39	Movement and connection: Mid-block connection dimensions	Objective 7 has midblock connections as a design criterion. Council regularly receives the use of overland stormwater drains to be used also for public access; greater than 50m in length and as little as 2m wide which provides for poor pedestrian amenity. It is recommended that the guidelines also include the required minimum dimensions and consistent with CPTED principles.
40	Movement and connection: Encouraged speed limits unenforceable	<p>While the objectives of creating legible, safe and amenable pedestrian and cyclist networks and facilities is supported, the guidance given in Objective 7 cannot be practically implemented with respect to enforcing low speed zones and creating on and off-road infrastructure on a broad scale.</p> <p>50km/h is the urban speed limit in NSW and Council has no authority to implement lower speeds. While lower speeds can be designed into road infrastructure this requires properly designed facilities such as roundabouts, medians, islands, speed humps, bollards etc that are additional costs to install and maintain. These facilities can limit driveway access to adjacent sites and raised humps and textured surfaces can cause amenity complaints from neighbours. Pedestrian crossings are subject to warrants for their installation and can lead to adverse user safety outcomes if placed in locations with low pedestrian movements.</p>
41	Movement and connection: Cycle facilities	Provision of dedicated cyclist facilities where speed limits >40km/h (i.e., all urban streets) is impractical and requires wider carriageways, which then promotes faster vehicle speeds. E-bikes can travel at much faster speeds than other bike and pedestrian traffic and should be promoted with caution until there is clearer guidance in NSW Road Rules and TfNSW regulations. It is not appropriate for developer/applicants to develop local movement strategies in established urban areas – this is a responsibility of local government.
42	Movement and connection: More consultation required	Further consultation is required on this section, including input from TfNSW.
43	Natural System: Tree canopy targets Infrastructure conflict	There is a very strong emphasis on establishing, enhancing and/or protecting existing tree canopy coverage in public spaces to enhance a range of liveability criteria. This is supported in principle and consistent with new initiatives being promoted and developed by Tweed.

		<p>However, the UDG seems to place provision of trees in public spaces over and above all other street design requirements, including carriage widths, parking, and underground infrastructure.</p> <p>The canopy cover targets in Objective 10 are very high and probably unachievable in most contexts (i.e., 70% coverage in a new residential street with underground power) unless road verges are widened substantially from the current standard (typically 3.5m-4m in Tweed), thereby impacting on development yield and/or traffic. By way of comparison many urban areas in Australia currently feature 10-25% coverage including adjoining environmental areas. As such there is a risk that if the targets are set too high or are unrealistic then the targets within the guidelines won't be applied.</p> <p>To prescribe "consolidating below-ground services and aligning them to paths" oversimplifies the problem – different utilities require different clearances and accessibility for future maintenance. For example, combining sewerage and potable water in close proximity introduces public health risks. Underground power and telecommunication optic fibres severely limit accessibility to other services.</p>
44	Natural system: Public ownership of public spaces	<p>In the context of subdivisions, nominated public space needs to be in public ownership (i.e., dedicated to Council). A common attempt to minimise the provision of public open space at a planning proposal stage is to amalgamate both private and public open space as meeting the required open space needs based on projected density and population. Subsequently DAs are then lodged for the privately owned lots which often then co-opts open space for private use only and the public benefit of public space is then lost. It's a form of double dipping by the developers. The definition of 'public open space' in the glossary within the UDG does not explicitly address that the land is to be in public ownership. It is acknowledged that the term 'public space' is separately defined referencing public ownership however the term used throughout the controls and appendix is 'public open space'. It is therefore suggested to reference public ownership within the definition of 'public open space'.</p>
45	Natural system: APZ, Open space and Tree Canopy Requirements Objectives 10 & 12)	<p>APZs are a common requirement for larger subdivisions, and it is likely developments will nominate this area as linear parks and for inclusion in the public open space provision. The tree canopy goals for public open space are unlikely to be consistent with APZ purposes. It is unlikely bushfire report will acknowledge the tree canopy targets within the landscaping and open space plans. It is recommended to exclude any area that cannot meet canopy targets can contribute to the required 15% open space provision as a green corridor or park (i.e., include this exclusion in Appendix 2).</p>

46	Natural system: Tree canopy Council resource implications.	<p>Trees like all assets require establishment, maintenance, and replacement, and mandating significant increases in their use will have resource and funding implications for Councils. Promotion of water sensitive urban design and bespoke solutions for stormwater management in line with increased tree planting similarly introduces additional maintenance, training, and equipment for Council maintenance staff. Wide tree canopies (e.g., 8-12m) typically mean wide root zones, so more of the street cross section needs to be allocated for these installations. How these zones interact with road pavements, concrete footpaths, paving, drainage pipes etc. all add to maintenance liabilities.</p> <p>For these reasons a more measured approach to increasing tree canopies into public spaces need to be explored, with measurement of actual case studies (refer Brisbane City Council “Greener Suburbs”). Indeed, many of the examples shown in the document, such as the Goods Line in Haymarket or the Orange Regional Museum provide very high value public space with green space and trees, but not to the degree required by the UDG. Appendix 3 provides no additional guidance to help applicant achieve the targets, just how to calculate them.</p>
47	Natural system: Qualitative aspects of open space	There are no guidelines on the certain qualitative aspects of open space such as slope, terrain, shape, and minimum dimension. It also appears all flood prone land can be nominated as public open space. Council currently has a range of qualitative requirements for open space including a threshold of appropriate slope, size, shape, dimension and to be flood-free (requires a minimum level of Q100-1m). The SEPP provisions may override these requirements and result in land that is potentially not fit for purpose.
48	Natural system: Embellishment of open space	There are no provisions related to minimum level of embellishment of parks and public open space. Council currently nominates levels of embellishment with the type of open space (eg local park versus district park).
49	Natural system: Tree canopy definition guidance	There are some ambiguities around the tree canopy requirements. For example, how is tree canopy measured (i.e., Species / height/timeframe). The maximum canopy ever generated from the species will be nominated for the proposed canopy cover calculations and as there are no minimum requirements/dimensions for soil provisions, this coverage is unlikely to ever be reached.
50	Natural system: Deep soil zones	The guidance does not outline deep soil zone requirements. The proposals are likely to be submitted with big tree canopies on the plans with minimal and unfeasible soil provisions to support it. If insufficient soil width is provided the trees either will not grow to provide the canopy cover or are prone to falling and causing damage in extreme weather events. The indicative verge widths (DG 10.5) do not cater for footpaths or other road reserve infrastructure features. If infrastructure is not addressed within landscaping plans, the development on the

		ground will not be constructed to reflect the desired landscaping outcomes – on the ground, the trees will never be prioritised over utilities. Their colocation needs to be addressed at DA stage.
51	Natural system: Interpreting and assessing alternative design solutions	Flexibility in clauses result can result in unintended outcomes. How do the alternative design solutions work? For example, 13.5 – if proponents demonstrate the development cannot provide the tree canopy cover due to anticipated activities or buffer from traffic or buildings, then the variation permitted is the removal of the tree canopy requirement? If that's the case, the tree canopy requirement will never be met as this could be applied to almost every urban context.
52	Public Space: Public space and facilities procurement	Refer to comment 6 within this submission table. Local Governments require more guidance and mechanisms to appropriately procure required public open space and public infrastructure that equates to market costs of construction and maintenance.
53	Public Space: Clarify schools as public space	Objective 14 – 14.3 Does co-location allow for the 15% public open space provision to include school land? State schools are rarely designed to facilitate public access and often have 2m high fences around the perimeter.
54	Built form: Link back to site and context analysis	There is opportunity for the built form section to link back strongly to the initial urban structure place planning, specifically site and context analysis informing design decisions.
55	Built form: Difficulty of some land uses / building typologies to meet design guidance intent. Opportunity to aligning land use / building typologies with prioritised urban design objectives and guidance.	<p>The UDG preferences the metropolitan context with examples of urbanised townscapes and urban parks that are predominantly of a business or residential zoned context. There is little specific guidance around a range of other land uses including industrial zones and building typologies that the SEPP and UDG would capture.</p> <p>As such some assessment and design guidance within the UDG may be problematic in relation to the certain land uses and building types including development typically found within industrial zones (future E4 zone). For example, Objective 17 seeks to align scale and massing of the built form to desired local character, with a strong focus on human scale and provision of outdoor space, which may not be easily achievable or required for certain industrial and bulky goods building types.</p> <p>The question here is whether the SEPP and Guidelines should acknowledge that cities and urban spaces need to accommodate all sorts of land uses and building types and recognizing that not all buildings have design excellence as a high priority. Instead, many land uses and building types which would be captured under the SEPP and UDG preference pragmatic function over form and aesthetic. Within the Tweed these building types include agricultural produce storage facilitates, industrial sheds, bulky goods retail, landscape supplies, timber yards, car yards.</p>

		Rather than a one size fits all approach, there is opportunity for the UDG to provide a matrix of different land uses / building typologies which set out an order and hierarchy of key urban design considerations against the framework of objectives, assessment, and design guidance.
Draft Design and Place SEPP Ministerial Direction		
56	Need alignment with 'a new approach to rezoning in NSW'.	<p>There is little alignment of this proposed SEPP with discussion paper on the new approach to rezoning, currently also on public exhibition.</p> <p>Under the proposed approach, rezoning applications will be subject to rigid timeframes: following a formal lodgement of a rezoning application and accompanying studies, councils will have 7 days to review it, with public exhibition commencing immediately after the review period, automated through the DPIE's planning portal. The 7 days' timeframe is too short to accommodate the design panel as proposed by the Design and Place SEPP.</p> <p>The Department will need to analyse the alignment between the two proposed policies and make sure they will not result in unrealistic workloads and timeframes for councils and the applicants.</p>
57	Clarify applicability to rural zone.	The draft SEPP does not apply to rural zoning however the proposed Ministerial Direction seems to apply to "all land" – the Department should consider whether this inconsistency should be rectified or left as is. As it currently stands, the Ministerial Direction carries a risk: Section (4) "Where this direction applies" states that it applies on land greater than 1 hectare within "any other zone in which residential development is permitted or proposed to be permitted". This wording means that all future planning proposals for a single dwelling on an undersized rural block greater than 1ha will need to undergo the design panel pathway, which is an onerous and unnecessary outcome. This needs to be brought to Department's attention with a request to provide additional thresholds to exclude development of single, detached housing.
Draft Local Government Design Review Panel Guidelines		
58	Additional resource costs on Local Government	<p>The Draft Local Government Design Review Panel Manual recognizes that a design review panel requires the commitment of many individuals and organisations. It appears that this will call for Council to provide a DRP Manager, an administrative support person with an assessment planner assigned to each proposal.</p> <p>While the proposed DRP system may replace some of Councils Development Assessment Panel (DAP) meetings, the workload will increase because of the assessment planners' involvement in</p>

		<p>DRP (which does not happen with DAP), in addition to the need for DAP to continue for non-DRP related proposals.</p> <p>The manual acknowledges that the fee paid by the proponent will not cover all the costs of establishing and managing a design review panel, so it appears that this additional workload of the DRP manager/admin support/assessing officer will have to be borne with the local councils. – who as above are struggling with current workloads.</p> <p>Refer to comments 65 and 66 below.</p>
59	Funding package for Local Government to establish and implement DRP	Should the proposed DRP system be implemented, it is essential that additional funding is provided to Councils like Tweed to manage the additional workload. Council is not adverse to the implementation of the DRP process and consider that it will bring benefits. However, the process will fail without resourcing from DPIE for additional staff, and the training of existing staff. Attempts to operate a DRP system for pre-lodgment advice with current staffing levels will result in a further exodus of staff overwhelmed by the workloads and constant pressure from applicants/proponent/objectors.
60	Savings provisions	Would future subdivision applications for State Significant Projects/Major Concept Approvals trigger the requirement for DRP meetings? Council is aware that the proponents for Kings Forest (MP06_0318) currently working on a subdivision application for Precincts 6-12.
Draft Apartment Design Guidelines 2021		
61	Flexibility in application of guidelines. Design Review Panels.	<p>Council has long recognized the difficulty in applying the design criteria/guidance in the current Guidelines to smaller, more constrained sites, and has where appropriate considered variations. As such the intent for additional flexibility in the application of provisions is generally supported in certain circumstances.</p> <p>Achieving the specified rear and side setbacks, is typically one of the most challenging aspects with town center sites in older areas of Tweed Heads or Kingscliff, where lot amalgamation is not possible. Council welcomes, to some extent, the recognition that the ADG is to be applied flexibly and agrees that provided the Design Verification Statement (DVS) process is applied properly, this can be managed.</p> <p>However, ensuring that the Design Verification Statement submitted with a DA is fit for purpose, and puts the onus on the proponent to genuinely demonstrate how an alternative outcome can be supported is essential. To date, many of the DVS we see are substandard, or so generic to the point that they are meaningless. To properly apply a more flexible interpretation</p>

		<p>to the ADG will require applicants to significantly upgrade the quality of the DVS being submitted.</p> <p>The requirement for residential apartment development to undergo a design review panel will enable a process to review variations from development standard metrics and design guidelines. From this point of view the design review process as applied to residential apartment developments is generally supported. This however places a significant resource imposition on Council's in both facilitating the DRP and assessing development applications and a greater emphasis on the need for well documented and transparent assessment of projects against guidelines by the proponent team upfront.</p>
62	Staff training and interpretation resources	It will be important that all new requirements as set out within the ADG are supplemented by appropriate Council staff training and interpretation resources. By way of example this could relate to the calculation of the natural and cross ventilation alternative responses.
63	Car parking	Unlike the UDG, the ADG requires applicants to comply with either Council parking requirements or those of TfNSW Guide to Traffic Generating Developments, and to provide the car-parking needs of the development off-street. This is clearly Council's preferred approach, and well understood by the development industry.
Draft Design and Place Sustainability and Basix		
64	Office of Local Government Submission	TSC is considering the draft design and place sustainability and basix in consultation with the Local Government NSW. As such comments pertaining to this draft document will form part of the LG NSW submission.
Design and Place Cost Benefit Analysis Deloitte		
65	Local Government Cost Consideration	<p>It is noted that the Deloitte report talks to higher level costs and benefits in an amalgamated format. Although it is noted that one of the key 'costs' noted is the increase in LG administration. This allocation is an understated consideration of the real costs associated with the implementation and ongoing operational costs associated with the new processes which the SEPP will introduce. These include:</p> <p><u>Substantial increase in the number of projects which would be subject to design review.</u> By way of example there is not a 'requirement' for RFBs to be subject to a pre-DA meeting process although most projects do. The current format is for a single meeting whereas the SEPP / Guidelines identify a process where a development proposal would be required to undertake a three-meeting review process. Whilst it is recognized that the guidelines may provide flexibility on how design review is applied to specific project there is opportunity, perhaps by way of a</p>

		<p>development type matrix, to indicate what is likely to be expected for different land use and building types.</p> <p><u>Cost associated with establishing and operating design review panels.</u> Most regional councils currently do not have design review panels established. This imposes a new requirement on regional councils to establish design review panels and appoint skilled staff to both facilitate and administer the design review sessions. At a minimum this would likely require one additional full time professional staff with appropriate level of design expertise and experience and at least one full time administrative staff to manage the facilitation, distribution of material, co-ordination of technical review, minutes etc. This is a significant ongoing cost to Council which would not be covered by the capped fee identified within the regulations. It needs to be clarified whether \$3000 capped fee would relate to a single design review session or whether it needs to cover all design review sessions 9ie f a development requires 2-3 design review sessions).</p> <p><u>Cost associated with upskilling or appoint of additional staff.</u> Many of the additional SEPP requirements would require the upskilling or appointment of additional staff to consider and make recommendations on additional information required to be reviewed. This relates to design considerations as well as sustainability issues particularly in association with the requirement</p> <p><u>Cost associated with additional time to review applications.</u> Whilst greater consideration of design intent is commendable and generally supported, the SEPP would introduce requirement for significantly more information coupled with design review processes. This would in turn significantly extend determination timeframes and staff resources to manage that additional workload.</p>
66	<p>Opportunity for more accurate Local Government costing case studies.</p> <p>Requirement for funding package.</p>	<p>In consideration of the additional staff and cost implications, the implementation of the SEPP needs to be more closely considered against the real costs to Council's, especially regional councils which are typically less resourced than metropolitan Councils.</p> <p>To better understand inherent local government costs, there is opportunity for DPIE/GANSW to undertake a series of case studies focussing on a range of different local government areas. Given much of the success of the SEPPs implementation resides with the ability of local councils of consider and determine the additional information requirements and facilitate design review panels, an appropriate funding package to achieve those outcomes needs to be factored in.</p>

25 February 2022

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Murwillumbah NSW 2484

Please address all communications
to the General Manager

ABN: 90 178 732 496

Director, Codes and Approval Pathways
NSW Department of Planning and Environment
GPO Box 39, Sydney, NSW 2001

via Planning Portal

Dear Madam/Sir

Tweed Shire Council Submission on the NSW Government Draft Design and Place SEPP and Associated Guidelines

Council welcomes the opportunity to respond to the draft Design and Place SEPP (D&P SEPP) and associated guidelines.

The D&P SEPP represents a significant opportunity to bring design considerations to the fore of key development sites across the State and establishes a framework which brings into effect the good design and amenity objects of the Act.

The ability of such a plan to be the catalyst for change cannot be overstated. The general intent of acknowledging and addressing key design consideration as part of the earliest project concept stages has the potential to bring into closer alignment contextual and character appropriate design with both approvals and industry procurement processes. However, with these opportunities comes a number of significant implementation challenges.

On review Council Officers generally support the greater consideration of design over significant development sites, the introduction of State-wide Urban Design Guidelines and updating of the Apartment Design Guidelines as a positive step towards promoting better urban and building design outcomes. However, the operational implementation of the policy will present a significant resource imposition on Council in terms of financial costs, staff resourcing, staff upskilling, costs associated with establishing and facilitating design review panels and resultant long assessment timeframes due to the additional requirements developments subject to the policy will need to appropriately address.

Within the Tweed these development thresholds as defined within the D&P SEPP would cover a substantial amount of the development applications which planning teams are currently managing. Not only would the D&P SEPP relate to the larger greenfield development sites but all applications for residential flat buildings.

As a current snapshot:

- Council currently has 19 undetermined DAs in the system which would under the proposed D&P SEPP would trigger the need for design review panels (with 16 of them lodged in a 12-month period). Based on the draft design review

guidelines and the recommend 2-3 staged design review panel (DRP) meeting process this would equate to the need to facilitate 57 DRP meetings.

- DAs lodged in 2021 included eight (8) residential flat buildings, one (1) shop top housing development and 4 large scale subdivision which would trigger the need for at least 13 DRP sessions or the equivalent of 39 meetings (noting this does not include modification applications or other DAs which would have required a DRP meeting).
- These DA numbers do not reflect the number of pre-lodgment discussions held with proponents. In 2021, DAU Team Leaders chaired 52 Development Assessment Panel Pre-lodgment meetings (which included RFBs, subdivisions, eco-tourist developments, shop-top housing, etc). Each of those session required the detailed review and advice from a number of technical staff across Council's business units; some of which take weeks to prepare given the overall size and scale of proposed development.

As such it is requested that the State Government consider these cost and resource impositions on local government in a greater level of detail and devise an implementation plan in consultation with local government to assist Council's establish and fund the required staff resourcing and frameworks to be put in place.

Attached to this correspondence is a more detailed table of key issues which Council's cross-disciplinary team have assembled. It is hoped that this table will be seen as constructive and assist in further refinement prior to finalisation of the Plan.

Due to the misalignment of the exhibition submission deadline with Council meeting timeframes, a report on the Council Officers' submission table was reported to Council's Planning Committee meeting on 3 March 2022. At this meeting Council resolved the following:

"1. Council endorses the Council officers draft submission related to the draft State Environmental Planning Policy Design and Place (D&P SEPP) and associated guidelines.

2. Any amendments or inclusions resolved by Council be included as an addendum in the final submission to be forwarded to the Department of Planning and Environment by 25 March 2022.

3. Council requests that Tweed Shire is included in the new BASIX requirements proposed to be applied to the rest of NSW."

Should you wish to clarify any comments contained within the submission table please do not hesitate to contact either myself or Council's Urban Designer Jonathan Lynch on (02) 6670 2520, or at jlynch@tweed.nsw.gov.au.

Yours faithfully

Vince Connell
Director Planning and Regulation

Our ref: A12/0147

23 February 2022

NSW Department of Planning and Environment
GPO BOX 239
SYDNEY NSW 2001
Sent via e-mail to designandplacesupp@planning.nsw.gov.au

**Waverley Council Submission to the draft Design and Place State Environmental Planning Policy
(DP SEPP)**

Thank you for the opportunity to provide feedback on the draft *Design and Place State Environmental Planning Policy* (DP SEPP) and accompanying documentation.

Council officers have attended numerous webinars held by the NSW Department of Planning and Environment on the various aspects of the exhibition package, and have appreciated the efforts taken to provide the public with opportunity to obtain clarity on what is being exhibited.


Council strongly supports the Department's work to date on elevating the importance of design excellence, place-based design and sustainability in the planning system. Providing two separate opportunities to submit feedback on the SEPP is also highly commended, noting that the associated Explanation of Intended Effect (EIE) was placed on exhibition in 2021.

Feedback in this submission is provided where changes are suggested, or where an item is strongly supported or strongly not supported. Absence of discussion on specific content on exhibition is not to be taken as tacit support for an issue.

Feedback provided within the Waverley submission to the associated Explanation of Intended Effect (EIE) for the Design and Place SEPP still stands, and it is requested that DPE review Waverley's previous submission again as part of this exhibition period.

Should you have any questions about the contents of this submission please do not hesitate to contact Emma Rogerson, Strategic Planner (02) 9083 8194.

Regards,



George Bramis

A/Director, Planning, Environment and Regulatory

1. GENERAL FEEDBACK

The DPE is to be commended on the work and consultation that has been completed to date on what is a significant undertaking for the built environment profession. The Country-led and strategic approach to the design of places and buildings is also strongly supported.

The consolidation of SEPP 65 and the BASIX SEPP provides a key opportunity to enable good design to factor into the assessment tool, including passive design to reduce the overall consumption of electricity and water, material design and the minimisation of carparking.

The Principles are aspirational and inspiring with an emphasis on design. The first principle promotes uniqueness and a sense of identity. The second principle focuses on public realm with programmed places for people. The third principle implies integration of transport and mixed use. Sustainability is a common focus throughout the SEPP with the fourth principle. The Waverley Council Local Environmental Plan (WLEP) is considered to capture these qualities.

The breadth of the proposed SEPP is ambitious and should be developed with extensive input from Councils to correctly navigate the intersections of the SEPP with local plans. A key objective of the SEPP is to facilitate place-based planning. This approach is strongly supported; however, it is to be noted that councils have developed place-based planning controls over time to respond to the unique conditions of their established characters. These controls must not be undermined by the application of State policies, which by their very nature cannot provide detail in a place-based manner. Where new areas are being developed, detailed controls or design criteria may be appropriate, however in many established areas of Sydney, standard controls or criteria are unlikely to suit the character of these areas that have developed incrementally over time. Accordingly, it is strongly cautioned that the SEPP should provide a principles-based approach and provide guidance for applicants and councils alike as to how to achieve these principles and objectives, with flexibility allowed for the application of design criteria and controls.

2. DRAFT SEPP

Clause 12 Design Principles and Design Considerations

The intent of Clause 12 is supported, however a simplified approach to the wording and structure is suggested to ensure the clarity of the intent. It is recommended that currently proposed clause 12(2) is renumbered 12(3), and the following text replaces the currently proposed Clause 12(1):

12 Design Principles

(1) The principle for design in New South Wales is as follows:

- (a) to deliver beautiful, healthy and high amenity places for people,*
- (b) to deliver inclusive and inviting places for people,*
- (c) to deliver productive and connected places for people,*
- (d) to deliver sustainable and greener places for people,*
- (e) to deliver resilient, diverse and enduring places for people.*

(2) In this clause places for people means places that:

- (a) create a sense of belonging for people,*
- (b) create public spaces,*
- (c) enhance culture and public life,*
- (d) create engaged communities,*
- (e) enable communities to thrive,*
- (f) ensure the wellbeing of people,*
- (g) create sustainable communities and environments,*
- (h) respond to and support Country and Aboriginal cultural knowledge,*
- (i) are climate responsive and comfortable.*

Clause 13 Consideration of Design Principles and Design Considerations by Consent Authority

The inclusion of 10 Design Considerations with accompanying satisfaction requirements is supported, however, word changes to clauses 13(2) are suggested as follows:

13(2) Development is consistent with the design principles, if the consent authority is satisfied that the design considerations for each design principle have been achieved.

Clause 14 Overall Design Quality

This consideration clause should be strengthened:

Subclause 14(a) should be adjusted to read "the scale, massing and siting of the building respond appropriately to the desired future character of the surrounding area as described in the relevant Local Strategic Planning Statement or Local Character Statement" or the like. Comprehensive research and community consultation has been undertaken by Councils as part of the LSPS and LCS process, which has helped to establish robust desired future character visions for areas in each LGA. Reference to these contemporary local strategic documents should be mandated under Clause 16 to reduce the risk of the subjective misinterpretation of what desired character is.

Architecturally trained persons will be required to consider this clause.

Clause 15 Comfortable, Inclusive and Healthy Places

This consideration clause is supported. Architecturally trained persons will be required to consider this clause.

Clause 16 Culture, Character and Heritage

This consideration clause should be strengthened:

Subclause 16(a) should be adjusted to read "the development detracts from the desired future character of the area as described in the relevant Local Strategic Planning Statements or Local Character Statement" or the like for the same reason as discussed for Clause 14 above.

Subclause (b) should be amended to include that **draft** heritage items and **draft** heritage conservation areas on or near to the site also be incorporated or responded to.

Clause 17 Public Spaces and Public Life

This consideration clause should be strengthened. Mandating a specified increase in public space in particular areas based on dwelling capacity and proximity to public transport will better achieve the identified 'benefit' for 'precinct' scale development. The "no net loss" of public space approach is successful for sites that currently have enough open space, however, sites that currently have very little public space would benefit from a required increase.

Clause 12 refers to this consideration as "public space **for** public life" whereas Clause 17 refers to "public spaces **and** public life". Clarification and consistency should be provided.

Subclause 17(a) should be adjusted to include urban designers, as streets can be designed by urban designers as well as landscape architects.

Clause 18 Vibrant and Affordable Neighbourhoods

This consideration clause should be strengthened. Subclause 18(b) should be adjusted to read "for development for residential purposes – whether the development contributes to the housing needs of the local population **as described in the relevant Local Housing Strategies and Schemes.**" or the like. Linking the definition of 'housing needs' with the information presented in a Council's Local Housing Strategy and Affordable Housing Contributions Scheme will reduce the risk of the subjective misinterpretation of what the areas housing needs actually are.

Furthermore, the requirement for urban design development to support walkability and smart cities should be applied to all applicable development, rather than just those involving subdivision.

Clause 19 Sustainable Transport and Walkability

This consideration clause should be strengthened to require walking routes to be accessible and cater for persons of all abilities and needs.

Also, a new subclause should be inserted to read "**(f) minimises the impact of waste storage and collection on public space**" because on-street waste presentation and collection can create hazards for active travel and pedestrians and detracts from walkability and amenity.

Clause 20 Green Infrastructure

This consideration clause is supported.

Clause 21 Resource Efficiency and Emissions Reduction

This consideration clause should be strengthened by making specific reference to waste management and resource recovery. Subclause (b) should also be rephrased to strengthen the consideration of waste and resource recovery objectives and targets in the *NSW Waste and Sustainable Materials Strategy*.

Subclause (a) should apply to all development as all new gas infrastructure is inconsistent with State Government decarbonization targets.

Update subclause 21(d) to include water use efficiency and read “uses water sensitive urban design and maximises water reuse **and potable water use efficiency.**”

Architects are best placed to assess passive principles, whereas environmental engineers are most suitable for the other matters under this clause.

Clause 22 Resilience and Adapting to Change

This consideration should be strengthened with the following changes:

The consent authority must be satisfied that the development is resilient to natural hazards by
a. incorporating measures to

*(i) **anticipate**, avoid or reduce exposure to natural hazards, and*

(ii) mitigate and adapt to the risks of natural hazards, including risks of climate change and compounding risks, and

*b. mitigating the impact of expected natural hazards through the **material selection**, siting and design of the development, **and considering the design life of the development.***

Overall, the inclusion of this consideration is commended and demonstrates excellent leadership by the NSW Government. It is vitally important that planning builds the capacity for the resilience of new development in NSW, which will assist, but not deliver, resilience outcomes across the Planning System.

A Resilient Planning system should enable adaptability, redundancy, modularity and subsidiarity.. Currently adaptability for resilience over time is not reflected in this Principle and the inclusion of words that *anticipate* exposure, or that reflect the *design life* of a development or *useful life* of materials may serve to ensure resilience is long lasting and does not expire at a certain point.

Clause 23 Optimal and Diverse Land Uses

This clause should be strengthened. Previously the EIE proposed numerical residential density ranges based on the location and transport access for development that falls under the meaning of “urban design development”. These density ranges should be further investigated and re-introduced in order to reduce urban sprawl and encourage compact urban development where services and infrastructure can accommodate density done well. The density range figures must consider the importance of open spaces and achieve a balance between providing enough housing on site whilst providing enough open space, both public and private, to combat the trend in floor space prioritisation occurring in higher densities areas near public transport hubs and strategic centres.

Division 1 Urban Design Development

This division is supported but strengthened. It is noted that the wording in clause 24(3)(a) is similar to EP&A Act 4.15(3A) regarding evaluation under Development Control Plans. Generally, further guidance needs to be provided on 'flexibility' and 'alternative solutions' to allow applicants and assessors to understand what might be acceptable. Using the NCC framework as a useful comparison, compliance with the design criteria should be considered 'deemed-to-satisfy', however non-compliance should require a comprehensive 'alternative solution' to be demonstrated. This 'alternative solution' pathway should be set out clearly so that both applicant and assessor understand what is required.

Alternative solutions should not be unsubstantiated 'ambit claims' or technical proofs that do not have agreed base principles. The onus should be placed on the applicant to provide sufficient documentation to justify whether the relevant objective is still met. The ADG design guidance should be used to guide 'alternative solutions'. The guidance will need to be increased to do this.

Division 2 BASIX standards for residential development

This division is strongly supported and a separate submission has been made by Waverley Council regarding the BASIX provisions. In addition, Council commends the inclusion of c129(3)(b) which permits the encouragement of increased performance of buildings through incentive provisions.

Division 3 Residential apartment development

This division is supported.

Part 4 Design Review

This division is supported. Clause 34(a) should be amended to clarify that the clause also applies to modification applications. This was previously required by EP&A 115(3B) in some circumstances.

Part 5 Miscellaneous

This division is supported.

Schedule 1 Energy and water use standards for non-residential development

The energy requirements in this Schedule are supported, but it is unclear how compliance with post construction requirements, such as ensuring that the non-residential buildings purchase Renewable Energy Certificates over the first five years of occupation of building will occur, and if this is the responsibility of Councils.

3. CODES SEPP AND STANDARD INSTRUMENT LEP

Amending the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 and Standard Instrument—Principal Local Environmental Plan to limit solar absorptance is strongly supported. Guidance as to what the circumstances are that the exemption can be granted, and by whom, is sought.

4. DRAFT REGULATION AMENDMENT

General Feedback

Generally, the proposed amendments to the Environment and Planning Assessment Regulation 2021 (EPA Regulation) are supported. It is understood that the changes accompany and implement the draft DP SEPP.

Clause 99 Electric Vehicle Charging Facilities

Proposed subclause 99(3) relating to charging facilities for electric vehicles should be strengthened to reflect the realistic power supply requirements of future buildings. It is recommended that the DP SEPP has more detail and a higher minimum for single phase amp per eligible lot owner. 12kWh of electricity overnight is the minimum amount of power for a Level 1 type charger. Some people may choose to install a Type 2 7kW charging station and so more power supply may be needed. Please refer to [Waverley Council's DCP](#) page 64 for detail regarding signage of EV charging stations, space and charging points for e-bikes and scooters, and the installation of Level 2 AC fast charging EV charging points for common areas/visitor spaces.

Furthermore, in Waverley, charging in commercial buildings may be the only way that residents can easily charge their personal vehicles (due to low amounts of off and on street parking). It is recommended that in order to meet net zero emissions targets, that 100% of all building types are required to be able to be converted to EV ready parking spaces.

Clause 57D Net Zero Statement

The addition of Clause 57D relating to a net zero statement is particularly commended, however, it should also apply to BASIX affected development.

Requirement for BASIX Certificate

Table 2 of the DP SEPP Overview document clarifies that co-livinghousing will not require a BASIX certificate. It is recommended that boarding houses, seniors housing, a group home or hostel continue to require a BASIX Certificate. It is noted that an equivalent of SEPP 65 4(4) excluding that policy from applying to boarding houses and serviced apartments has not been retained in DP SEPP. This clause should be reinstated, and co-living housing, boarding houses, group home, hostel and seniors housing added.

Waverley Council receives regular development applications for seniors housing. Seniors housing functions in the same way as apartment dwellings, ranging from studio to 4 bedrooms with a kitchen and bathroom.

The current requirements for large boarding houses (to meet the NCC Section J for Thermal Comfort, and a BASIX certificate for Energy and Water) are more stringent than the DP SEPP proposal to just

meet the NCC and the Building Code of Australia for water and energy. However, it is recognised that the BASIX tool was not built specifically for these dwelling types.

It is not clear what sustainability requirements the DP SEPP will be requiring for Class 3 buildings. This should be clarified.

5. DRAFT MINISTERIAL DIRECTION

The draft ministerial direction “Environmental Planning and Assessment (Design Principles and Considerations) Direction 2022” is supported.

6. COST BENEFIT ANALYSIS

There is inadequate detail on exhibition to provide meaningful comment on the Cost Benefit Analysis. Regardless of the Cost Benefit ratio, ensuring good environmental and design outcomes is important for reasons which are harder to quantify and will impact generations to come.

7. APARTMENT DESIGN GUIDE (ADG)

General Feedback

General feedback on the Apartment Design Guide includes:

- Site analysis - needs to mention topography, vegetation, climate, and look beyond the site rather than stopping at the boundary.
- Useful guides on common outdoor areas and indoor areas.
- Good advice on orientation of sun shading louvres according to 30 degrees from North
- Better definition of cross ventilation but still only 60% of units (70% would be preferable).
- Complicated to work out impact of flyscreens on ventilation.
- Good idea to show various design responses.
- The objectives of the responses are a good checklist.
- Site and context analysis check list is good.
- Sun altitude ratios provide a good rule of thumb.
- Furniture schedule is useful, as are the indicative apartment layouts.
- It would be good to have typical plans for the various typologies shown.

Part 1.5 Green Infrastructure

The deep soil design criteria associated with Part 1.5 is strongly supported. Further clarity is requested on what the development pathways for “other” green cover such as green roofs and green walls are.

The tree canopy design guidance associated with Part 1.5 is also strongly supported but should be strengthened. Waverley Council suggests a variation to the wording in Table 1.5.3 ‘Tree Planting Rates’. Either that ‘at least one small tree **is established**’ with the implication that if the tree dies, the developer/owner is responsible for ensuring another one is planted OR that at least two small/medium/large trees are planted (in order for one tree to survive and thrive assuming a 50% survival rate). Noting that a small tree, with 6 m diameter will be difficult to achieve in the Waverley area due to space constraints.

It is noted that these are minimum targets and do not preclude additional deep soil or trees being included.

It is requested that the minimum tree canopy targets and tree planting rates are reviewed every 3 years and increased if feasible, based on the experience of local Councils.

Council recommends that local controls reflect variations in character and local context and take precedence where their requirements are greater than these.

Part 2.2 Communal Spaces

There was some talk of BASIX no longer requiring a “Indoor or sheltered clothes drying line (for example a screened line on balcony, line over bath, etc.) or “Private outdoor or unsheltered clothes drying line”. It is vital that these options remain in BASIX as a viable alternative to electric clothes dryers. Clothes lines in the ADG should be elevated from Design Guidance to Design Criteria.

Strengthening the language around clothes drying in communal outdoor spaces is recommended as follows: “Communal outdoor spaces ~~can~~ **must** include shared clothes lines and drying courts **or appropriate indoor or sheltered clothes lines**”.

Part 2.6 Sunlight, Daylight, Shade and Thermal Comfort

The design criteria under Part 2.6 relating to the below sentence is supported:

Where glazing is greater than 30 per cent of the apartment facade on any individual apartment aspect (when measured on the internal face of the wall), provide external sun shading to a maximum of 30 per cent of the exposed glazing in a wall to block 30 per cent of summer sun.

Part 3.1 Energy Efficiency

The requirements under Part 3.1 relating to energy efficiency are supported. Low carbon low emission materials and processes should sit wholly within BASIX Materials Index (no need for replication).

The all electric apartment buildings design guidance is strongly supported, and should be made consistent with the BASIX tool. The following text change is recommended: ‘~~Preference electricity~~ **Require electricity** as the **only** power source for all ~~energy requirements associated with normal operations~~ **centralized hot water systems**’.

Language around rooftop solar requirements should be strengthened to require solar energy generation on all viable roof spaces:

- “~~Provide maximum~~ solar energy generation **must be provided** on **all viable** roof spaces that **is are** not allocated to common open space or roof gardens, to reduce ongoing energy costs for residents and the body corporate.” (p.86)
- “On low-rise, large-footprint buildings, rooftop solar panels ~~should~~ **must** be provided for each apartment, directly connected to provide power behind the meter” (p.86). This may need a metric allocated via m2.
- “In all other buildings, rooftop solar collection should be connected to the distribution board that supplies common services and be sized to maximise energy contribution to common services while avoiding the need for export” (p86).

There is concern that the electric vehicle charging requirements under this Part of the ADG differ from those in the Planning and Assessment Amendment (Design and Place) Regulation 2021. It is critical that requirements are consistent and clear between documents.

Stormwater Feedback

Page 89 of the draft ADG contains water related provisions and includes objectives and design guidance points. Conceptually the stormwater guidance is supported, subject the following considerations:

- Requiring the location of detention tanks under paved areas, driveways or in basement car parks is problematic as having a detention tank in a basement carpark does not work and would encourage stormwater drainage systems that are not best engineering practice.
- Residents may be adverse to utilising black water treatment in the complex they reside in.
- The UDG should emphasise the use of green infrastructure (e.g. raingardens, bioretention systems) and not grey infrastructure (e.g. filter cartridges).

Waste Feedback

Waste is currently only included in the environmental considerations section of the Apartment Design Guide (Part 3). Waste infrastructure and servicing are often an afterthought when it comes to design and can lead to many issues post construction. It is recommended that waste issues are addressed early in the design process to ensure better outcomes.

It is strongly recommended that waste is included in Part 1, *Designing for the Site* and Part 2, *Building Design*, as follows:

Recommendations for Part 1, *Designing for the Site*:

- For situations where bins are presented on the street for collection, recommend that a waste presentation area is clearly marked on architectural drawings to ensure that:
 - there is space to present bins on the street for collection (along development frontage), which does not impede on vehicle access points or doorways or pedestrian pathways or cycleways
 - the bin presentation area does not impact outdoor dining or residents' casual interaction with public space, pedestrian pathways or cycleways.
- Include public bin infrastructure in the section: *Mixed-use and non-residential interfaces* to minimise negative amenity issues related to litter and offer a place for the community to dispose of their waste
- In *Utilities and building services*, design access route for waste bin manoeuvrability from storage area to point of collection to ensure it does not impact amenity
- Include best practice design for waste storage, including creating space for any equipment related to waste (such as chute systems and compactors) and opportunities to recover additional waste streams.
- Mandate back of house waste storage and collection for commercial precincts. By planning for waste storage and collection at back of house, there is no impediment of cycleways or pedestrian access.

- Under *Vehicle entries*, there is no consideration for designing for onsite waste collection. It is recommended that this information is included as the access for large waste vehicles requires best practice design parameters.
- Include controls around waste and recycling servicing for properties that present bins on the street for collection where there is a cycleway to ensure safe passage of our cyclists.

Recommendations for Part 2, ***Building Design***:

- In *External noise and pollution* include noise and amenity prevention through careful planning of bin presentation area
- In *Low-carbon low-emission materials and processes* include recycled content and reuse in construction material.
- Include opportunities for shared waste storage across developments to minimise space required for storage

Recommendations for Part 3 ***Environmental Considerations***:

In general,

- Guidelines around waste generation rates for 1, 2, and 3+ bedroom apartment buildings have not been addressed and is vital in ensuring waste storage areas are adequately designed. This information should be included.
- The ADG is silent in recognising that waste service arrangement differs between local government areas, particularly around truck sizes for onsite access. This has implications for truck access to buildings, swept path, etc. The variability around onsite collection and appropriate guidelines for different building types/precincts could be reflected in the ADG.
- Waste chutes have been an ongoing issue in Waverley, with many large buildings closing their chutes due to issues relating to items becoming stuck and cross contamination of bins. The ADG could include more information around chute design.
- In general, what is lacking is more linkages to the NSW Waste and Sustainable Materials Strategy and including circular principles in design.
- Additionally, a couple of points for waste storage in current ADG are missing from draft ADG:
 - Adequately sized waste storage area that meets Council requirements for storage and separation of streams
 - Waste storage area is designed to allow bins to be easily maneuvered within and between storage and collection points”.

Specific suggested amendments include:

- Amend Objective 3.3.1 to include impacts from collection as suggested: *Minimise waste storage and collection impacts on the streetscape, building entries, and amenity of residents after ‘waste storage impacts’ to recognise the significant impacts that on-street waste collection can have on the streetscape and amenity.*
- Amend Objective 3.3.2 – change to reflect other waste streams as suggested: *Minimise occupants’ waste to landfill by providing safe and convenient onsite recovery facilities for organic and inorganic waste, recyclables, and problem wastes such as electronics and bulky household items.*
- Add new Objective 3.3.2. “Provide adequate waste storage capacity and access to ensure that the development can be serviced safely and efficiently and to maximise resource recovery.” This objective would strengthen the need for developers to design waste storage spaces and truck access that can be serviced as part of the standard council service, avoiding

the need for bespoke arrangements, high frequency of servicing and unintended on-street servicing due to access issues.

- Images should be updated to incorporate Australian Standards bin colours (AS4123.7-2006)
- Figure 3.3.1 & 3.3.2 description is not supported. Description should indicate that this is an example of a design solution that meets the requirement for separation of waste, recycling, and organics at the point of disposal. Others include provision of food organics bins within chute rooms or within the waste storage area depending on the point of disposal for recycling proposed. Use of e-diverters with general, organics and recycling could lead to contamination issues and should not be included.
- Figure 3.3.3 According to the NSW EPA Better practice guide for resource recovery in residential developments, a 1.5 m minimum doorway is proposed to allow for easy movement of large waste items, which is sufficient for maneuverability of 240L bins. Should larger bins be utilised, a larger doorway is necessary. This type of information is valuable and could be included in the appendices.
- Appendix 5.2- include all waste, recycling, and waste bins in drawings for apartment types
- Appendix 8 - include under the considerations section: location of waste storage areas and appropriate access for servicing to meet amenity and frontage requirements.

8. URBAN DESIGN GUIDE (UDG)

General Feedback

The Urban Design Guide is a well-intentioned document, with urban design principles that can guide the development of better places for people. Sections about built form and urban grain are useful, and could be supplemented with graphical examples.

There is opportunity to strengthen the UDG, noting that the principles in the document are too broad and general, and seem directed for greenfield and brownfield areas, or any other with the potential to change substantially. There is also concern that the UDG may not be applicable to most development in Waverley, as most Development Applications and Planning Proposals received are small scale and unlikely to trigger mandatory compliance with the Guide. Nevertheless, it will provide a base to solidify Council's positions on the assessment of these applications and inform future internal studies.

Resilience Feedback

The incorporation of Resilience considerations into the Urban Design Guide through Objective 4 is strongly commended. Including references to other hazard related guidance docs (eg Floodplain Management, Bushfire Protection) could strengthen coherence and implementation of this objective

Including examples of design that can build community resilience (such as a shared spaces/commons for interactions) could further align section 4.2 with the DP SEPP design consideration.

It is noted that there is a reference to the '*design for resilience*' template and accompanying guidance. However it appears that no such template was placed on exhibition. The resilience guidance is taken to be <https://www.planning.nsw.gov.au/-/media/files/dpe/reports/policy-and-legislation/resilience-outcomes-for-the-planning-system-2021-12.pdf>. The articulation of Resilience Outcomes is supported and well stated – however the status of this guidance document is unclear.

9. LOCAL GOVERNMENT DESIGN REVIEW PANEL MANUAL

The specifics outlined in the manual of payments, timeframes and what happens on the day of a panel meeting should be left to each organisation, as it depends on staff resourcing and the type and nature of applications being reviewed in each Local Government Area.

Waverley Council has an established Design Excellence Advisory Panel which currently assesses not only applications subject to review against SEPP 65, but additional significant development against the 'design excellence' provisions of the Waverley LEP. The Panel has been set up to operate similarly to the Local Planning Panel, meeting monthly with a panel of 5 members rotating on a roster. This regime has operated successfully for over 2 years and generally in accordance with the draft manual.

It is suggested that the Design Review Panel Manual be a guide only allowing those Councils who currently operate an efficient and effective Panel be permitted to continue operating their respective Panels, with the adjustment of those matters which are 'required' to be reviewed under the SEPP. Enforcing a new regime would interrupt current contract arrangements with Panel members which are in place until 2023.

Clarity is requested on whether it is the intention that the 'Design Review Report' written by the applicant would be presented to Local Planning Panel members to read prior to determination, similar to Clause 4.6 statements.

10. SUSTAINABILITY IN RESIDENTIAL BUILDINGS (BASIX Overview)

Waverley Council supports the NSW Government's commitment to reach Net Zero by 2050 and its leadership in delivering sustainability reform to the residential sector through the DP SEPP. Waverley Council, like many local governments, would like to see these net zero targets for all residential development to be delivered well in advance of 2050. Ensuring new houses maximise greenhouse reductions now is vital and will assist with the task of addressing sustainability in existing housing stock. In that respect, Council supports BASIX to go even further than what is currently being proposed, to ensure the delivery of thermally safe buildings, all electric homes and onsite renewable energy.

Waverley Council supports the proposed Materials Index for BASIX, in order to reduce the embodied emissions of the materials used in constructing new homes. Council supports the decision that the Materials Index standard is a standalone requirement which cannot be offset with a higher result in other indices e.g. operational energy. Council requests that the draft Materials Index methodology is made publicly available before the implementation of the proposed new index.

Regarding the planned introduction of the Merit Assessment Pathway (MAP), Waverley Council strongly supports the requirement for an assessor to have either an architectural, engineering or AIRAH qualification. The generation of BASIX-style commitments through the MAP lodged electronically as part of the DA process and marked on plans is supported. It is recommended that the MAP is delivered as a part of the BASIX system, to avoid confusion and additional complexity that a separate system would bring to Council's DA planners and compliance staff. If the MAP process is

delivered outside of BASIX, it is strongly recommended that it is assessed by DPE staff, due to insufficient resources available to local government to take on assessment of a new system.

As per Waverley Council's earlier submission on the proposed BASIX Higher Standards, it is recommended that:

- **The use of future climate files** be used in NatHERS and BASIX to ensure the delivery of thermally safe homes and workplaces over the lifetime of the dwelling.
- **Gas is disincentivized for all new homes** to ensure that the NSW Government meets its net zero emissions commitment by 2050. This should contribute to a broader plan for how the whole residential sector will meet net zero emissions by 2035.
- **The Greenhouse Emissions Factor is updated annually** rather than a ten-year forecasted average. This will ensure that buildings meet the required carbon reduction standard each and every year.
- **Unified requirements for all dwelling types and locations** are adopted, to ensure adequate, safe and affordable housing standards for all. This includes an increase in thermal comfort and energy efficiency stringency for buildings < 5 storey in line with other multi-units.
- **LED lighting plus efficient controls are mandated** and that fluorescent lamps are removed as an 'efficient' choice for energy and waste related reasons.
- **All calculations in the BASIX Energy section of the tool are reviewed and the BASIX methodology is published** before the 2022 upgrade, to ensure that the calculations behind the tool are reviewed in an open and transparent manner.
- **A BASIX Education and Training package is developed for local government and other stakeholders;** to ensure the successful implementation of BASIX at DA, CC and OC stages, including new requirements for the BASIX Materials Index.
- **A BASIX Monitoring & Evaluation protocol and Auditing & Compliance framework** is established to ensure that homes are built as per their BASIX commitments and to ensure that people are thermal safe in their homes, and that the State's greenhouse and water reduction targets are achieved.

These recommendations for proposed BASIX changes align with the Minister's Planning Principles (2.16, 2.17, 4.1, 4.2, 4.10, 4.11, 6.12, 6.13). Waverley's full submission to the proposed BASIX Higher Standards has been lodged separately with the Department.



FOREWORD

Willoughby City Council (WCC) welcomes the release of the *Design and Place SEPP* and accompanying documents for public comments.

The proposed *Design and Place SEPP* potentially offers a significant opportunity to consolidate a number of related State documents into a single resource and provide strong support for local strategic planning undertaken by Willoughby City Council in recent years which has had an equally firm focus on design excellence, character and place.

Hugh Phemister

Director Planning and Infrastructure

February 2022

GENERAL OBSERVATIONS

The aims of the new SEPP as outlined below are generally supported:

- (a) to provide a consistent set of principles and considerations to guide the design of the built environment,
- (b) to ensure high quality and innovative design of the built environment,
- (c) to create places that support the health and well-being of the community,
- (d) to integrate good design processes into planning and development,
- (e) to recognise the economic, environmental, cultural and social benefits of high quality design
- (f) to ensure sustainable development and conserve the environment,
- (g) to minimise the consumption of non-renewable energy and reduce greenhouse gas emissions
- (h) to achieve better built form and aesthetics of buildings, streetscapes and public places
- (i) to recognise the importance of Country to Aboriginal people and to incorporate local Aboriginal knowledge, culture and tradition into development.

These principles reflect Council's recent strategic work and proposed planning directions. The proposed *Design and Place SEPP* offers a significant opportunity to consolidate a number of related documents into a single resource. It is considered that the review and integration of these policies and instruments is timely and necessary to facilitate a clear process and direction for the delivery of quality development and future resilience within NSW.

It is noted that the SEPP is comprehensive and covers a wide range of issues impacting urban development including cultural and built heritage, connectivity, local living, emissions, affordable housing and tree canopy.



It is noted for example that the Urban Design Guide (UDG) will apply to sites greater than one hectare as well as sites where a development control plan applies, while the Apartment Design Guide (ADG) will apply to residential flat buildings and shop top housing as is currently the case.

It is noted that development subject to the existing *Codes SEPP* will not be subject to the new *Design and Place SEPP*. The EIE noted that while the types of development currently permitted through the *Codes SEPP* will remain unchanged, the application of complying development requirements will be aligned with the principles of the *Design and Place SEPP* as part of a future review of the *Codes SEPP*. This alignment will be critical to ensure the extensive range of developments allowed to be undertaken as complying, does not sit outside the parameters of the Design and Place SEPP.

Some important potential benefits of the proposed Design and Place SEPP (DP SEPP) are welcomed including:

- Greater recognition of place-based design in NSW as a statutory consideration.
- The principles and proposed design and place considerations that will guide the SEPP.
- Taking design beyond apartment buildings to the precinct scale
- Placing consideration of *Country* at the heart of design processes.
- A revised Apartment Design Guide (ADG).
- The clear commitment to delivering on sustainability, with a zero net carbon approach being taken throughout all the aspects of the policy
- Long overdue improvements to BASIX.

It is noted there are amendments to the EP&A Regulation to enable implementation of the new *Design and Place SEPP*, including requirements relating to DCPs, design skills and verification statements. It is understood that the SEPP is proposed to be implemented by mid-2022, with a six-month period after this date when the SEPP comes fully into effect.

It is appreciated that the changes proposed in these documents are numerous and will result in significant changes to both strategic planning and the assessment of development applications. This includes the proposal that the new DP SEPP is intended to be the primary source of design principles for development on urban land, including certain State significant development.

Significant public and private sector support is imperative in facilitating the delivery of the proposed SEPP changes. Council wishes to remain engaged with DPE and the Government Architect NSW as this SEPP is implemented. It is considered that a significant education and training program will be required, including Council staff, Councillors, developers and the wider community.

Summary of proposed changes

The draft Design and Place SEPP is the first planning instrument to implement the Minister's Planning Principles (published in December 2021). The draft *SEPP* aims to support the Planning Principle of design and place, which in turn is intended to promote quality design for new developments, public spaces and the environment, to create 'healthy, sustainable, prosperous and supportive design for people, the community and 'Country'.



It is noted that the following documents are currently on exhibition:

- draft Design and Place SEPP;
- draft Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021 (Draft EPA (DP) Regulation);
- draft Environmental Planning and Assessment (Design Principles and Considerations) Direction 2022 under section 9.1 of the Environmental Planning and Assessment Act 1979 (draft Direction);
- draft Apartment Design Guide 2021 (draft ADG 2021);
- draft Urban Design Guide (draft UDG);
- summary of proposed changes to BASIX;
- beta BASIX sandbox tool; and
- draft Design Review Panel Manual for Local Government (draft DPRM).

In addition to incorporating the current State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development 2002 (SEPP 65) and the current State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP), the types of development to which the draft Design and Place SEPP applies have been significantly expanded. Development to which the draft Design and Place SEPP will apply includes development described as ‘urban design development’ (discussed below) and specified non-residential development. Several types of development have been excluded – although some development is only partly excluded. For example, the BASIX provisions of the draft Design and Place SEPP only apply to class 1A (single dwellings), class 7 (storage buildings and carparks) and class 10 buildings (non-habitable buildings like sheds and garages), not the full DP SEPP.

Five design principles are proposed, each of which is supported by two considerations and measures to satisfy each principle. Unlike SEPP 65, which requires the consent authority to take the design quality principles into consideration in determining a development application, the draft Design and Place SEPP imposes a higher standard. The consent authority must be satisfied that a proposed development is consistent with the design principles before granting consent. Therefore, detailed assessments will be required to be taken into account in determining consistency with design principles which are set out in the draft DP SEPP.

Design Guides

The draft DP SEPP gives effect to two separate guides, the draft ADG 2021, and a new urban design guide, the draft UDG. The draft ADG 2021 is intended to replace the current Apartment Design Guide, however it will continue to apply to the same development type, generally being residential buildings of 3 or more storeys and that contain at least 4 dwellings. Development consent cannot be granted for such development unless the consent authority is satisfied that the development meets the objectives of the ADG 2021.

The draft UDG sets objectives, design criteria and design guidance for the carrying out of urban design development. Urban design development is defined as:

- development on land outside an industrial zone with a site area greater than 1 hectare, or
- development on land in an industrial zone with a site area greater than 1 hectare that has a capital investment of \$30 million or more, or



- development in relation to which an environmental planning instruments requires a development control plan or master plan to be prepared for the land before development consent may be granted for the development.

Development consent must not be granted to urban design development unless the consent authority is satisfied that the development meets the applicable design criteria set out in the draft UDG, or where it considers that an alternative solution achieves a neutral or more beneficial outcome than meeting the design criteria.

The application of the draft ADG 2021 and the draft UDG are not mutually exclusive. There will be development to which both guides apply.

Design verification

Presently the Environmental Planning and Assessment Regulation 2000 only requires a design verification statement for residential apartment buildings. Under the draft EPA (DP) Regulation, a design verification statement will also be required for urban design development and development involving public or common space with an area greater than 1,000 square metres. More than one verification statement may be required for the same development.

Registered architects preparing a design verification statement for residential apartment buildings will need to respond to 36 objectives, grouped under the 5 SEPP principles. Design verification statements for urban design development and development involving public or common space of more than 1,000 square metres will need to be prepared by an urban designer and a landscape architect respectively, with reference to the objectives of the UDG.

The design verification statements must be prepared by the architect, urban designer or landscape architect who designed, or directed the design of, the development.

A design verification will also be required for the modification of consents for which the original application required a design verification statement.

Design Review Panels

Development covered by the draft DP SEPP is to be considered by a design review panel. Design review panels will continue to be constituted, and the members appointed, by the Minister, however they will need to exercise their functions in accordance with the draft DRPM (Design Review Panel Manual) and with regard to the design principles and design considerations specified in the DP SEPP.

It is noted that Design excellence panels are currently established in Willoughby Council area for developments 12m in height or greater and are subject to Council's *Guidelines for Design Excellence Review and Competitions*. Council would seek to continue this approach under the existing Council policy and guidelines. It appears that the DP SEPP will override Council's policy and will apply to a greater range of developments including all residential apartment buildings and other residential and commercial developments.

Enhanced sustainability requirements and changes to BASIX

It is noted that the existing BASIX SEPP will be incorporated into the new DP SEPP. Council has submitted a separate submission on the proposed BASIX reforms.



Strategic Planning

The draft Direction imposes an obligation on a planning authority to ensure that a planning proposal affecting land with an area greater than one hectare, and within either an existing or proposed residential, commercial, mixed use or industrial zone, or any other zone in which residential development is permitted or proposed to be permitted:

- takes into account and demonstrates consistency with the design principles and design considerations under the draft DP SEPP,
- is consistent with the objectives of the UDG,
- demonstrates how it responds to Country and how it has been informed by contributions from Aboriginal stakeholders of the land, where they have been provided, and
- is referred to the relevant design review panel for advice concerning the design response.

The planning proposal must also give effect to any relevant residential density, connectivity and open space criteria and guidance under the UDG. Provisions of development control plans dealing with specified amenity issues cannot be inconsistent with the ADG 2021.

Effect of proposed changes

Until the draft documents are finalised, the draft DP SEPP is not a mandatory matter for consideration under s 4.15(1)(a)(ii) of the EPA Act. However, the proposed reforms will introduce significant changes for both consent authorities and developers, and consideration should be given to how those changes are going to be managed.

What has changed

The following issues have been addressed since exhibition of the explanation of intended effect (EIE) in 2021:

- Undertaken rigorous cost-benefit modelling for the SEPP and supporting guides, completed in partnership with NSW Treasury during the drafting of this instrument.
- Set clear environmental sustainability targets
- Clarify the appropriate qualifications and design skills – detail of design skills required, and the content of design verification statements are now established.
- Establish clear definitions for precinct thresholds – thresholds to apply the Urban Design Guide have been streamlined.
- Develop streamlined and consistent processes for design review – a new Local Government Design Review Panel Manual (DRPM) and related thresholds will be referenced in the EP&A Regulation.
- Draft the SEPP to require the flexible application of the revised Apartment Design Guide – the DP SEPP has introduced mechanisms to support alternative design solutions.
- Prioritise consolidating and streamlining policies and guidelines – the DP SEPP will be the primary source of design principles and considerations for development applications on urban land. The UDG will also improve the consistency of master plans and development control plans (DCPs).

It is noted that a Ministerial Direction will require planning authorities to consider the principles and considerations of the DP SEPP and the objectives of the UDG when preparing planning proposals, including future local environmental plan (LEP) reviews.



Current LEPs and DCPs will not be modified by the policy package, other than the matters that are already deemed to override other instruments in State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (2002) (SEPP 65) and the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP).

RESPONSE TO SPECIFIC ASPECTS OF THE REVIEW

1. The proposed aims and principles including sustainability aspects

The proposed principles and place-based approach is generally supported, but the way principles will influence planning proposals and development applications will need to be carefully considered. If principles replace specific rules it may be difficult to execute at the local and regional level. The key will be to get the correct balance between principles and development standards. It also needs to be recognised that the successful implementation of a principles-based approach will require significant education and training programs as mentioned earlier in this submission.

The draft *Connecting with Country* framework developed by the Government Architect is supported, however more detail and guidance will be required in the proposed *Design and Place SEPP* to implement the framework and influence design and development at the local level. It is understood that the framework includes potential incorporation of indigenous stories, traditional place names as well as incorporation of native vegetation and waterways in the design of places. It is understood that the framework will be finalised into effect in late 2022 to coincide with the DP SEPP.

More direction would be useful in the incorporation of these principles in the *Connecting with Country* planning framework and the reflection of these in the draft SEPP. It also needs to be recognised that in order to implement the framework within all levels of planning, there will need a greater level of support to be given to resource Aboriginal Land Councils and other indigenous groups to provide the required input and advice.

Resilience to Shocks and Stresses

On 18 October 2021, Willoughby City Council adopted the *Resilient Willoughby Strategy and Action Plan* (Resilient Action Plan) which identifies the range of shocks and stresses that impact the people of Willoughby in their everyday lives. The shocks and stresses that people experience are wide ranging. The Resilient Action Plan identified the greatest shocks and stresses from a survey of 604 residents within Willoughby as shown in the table below:

Table 2: Top five shocks and stresses

	Shocks of greatest concern	Stresses of greatest concern
1	Black Summer bushfires	Climate change
2	COVID-19	Cost of housing
3	Current state of Australia's economy	Work/life balance
4	Last summer's storms and floods	Transport stresses in Willoughby
5	Excessively hot days and/or nights	Employment opportunities and job security

Source: Willoughby Community Perception and Resilience Survey – 2020, Micromex Research, December 2020^a



The draft *State Environmental Planning Policy (Design and Place) 2021* (DP SEPP) aims to deliver a built environment for the future that is sustainable, of high quality, supports the health and well-being of the community, provides good design outcomes, and to reduce greenhouse emissions.

The DP SEPP has the potential to have a profound impact on reducing the impact of shocks and stresses that people experience in their daily lives. As the DP SEPP's primary focus is the built environment, this new policy is capable of significantly reducing shocks and stresses from climate change, poor housing quality, and urban outcomes that result in poor public amenity.

The DP SEPP is accompanied by a revised Apartment Design Guideline (ADG) and a new Urban Design Guide (UDG) which contains wide ranging requirements for development. These accompanying guidelines to the DP SEPP are positive tools to influence positive outcomes from the built environment.

Although the ADG and UDG contains positive aims to address climate change and the quality of the built environment, these guidelines can be further improved with stringent performance-based criteria to ensure the DP SEPP minimises the shocks and stresses experienced by the community of Willoughby.

One important aspect of resilience which does not receive much attention in the D&PSEPP is the need to support and increase social cohesion. Of course the elements of this can be quite difficult to identify and design for, but it's one of the key indicators of a resilient community. It is recognized however that there are a number of measures in both the UDG and ADG which will assist in making the urban environment more liveable. For example, the revised ADG includes measures such as ensuring a greater mix of apartment sizes, ventilation and sunlight controls, and minimum room sizes all of which are likely to improve liveability in residential apartment buildings.

Solar Renewable Energy

The built environment plays a significant contributing role to climate change. There is opportunity to ensure new development reduces energy consumption and supports renewable energy generation, therefore reducing emissions. The ADG and UDG does not contain stringent requirements to support renewable energy. Although the UDG requires the onsite renewable energy equivalent to 20 percent of the annual electrical energy demand, the UDG only applies to large-scale development. The ADG only briefly addresses the desire for rooftop solar to be maximised for residential apartment buildings.

It is strongly suggested the ADG contain a specific performance-based criteria for the provision of renewable energy in new residential flat buildings. The 20 percent target within the UDG should be explored to see if a more ambitious target can be achieved when considering the scale of development to which the UDG applies. A clear guideline for minimum renewable energy requirements for residential apartment buildings would make a significant contribution to reaching a net-zero emissions target.

Urban Heat

Climate change is increasing average temperatures across NSW. We are already seeing an increase in annual average temperatures, and the number and duration of extreme hot weather events. Urban areas typically experience higher temperatures and urban areas can experience an 'urban heat island effect', where urban environments trap more heat.

As such, it is considered that further measures could be considered in the DP SEPP in regard to urban heat, including what it means in terms of amenity, economic and health impacts and what needs to be done to quantify and address it more effectively.

The ADG and UDG briefly mentions development should be able to mitigate urban heat, however provides no strategy or performance criteria as to how this should be achieved. A development's impact on urban heat should be assessed, particularly large-scale development where the UDG applies. Urban heat



assessment toolkits have been produced and the Department should explore assessment criteria for urban heat within the ADG and UDG to ensure future development, particularly greenfield development, does not result in adverse heat impacts to the community.

It is noted that resilience principles are left to a guideline yet to be completed. Where resilience is mentioned, it is lacking a strong framework or clear set of guiding principles. Resilience should be a core theme underlying the whole approach to planning and design.

Urban heat is mainly covered under the “natural systems” theme, where the role of trees is well supported with strong principles, clear guidance and specific targets. However, this rigor is lacking when it comes to other measures that could improve microclimate and reduce the impacts of urban heat. Other measures beyond trees (e.g. street orientation, cool materials) do get a brief mention but are not supported by strong principles, guidance, targets nor a clear approach to assessment.

Soft landscaping, deep soil zones and tree canopy

The revised ADG seeks to increase the amount of deep soil area from 7% to 10% for sites less than 1500sqm and 15% for sites larger than 1500sqm. This is strongly supported to ensure residential apartment buildings contain adequate deep soil area for tree canopy to mitigate urban heat, provide natural amenity, and improve biodiversity and overall quality of life. Measures to increase tree canopy for apartment buildings are also supported.

Any increase in the minimum deep soil zones as a % of site area (a fixed minimum % within the range being considered below) is a step in the right direction, but councils may wish to go further and should be allowed to aim for higher standards for increased tree cover and biodiversity objectives. It is important that the changes proposed will not result in any negative impact and will increase the overall tree canopy coverage.

Council's current *Willoughby DCP 2012* has the following controls in relation to soft landscape area for multi-dwelling and high density residential proposals:

1. *Soft landscaping must comprise the minimum of 35% of the site area.*
2. *Recreational open space (both private and communal) used by the occupants of the development must constitute the minimum of 50% of the natural/soft landscape requirements of this Plan.*

and it is intended to include landscape area controls in the future Willoughby LEP.

At the strategic level, Council is committed to an increase in tree canopy in the LGA. This includes the *Willoughby City Council Local Strategic Planning Statement (LSPS)* target to increase tree canopy cover from a baseline being 36% in 2016 to a target 40% canopy in line with the *North District Plan* by 2036.

Transport- parking and active transport

Council also notes that there are significant changes proposed in relation to bicycle parking and mobility storage (1 secure space per dwelling) and electric vehicle (EV) charging stations and car spaces (target to be determined) with the requirement that developments are to be EV-ready, including providing sufficient power to the meter board to enable vehicle charging at every car space, and delivering power supply to each car space for future conversion and adoption. These changes are supported in principle. It is also encouraging to see greater emphasis on facilitating better opportunities for walking and cycling. It is worth pointing out that Willoughby City Council also applies a strong focus in its plans and policies on EV provision and the promotion of active transport.



2. Design processes and definitions for qualified professionals

It is noted that the proposal to extend design verification to open space and urban design has been retained and refined in the DP SEPP. Town planners, architects and landscape architects are proposed to be acknowledged as having potential skills in urban design. In the case of surveying, the DP SEPP still seeks a designer's input on subdivisions of sites over 1 ha, development with a CIV of \$30m or developments that are over 35 m tall, recognising these kinds of development would benefit from a greater consideration of place.

Plans to expand the requirement for registered architects has been removed, and instead the following has been stated:

we have aligned the skills, knowledge and experience of architects undertaking residential apartment development with the Design Building Practitioner's Regulation.

It is considered that profession of "urban designer" should also be recognised as a legitimate profession under the DP SEPP. It is noted that the proposed *Design and Place SEPP* will require that developments that are three or more storeys, open space over 1000 m², and other significant development, are designed by suitably qualified design professionals, particularly where design has a high impact on the environment or community due to its scale or future population

The application of the term 'urban design' may deflect responsibility for evaluation by planners. This may add time and cost requiring additional 'regulatory' skill sets within approval authorities/LGAs. Traditionally the discipline of Urban Design is a role of facilitation, development of vision and the means of delivering a vision.

There is concern that the urban designer role may be subverted to that of interpretation and regulation in supporting the delivery of the guiding principles of the *Design and Place SEPP*. In this regard it is imperative that Local Government, in particular, is given clear direction on roles and responsibilities in the evaluation and regulating process.

It is considered appropriate that adequate training is provided for officers and other professionals who will be applying the new DP SEPP as a regulating instrument/document. Council notes that it has recently adopted the *Willoughby Design Excellence Policy (dated 9 December 2019)* and *Willoughby Design Excellence Guidelines (dated 9 December 2019)*. Council would seek to maintain its existing Policy and Guidelines and would be concerned if the new SEPP provisions over-ride Council's existing policy and guidelines on Design Excellence.



3. Review of other SEPPs

EPI alignment

There are a number of environmental planning instruments (SEPPs) to be reviewed and revised for alignment within one to three years of the making of the *Design and Place SEPP*. LEPs and DCPs are also proposed to be reviewed to align with *Design and Place SEPP* as part of the next five-year review of these documents.

The EIE stated that the proposed *Design and Place SEPP* will interface with multiple other SEPPs, including:

- *SEPP (Exempt and Complying Development Codes) 2008 (Codes SEPP)*
- *proposed Housing Diversity SEPP*, to be finalised
- *SEPP (Educational Establishments and Child Care Facilities) 2017 (Education SEPP)*
- *SEPP (Infrastructure) 2007 (Infrastructure SEPP)*.
- *SEPP (Affordable Rental Housing) 2009*
- *SEPP (Housing for Seniors and People with a Disability) 2004*.

The interface with UDG, *Design and Place SEPP*, *Housing Diversity SEPP* and *Seniors, Affordable Housing* and other design SEPPs needs to be clearer in the proposed *Design and Place SEPP*. Integration of these SEPPs in the *Design and Place SEPP* could be supported to ensure consistent standards for the range of different housing types. This represents an opportunity to incorporate the full range of housing types into the *Design and Place SEPP*.

4. The draft Apartment Design Guide (ADG)

The proposed revisions to the ADG are generally supported. Council is also highly supportive of the proposed approach to not mandate or promote mixed-use development in R3 and R4 zones unless it is supported by the local strategic framework. The proposal to reduce car parking rates where supported by a Green Travel Plan is in line with Council's approach for centres and areas well located in relation to public transport access.

It is also encouraging to note that the ADG is requiring more diversified development forms (ie range of bedroom sizes in a development) that cater for a greater range of household sizes in a single residential apartment development. This will have a number of benefits including encouraging a greater range of family units and provision for working from home in apartment designs.

It is noted that existing minimum building separation distance for habitable rooms is to remain as per the existing ADG. The concept of replacing the current communal open space site area metric with a minimum dimension and area (up to 25% of site area) is supported, as are other proposals to improve daylight, shade and glare control and ventilation.



While the above requirements are supported in principle, this all may be difficult to achieve in every applicable development and the diversity of existing and proposed lot sizes and orientations in the existing urban environment needs to be considered. Negotiating alternative solutions will result in a more complex assessment process for a range of proposals impacting time and resources.

5. The draft Urban Design Guide

An Urban Design Guide (UDG) is supported and should be an integral part of the proposed *Design and Place SEPP*. The proposed *UDG* appears to cover key resilience and sustainability issues, although earlier comments have been made in this submission on shortcomings in the proposed Guide in relation to aspects of sustainability.

The proposal to finalise the *Housing Diversity SEPP* to consolidate provision for different housing types including medium density housing (the “missing middle”), affordable housing, seniors housing and student housing is supported. The aim over time to combine provisions for all housing types, including apartments, into a single design guide is also strongly supported. It is noted that the UDG will apply to sites over one hectare and also to sites where a development control plan or masterplans apply.

For all development to which the UDG applies, it is noted that a gross residential density target is proposed of at least 15 dwellings per ha to ensure that future development is serviceable. For development that has excellent transport accessibility (defined as ‘PTAL 6’ using a methodology developed in the UK and applied to NSW since 2019), a higher minimum density target of 30 dwellings per ha is given, to make best use of transport infrastructure and to discourage urban sprawl.

Overall, the proposed aim of the *UDG* to complement the revised *ADG* is supported. Also supported is the importance to maintain the “line of sight” with the regional planning framework as well as to consider the aims and context of local planning frameworks, including Local Strategic Planning Statements (LSPSs) and LEPs and DCPs.

It is also considered important to consolidate guidelines as much as possible in order to simplify the sheer number of guidelines to be considered in the preparation and assessment of development and planning proposals. For example, it would be useful to consolidate the *Connecting with Country* and *Greener Places Design Guide* into the *Urban Design Guide* and *ADG*. This would reduce the complexity when a range of different guidelines that need to be considered and reconciled.

It is noted that an option for the open space benchmark being considered is to require a minimum of 25 per cent of urban-capable land dedicated to streets. Another option being considered sets a benchmark as a holistic public space measure, requiring a minimum of 40 per cent of urban-capable land dedicated to public space (streets, open spaces, and community facilities).

In either option, additional considerations for public spaces would apply, such as the equitable distribution of public space as outlined in the *Design and Place SEPP*, and the open space performance indicators listed in the *Greener Places Design Guide*. It is also noted that a range of other design metrics are proposed, such as total public space area, average block size and maximum single block size.

The UDG also allows for acceptable alternative solutions to be considered. This aspect of the reforms is supported, although it is noted that this will likely increase the complexity of the assessment process.



6. Review of BASIX

- Refer to separate BASIX submission.

7. Other comments

Relationship to local planning context

It is noted that local character and context considerations are integral to good design. The *Design and Place SEPP* will apply a principle and rules based approach to ensure that design outcomes properly consider local character. Council is firmly of the view that **the SEPP should complement and not replace existing local character guidelines and planning instruments, including Local Strategic Planning Statements, Local Environment Plans and Development Control Plans.**

Implementation issues

Appropriate support and training is required to be available to councils to implement the SEPP reforms. This is considered critical to the success of the reforms. It is understood that an implementation plan is in development to support state and council assessment planners and other professionals to apply the *Design and Place SEPP*. Support such as this is considered essential and Council notes it will include guidance, assessment tools and capacity building for development assessment teams. A comprehensive training program covering all aspects of the reforms will be required. It is also requested that a timeframe longer than six months be considered before the DP SEPP comes into effect, due to the extent of the changes and comprehensive training that is required.

8. Conclusion

The proposed *Design and Place SEPP* as proposed is generally supported as a significant opportunity to consolidate a number of related documents into a single resource and enhance the quality of design and overall liveability in NSW. It is considered that the review and integration of these policies and instruments is timely and necessary to facilitate a clear process and direction for the delivery of quality development and future resilience within NSW.

Vital elements of the new SEPP as outlined including a place-based approach with an emphasis on quality design, open space, other green infrastructure, mitigating urban heat and providing for active transport all reflect the focus and direction of Council's own strategic work in recent years and are therefore to be encouraged in the State Policy and associated guidelines. It is considered that additional emphasis on sustainability should be embraced in the final SEPP and Guidelines.

Council considers that a strong focus will be required to successfully implement the proposed reforms, particularly comprehensive training programs being provided for all applicants and assessors. It also needs to be recognised that the introduction of a mix of standards and performance-based assessments for relevant developments in the proposed changes will potentially make the assessment process more complex and has the potential to extend assessment timeframes. The extent of the changes needs to be reflected in the operational date of the SEPP and it is considered that a minimum period of 12 months should be specified until the SEPP comes into effect after it is finalised.



Furthermore, it is noted that the Design Review process is intended to apply to a greater range of developments than is currently the case in the Willoughby City Council *Guidelines for Design Excellence Review and Competitions*, 2019. This will increase the administrative load on Council and potentially increase the complexity and approval timeframes for a greater range of projects. However, it is finally concluded that the proposed DP SEPP is to be welcomed as a major step forward towards a well-designed, sustainable and resilient built environment in NSW.

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 5:44 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: plan_dp-sepp-adg-proposed-warr-amendments.docx

Submitted on Mon, 28/02/2022 - 17:41

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Kristian

Last name

Wynn

I would like my submission to remain confidential

No

Info

Email

kristian.wynn@willoughby.nsw.gov.au

Suburb/Town & Postcode

Chatswood

Please provide your view on the project

I am just providing comments

Submission file

[plan_dp-sepp-adg-proposed-warr-amendments.docx](#)

Submission

These waste management specific comments are in addition to Willoughby Councils formal submission.

I agree to the above statement

Yes

Draft State Environmental Planning Policy (Design and Place) (DP SEPP)		
Part 2 Design principles and design considerations	Potential Amendment	Comments
<p>13(1) Development consent must not be granted for development to which this Policy applies unless the consent authority is satisfied that the development is consistent with the design principles.</p> <p>13(2) In determining whether development is consistent with the design principles, the consent authority must take into account the design considerations for each design principle.</p> <p>13(3) Sections 14–23 set out the requirements for a consent authority in relation to each design consideration.</p> <p>Design Consideration:</p> <p><i>8) Resource efficiency and emissions reduction</i></p> <p>Section 21: The consent authority must consider whether the development—</p> <p><i>(a) for urban design development involving subdivision—minimises, and excludes as far as practicable, the use of on-site gas for cooking, heating and hot water, and</i></p> <p><i>(b) is designed to minimise waste from associated demolition, construction and during the ongoing use of the development, including by the choice and reuse of building materials</i></p> <p><i>(c) minimises greenhouse gas emissions, as part of the goal of achieving net zero</i></p>	<p>Split consideration 21(b) to separate considerations surrounding waste and resource recovery and circular economy.</p> <p>Suggestion amendment:</p> <p>Delete:</p> <p><i>21(b) is designed to minimise waste from associated demolition, construction and during the ongoing use of the development, including by the choice and reuse of building materials</i></p> <p>Insert 21(b1):</p> <p><i>Is designed to ensure design and construction techniques contribute to the circular economy and circular economy design principles are embedded into the design of the building.</i></p>	<p>It is recommended that clause 21 of the draft DP SEPP be amended to make specific reference to and include a stand-alone design consideration for circular economy.</p> <p>There is a strong need for clear planning policy direction that supports the implementation of circular economy principles across all phases of the development process.</p> <p>The existing written form of 21(b) is lengthy and the important need to reduce waste in the development's ongoing use is lost by integrating two issues in one point.</p> <p>The proposed amendment would better support the delivery of:</p> <ul style="list-style-type: none"> <i>design principle (4): design sustainable and greener places to ensure the wellbeing of people, and the environment, and</i> <i>design consideration (8): resource efficiency and emissions reduction.</i> <p>The draft DP SEPP represents a significant opportunity to apply circular economy principles across the life cycle of new developments in ensuring new buildings are both durable and adaptable and accord with state adopted circular economy principles.</p> <p>A specific design consideration that recognises the importance of transitioning to a circular economy would also prioritise the potential for material reuse and support high-quality recycling systems across new developments. This approach best places new developments to accord with state-wide principles and sustainability priorities that feature across a number of endorsed state government policy such as:</p> <ul style="list-style-type: none"> <i>Greater Sydney Region Plan and supporting District Plans</i>

<p><i>emissions by 2050, including by incorporating the following—</i></p> <p>(i) <i>passive design,</i> (ii) <i>energy efficiency, and</i> (iii) <i>the use of renewable energy.</i></p> <p>(d) <i>uses water sensitive design and maximises water re-use.</i></p>		<ul style="list-style-type: none"> • <i>Circular Economy Policy Statement</i> (February 2019) • <i>NSW Waste and Sustainable Materials Strategy 2041: Stage 1 – 2021-2027</i> <p>In addition to the above, the inclusion of a stand-alone consideration for circular economy would reinforce the NSW state government commitment to transition to a circular economy over the next 20 years. This is a key commitment contained within <i>NSW Waste and Sustainable Materials Strategy 2041: Stage 1 – 2021-2027</i> and would support a number of policy directions and targets including:</p> <ul style="list-style-type: none"> • Have an 80% average recovery rate from all waste streams by 2030 • Significantly increase the use of recycled content by governments and industry
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Revised Apartment Design Guide (ADG) 2021		
Part 3 Environmental Consideration		
3.3 Waste	Potential Amendment	Comments
<p>Objective 3.3.1</p> <p>Minimise waste storage impacts on the streetscape, building entries and amenity of residents</p>	<p>Replace objective 3.3.1:</p> <p>Minimise waste storage impacts on the streetscape, building entries and amenity of residents</p> <p>Insert revised objective:</p> <p>Incorporate well-designed and innovative waste and resource recovery systems that minimise impact on the streetscape, public domain, building presentation areas and amenity of occupants, neighbouring sites and pedestrians.</p>	<p>The incorporation of good design solutions for waste and resource recovery systems where they are integrated holistically within the development will not only result in improving on-going waste management practices for the development but will also result in improvements to the overall design quality and environmental performance.</p> <p>Waste and resource recovery systems are essential elements of a development yet are often undervalued or considered too late in the design and development process.</p> <p>Waste and resource recovery systems are often retrospectively applied and designed to fit in around other development and site considerations and constraints. This results in poor outcomes for residents and the community in regard to amenity, reduced resource recovery and costly outcomes to local councils that burden the community for the life of the development.</p> <p>There is opportunity for the revised ADG to recognise the importance of integrating waste and resource recovery systems holistically within developments to secure sustainability planning priorities and State-wide resource recovery targets.</p> <p>It is proposed to revise objective 3.3.1 to broaden its application. The current focus on “waste storage” does not consider the additional components of waste management and resource recovery systems that are key to delivering residential apartment buildings that deliver</p>

		<p>improved design quality and sound planning and waste management outcomes.</p> <p>It is recommended that this objective be broadened to refer to waste and resource recovery systems to better reflect and integrate all aspects of required on-site waste management infrastructure for residential apartment buildings.</p> <p>This broadens the focus of waste and resource recovery beyond just waste storage areas for residential apartment buildings and through the proposed amendment would now include consideration of waste and recycling infrastructure such as bin presentation areas, collection points and any interim storage areas for all waste streams.</p> <p>The objective has also been expanded to strengthen the consideration of amenity to not only future residents but neighbouring sites and pedestrians.</p> <p>Poorly planned and designed waste and recycling systems can have significant amenity impacts on future occupants but also broader community such as neighbouring sites and pedestrians in terms of visual impacts, noise, traffic and safety as well as odours.</p>
<p>Objective 3.3.2</p> <p>Minimise occupants' waste to landfill by providing safe and convenient onsite organic and inorganic waste and recycling facilities.</p>	<p>Proposed amendment:</p> <p>Minimise occupants' waste to landfill by providing waste and resource recovery facilities that promote waste stream separation including safe and convenient onsite organic and inorganic waste and recycling facilities.</p>	<p>It is recommended a minor change be made to objective 3.3.2 to include the importance of designing waste and resource recovery facilities that support waste stream separation.</p> <p>The proposed expansion of Objective 3.3.2 would require new developments to consider and demonstrate how the efficient waste separation of general waste, recycling and organics as well as problem waste occurs on site.</p>

		The reference to ensuring safe and convenient access to these facilities is retained and supported.
New objective: Objective 3.3.3	<p>New objective proposed:</p> <p>Developments are to ensure the quality design of waste management collection services are integrated with and are a cohesive part of any new development.</p>	<p>It is recommended that a specific objective be included that prioritises the consideration of waste collection as part of the environmental considerations for future residential apartment buildings.</p> <p>The proposed amendment ensures local councils waste collection service is considered early on in the design phase of new developments and are integrated holistically within the development akin to considerations of car parking and landscaping. Considering the requirements of local councils waste collection service is vital in ensuring new developments deliver waste collection services that are safe, efficient, cost-effective and do not impact on amenity.</p> <p>There is a real opportunity for the ADG to establish the importance of good design of waste management systems that integrates the consideration of waste collection early on in the development and design process.</p>
Design Guidance: Waste Collection		
Encourage waste separation at the source, ideally in the kitchen, by providing a dedicated waste storage area within each apartment to accommodate 2 days' worth of waste, recycling and organics.		No change
Integrate waste management infrastructure to facilitate separation of waste, recycling and		No change

organics at the point of disposal – for large buildings, on each residential level.		
Prepare an operational waste management plan for residents (and other occupants in mixed-use developments) addressing waste collection, separation and storage, including locations of collection points, bin cart routes and equipment such as chutes.	<p>Proposed amendment:</p> <p>Prepare an operational waste management plan for residents (and other occupants in mixed-use developments) addressing:</p> <ul style="list-style-type: none"> • Expected waste generated from the development and how the development will manage waste generated on site. This is to include identifying all allocated waste bins. • Waste separation and storage, including locations of collection points, bin cart routes and equipment such as chutes. • How waste will be collected and managed for the development. This includes responsibility for cleaning, transfer of bins between storage and collection points and general maintenance of waste management facilities. 	<p>The proposed amendment expands the considerations and inclusions for the preparation and submission of a waste management plan for new residential apartment buildings.</p> <p>The waste management plan is a valuable tool in communicating and demonstrating how the consideration of waste and resource recovery has been integrated cohesively within the development and supports the delivery of the local council waste service.</p>
For safety, limit direct resident access to any areas that house chute systems and compactors.	<p>Proposed amendment:</p> <p>For safety, limit direct resident access to any areas that house chute systems and compactors.</p> <p>Single or dual waste chute systems are encouraged in high density residential apartments and are designed to include:</p>	<p>The proposed amendment supports the design and inclusion of waste chute systems within larger residential apartment buildings.</p> <p>This approach accords with the EPA Better Practice Guide that recognises that waste chutes are the most effective method for waste collection.</p>

	<ul style="list-style-type: none"> • Single-chute system for waste and a service room on each residential floor containing the chute inlet and enough space for one mobile garbage bins each for recyclables and organics. • Dual chute system for waste and recycling with a service room on each level with enough space for a mobile bin for organics. • Restricted access for residents to waste chute rooms and compactors. 	
Integrate all waste management facilities and collection infrastructure within the built form of the development to improve amenity for residents and the neighbourhood.		No change.
New design guidance	<p>Proposed new design guidance:</p> <p>Integrate development design with local council waste collection service. For some developments this may include:</p> <ul style="list-style-type: none"> • an on-site waste collection service, and • on-site loading, manoeuvring and access by Councils Standard Heavy Rigid Collection Vehicles. 	<p>An additional design guidance for waste collection is proposed that responds to the need for new developments to give early and adequate consideration of councils waste collection service.</p> <p>Waste management requirements need to be given adequate consideration early on in the design phase of the development process to ensure safe, affordable and sustainable outcomes for the community. Unfortunately, there have been many examples of developments where waste management (particularly designing for waste collection) has been an afterthought, resulting in impeded access of essential waste collection vehicles, inadequate kerbsides resulting in bins on road thereby impacting amenity and public safety, additional costs to the ratepayers and services unable to be provided by</p>

		<p>Council, resulting in residents left without recycling and bulky waste services.</p> <p>An additional design guidance for waste collection is proposed to ensure new developments are integrated with councils waste collection service and reflect that waste collection services for residential apartment buildings vary across local government boundaries.</p> <p>The proposed amendment requires local waste collection service to be understood and considered early on in the design process to support improved design and resource recovery outcomes.</p> <p>The amendment also reflects that in some instances, on-site collection is required, and this can include requiring access and loading areas that accommodate a heavy rigid vehicle.</p> <p>The <i>Better practice guide for resource recovery for residential developments (EPA)</i> supports the use of on-site collection systems for medium and high-density residential apartment buildings given that kerbside collection for this development type is likely to result in adverse safety and traffic impacts.</p>
Design Guidance: Waste Storage		
In mixed-use developments, separate residential waste infrastructure from commercial waste infrastructure to facilitate secure management.		No change.
Allocate communal space for residents to temporarily store unwanted bulky items such as furniture, appliances and mattresses awaiting	<p>Proposed amendment:</p> <p>Allocate communal space for residents to temporarily store unwanted bulky items such as</p>	<p>The inclusion of providing space for bulky waste items are important safeguards that reduce incidents of illegally dumping bulky waste in common areas or the footpath. Regular illegal dumping can attract other dumped waste</p>

<p>disposal through council's clean-up service, or to be available for re-use by other residents.</p>	<p>furniture, appliances and mattresses awaiting disposal through council's clean-up service, or to be available for re-use by other residents.</p> <p>Allocate communal space for residents that supports materials separated at source to achieve high value recovery such as textiles, e-waste, glass, and plastics.</p>	<p>which can detract significantly from the quality and appearance of the development and result in amenity and safety impacts.</p> <p>The proposed amended recommends an expansion of the design guidance to include allocation of communal space within the development footprints for problem waste. Providing space for additional waste streams such as e-waste, textiles, household batteries and <i>Return and Earn</i> containers will help to:</p> <ul style="list-style-type: none"> • Increase resource recovery rates for the building and support state-wide resource recovery and waste diversion targets mandated within <i>Waste and Resource Recovery Strategy</i> • Support occupants within a high-density environment with a convenient and correct way to dispose of problem waste <p>The <i>Better practice guide for resource recovery for residential developments (EPA)</i> recognises the need for new developments to incorporate high value resource recovery. The revised ADG provides a good opportunity to align with and support best practice measures.</p> <p>The Better Practice Guide identifies practical solutions for how early design solutions can encourage high value recovery in residential apartment buildings and is supported by a Case Study 2: High-rise mixed-use development with a problem waste collection service.</p>
<p>Locate communal waste and recycling storage rooms in convenient and accessible locations for each vertical circulation core.</p>	<p>Replace design guidance with:</p> <p>Locate communal waste and recycling storage rooms in convenient and accessible locations for each vertical circulation core.</p>	<p>It is the experience of many local councils that developments are failing to incorporate well designed waste management facilities that are responsive to the waste management needs of the occupants, such as waste storage areas that promote waste stream separation.</p>

	<p>Waste storage areas are to provide adequate capacity for storing all generated waste streams and are located to support the convenient use of all users (including waste collection staff) that supports waste stream separation and higher value recovery.</p>	<p>This has significant impact on the resource recovery rates of the development and limits the potential for the development to fulfill broader sustainability planning priorities and objectives as well as deliver on state government led commitments on transitioning to a circular economy.</p> <p>The proposed amendment reflects the need for waste storage areas to be designed so that they are of sufficient size to cater for all waste streams and support waste stream separation.</p> <p>A key consideration in designing and locating waste storage areas within developments is the safety and convenience for all users such as occupants as well as waste collection staff and caretakers. Designing to ensure that waste storage areas are adequately sized and are conveniently located maximises higher value recovery and reducing contamination.</p>
<p>For onsite waste storage facilities, provide:</p> <ul style="list-style-type: none"> • hot and cold water • drainage connected to the sewer • self-closing, sealed and outward-opening dual doors • automated lighting • mechanical ventilation • waterproofing. 		<p>No change.</p>
<p>Where applicable, allow for vehicle access (as required by Australian Standards) on site for local council or contracted waste collection service vehicles</p>	<p>Proposed amendment:</p> <p>Where applicable, Where on-site waste collection is required by local council, waste</p>	<p>Minor change to reflect the relevant Australian Standard and a direct link to local councils waste service.</p>

	collection vehicle access is to be designed to comply with AS2890.2	
Locate collection infrastructure for council waste collection services wholly within the development's basement and within close proximity to the onsite loading dock to permit unobstructed access for collection contractors.	This consideration should be moved to the Waste Collection: Design Guidance.	
New design guidance	<p>Insert the following new design guidance:</p> <p>Demonstrate that organic waste can be managed in the development through measures such as:</p> <ul style="list-style-type: none"> • Multiple options for on-site organic waste management to maximise recovery (e.g. communal composting, worm farms, individual composting, dehydrators); • Organics and recycling service to all households; • Consolidated organic waste drop off points designed to minimise any potential odour and vermin risks. This includes the provision of rooms that are temperature controlled and suitably ventilated. 	<p>It is proposed that additional design guidance for waste storage be included that addresses how new developments will integrate organic waste separation and collection within new developments.</p> <p>While some local councils may not be ready to provide an organic waste service to all new residential apartment buildings, it is important that new buildings are designed to future proof developments to ensure compatibility with future organic waste service.</p> <p>The <i>Better practice guide for resource recovery in residential developments</i> (EPA) identifies that "food waste can make up 70% of the average residential bin and is a highly recyclable product when source separated". The importance of ensuring new developments support separation of organic waste should not be underestimated and would support achieving adopted targets and commitments within the Waste and Sustainable Materials Strategy.</p> <p>The proposed inclusion of more specific design guidance would also better support the delivery and application of Objective 3.3.2: Minimise occupants' waste to landfill by providing safe and convenient onsite organic and inorganic waste and recycling facilities</p>

		<p>The additional design guidance for organic waste also identifies that it is also important to consider potential amenity impacts associated with the storage of organic waste which should not be overlooked in the design phase for new developments.</p> <p>The <i>Better practice guide for resource recovery in residential developments</i> (EPA) provides considerations for the management of organic waste (food waste) within residential apartment buildings. This is a valuable source of information for applicants and designers and could be referred to within the revised ADG, specifically Appendix E: Treatment and management of food waste.</p>
New design guidance	<p>Insert the following new design guidance:</p> <p>Waste storage areas are to provide adequate capacity for storing all the waste and recycling likely to be generated between collection cycles. Developments are to refer to individual council waste generation rates to determine expected waste generation and bin allocation.</p>	<p>It is recommended that guidance be provided for the development to consider the likely waste generated by the development in accordance with the relevant local councils waste generation rates for residential apartment buildings.</p> <p>Waste generation is a key consideration in determining the required number of allocated bins (and their sizes) which will influence the size of bin storage areas for the development.</p> <p>Currently the ADG is silent on waste generation rates and their influence on the design of waste and resource recovery systems in new developments.</p>
<p>Figure 3.3.1: Waste Chutes</p> <p>Waste chutes for separate waste streams can offer spatial efficiencies in larger apartment buildings and provide for convenient collection and disposal of waste and recycling. Diverter systems offer further efficiencies and can be arranged with</p>	<p>It is recommended that Figure 3.3.1 Waste Chutes be deleted.</p> <p>Potential amendment:</p>	<p>Councils do not support the use of triple waste chutes and many councils do not allow the use of dual chutes. Concern is also raised over the implications of illustrating waste chutes catering for the three waste streams when many local councils are not in a position to service organic waste stream currently for residential apartment</p>

multiple compaction systems within the waste collection room. Providing a dedicated waste room on each floor can help to minimise impact on the amenity of adjacent apartments. Ensure universal access is considered.	Replace Figure 3.3.1 with a link to Appendix G of the Better Practice Guide for resource recovery in residential developments and Figure G2.2.	<p>buildings and are unlikely to support this collection system in the future.</p> <p>In addition, local councils are waiting for further guidance on the best method for the safe and effective serving of onsite organic waste in high density residential development.</p> <p>It is recommended that the ADG provide a link to the waste chute system considerations provided within the guide: <i>Better practice guide for resource recovery in residential developments</i> (EPA) (Appendix G).</p> <p>Figure G2.2: Cross-section of chute and bin storage and service room system illustrates the general principles and operation of a waste chute system supported by recycling and organics bins located in the bin storage and service room on each level. Extra recycling and organics bin storage and the bulky waste storage area are provided in the basement.</p>
<p>Figure 3.3.2</p> <p>Integrated waste rooms for separated streams offer considerable space savings compared to manual bin storage.</p>	<p>It is recommended that Figure 3.3.2 be deleted.</p> <p>It is recommended that a revised illustration be provided that is reflective of local councils waste and resource recovery system requirements.</p>	<p>It is recommended that the Figures for waste storage rooms be deleted and replaced with illustrations that reflect the <i>Better practice guide for resource recovery in residential developments</i>.</p> <p>Alternatively, WSROC and relevant local councils are available to assist in the preparation of illustrations that better reflects the servicing requirements of local councils.</p>
<p>Figure 3.3.3</p> <p>Waste collection room bin infrastructure for each waste stream: residual, recycling, organics.</p>	It is recommended that Figure 3.3.3 be deleted.	Councils are concerned this figure is a poor example of bin room layout that is contrary to bin room design requirements and safe access.

New: Part 3.3A Circular Economy		
<p>New environmental consideration to be included within Part 3: Environmental Considerations</p> <p>3.3A Circular Economy</p>	<p>Insert objective:</p> <p>Embed circular economy design principles into the design of residential apartment buildings to maximise the recycling and reuse of materials.</p>	<p>It is recommended that Part 3 of the revised ADG be amended to make to include a stand-alone design consideration for circular economy.</p> <p>There is a strong need for clear planning policy direction that supports the implementation of circular economy principles across all phases of the development process.</p> <p>The proposed amendment would better support the delivery of:</p> <ul style="list-style-type: none"> • <i>design principle (4): design sustainable and greener places to ensure the wellbeing of people, and the environment, and</i> • <i>design consideration (8): resource efficiency and emissions reduction.</i>
New design guidance: Circular Economy		
<p>To best support the delivery of circular economy principles it is recommended that the following additional design guidance be provided within the revised ADG.</p>	<p>Potential Amendment</p> <p>New design guidance:</p> <p>Ensure design and construction techniques contribute to the circular economy.</p> <p>New design guidance:</p> <p>Reuse and recycle construction and demolition waste, aiming for zero waste to landfill.</p>	<p>Comments</p> <p>The proposed design criteria strengthen the consideration of circular economy and best aligns with circular economy principles that have been committed by current state policy directions.</p> <p>This approach better strengthens the planning framework to align with current state policy targets and commitments surrounding transitioning to a circular economy and waste reduction targets.</p> <p>The proposed amendments reflect the current and innovative approach that has been used by the DPIE in the preparation of the draft Phase 2 Aerotropolis Development Control Plan and builds on the objectives from the Phase 1 Development Control Plan.</p>

Revised Apartment Design Guide (ADG) 2021		
Part 1 Designing for the site		
1.3 Site access and address	Potential Amendment	Comments
Minimise conflicts between pedestrians, vehicle access and movement routes adjoining the site.	Potential amendment: Minimise conflicts between pedestrians, vehicle access, service vehicles (such as waste collection) and movement routes adjoining the site	It is agreed that well-designed building entries also enable efficient servicing of the development and delivery of goods to residents. Minimising conflict and maintaining safety of residents, waste collection staff and pedestrians is also vital and should form part of the considerations in early development design.
Provide clear sightlines where vehicles cross pedestrian pathways.	Ensure the safety of all users including waste collection staff and provide clear sightlines where vehicles cross pedestrian pathways	The proposed amendments reflect the need to include specific reference to ensuring that new developments have waste infrastructure and waste servicing requirements integrated into the overall design of the development. For larger apartment buildings this will require a heavy rigid collection vehicle accessing the site and nominated collection point which is best considered early in the design process.
1.4 Relationship to the street	Potential Amendment	Comments
Reduce the visual impact of utilities and building services on public space by locating them in basement car parks wherever possible, including substations, pump rooms, water tanks and waste storage areas.	Potential amendment: Reduce the visual impact of utilities and building services on public space by locating them in basement car parks wherever possible, including substations, pump rooms, water tanks and waste storage and waste collection areas. This also includes integrating	The location of waste infrastructure within the development footprint and basement is generally supported. However there needs to be an emphasis of ensuring new developments are integrated with Councils standard waste service and that this may include on-site waste collection by a heavy rigid vehicle.

	waste collection vehicle access cohesively with the development.	There should be a recognition that it is essential that local councils waste service requirements for site servicing and waste collection is understood early in the design process.
1.6 Parking	Potential Amendment	Comments
Balance the visual impact of vehicle entries so they are clearly visible but also recessive to the overall building form and streetscape.	<p>Potential amendment:</p> <p>Balance the visual impact of vehicle entries so they are clearly visible but also recessive to the overall building form and streetscape without limiting the ability to safely and efficiently service (such as waste collection) and access the site.</p>	<p>It should be reflected within the ADG that waste collection vehicles require specific height clearances for movement, circulation and operation to ensure that waste collection safely and efficiently takes place.</p> <p>This factor needs to be considered in the overall design and site layout to minimise impacts on the built form and streetscape.</p>
Consider deep soil zones, stormwater management and the retention of trees during initial design stages, as these can affect the size and shape of a car park footprint.	<p>Potential amendment:</p> <p>Consider deep soil zones, stormwater management, the retention of trees during and servicing requirements (such as waste) for the development initial design stages, as these can affect the size and shape of a car park footprint and basement design (including height clearances)</p>	<p>It is our experience that early design and consideration of waste management systems for new developments result in positive outcomes for the community, built and natural environments.</p> <p>It is accepted as better practice in waste management systems for medium and high-density developments for the waste collection vehicle to enter the site to collect waste and service the development. This can be from a nominated collection point within the building footprint or within the basement car parking area where waste rooms are located.</p> <p>It is therefore essential that upfront planning for vehicle access and manoeuvring reflect the need to consider whether the development must be designed to facilitate on-site waste collection vehicle collection.</p>

		<p>The common standard waste collection vehicle for high density developments is a heavy rigid vehicle. Failure to consider safe and efficient access, egress and manoeuvring at the early design and planning stage of developments can have significant consequences for the development. Best outcomes for the site and the development are achieved when considerations of waste collection vehicle access requirements are considered and designed upfront in the process.</p> <p>It is recommended that the ADG be amended to reflect considerations of waste servicing requirements so that it can be integrated into the development early on in the design process.</p>
Minimise the width and number of vehicle access points, ramp length and visual impact.	<p>Potential amendment:</p> <p>Minimise the width and number of vehicle access points, ramp length and visual impact without compromising the servicing needs of the development.</p>	As above.

draft Local Government Design Review Panel Manual		
Section 2.6 Panel member induction and training	Potential Amendment	Comments
<p>Panel members should complete an induction and training before the first session of a design review panel. As a minimum, training should cover:</p> <ul style="list-style-type: none"> • Understanding conflicts of interest and codes of conduct • Confidentiality • The NSW protocols for good design review • How to use the DP SEPP design • Principles to frame a discussion and provide advice • The local planning context • Confirmation of the panel members • Availability for all sessions. 	<p>Panel members should complete an induction and training before the first session of a design review panel. As a minimum, training should cover:</p> <ul style="list-style-type: none"> • Understanding conflicts of interest and codes of conduct • Confidentiality • The NSW protocols for good design review • How to use the DP SEPP design • Principles to frame a discussion and provide advice • The local planning context • Local council waste service • Confirmation of the panel members • Availability for all sessions. 	<p>It is recommended that the Manual be amended to provide recognition on the importance of understanding the relevant local council waste service for panel members.</p> <p>To assist in securing optimum planning and waste management outcomes for residential apartment buildings, it is essential that panel members have a strong understanding of the local waste service including waste collection vehicles (sizes) and how waste is collected.</p> <p>It is our experience that the consideration of waste and resource recovery are not highly valued in the design and planning stage of developments and are often overlooked in the early design stages.</p> <p>Failure to provide due consideration and correct advice regarding local councils waste service responsibilities and requirements can have significant impacts on the design of the development that are often costly and timely for both the applicant and local council.</p> <p>These costs are often then passed on to the wider community, who are left with not only the financial burden but adverse amenity and safety impacts.</p> <p>While local councils have the responsibility to provide residential waste services under the <i>Local Government Act 1993</i>, it is important to also note (and understand) that variations across local government boundaries in vary significantly.</p> <p>The proposed amendment would ensure that adequate training and information are provided to panel members so that they are best placed to provide design advice that also aligns with individual council waste servicing requirements.</p>

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 10:32 AM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: wollondilly-shire-council-submission---draft-design-and-place-sepp-package-signed.pdf

Submitted on Mon, 28/02/2022 - 10:30

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Carolyn

Last name

Whitten

I would like my submission to remain confidential

No

Info

Email

carolyn.whitten@wollondilly.nsw.gov.au

Suburb/Town & Postcode

Picton, 2571

Please provide your view on the project

I support it

Submission file

[wollondilly-shire-council-submission---draft-design-and-place-sepp-package-signed.pdf](#)

Submission

See attached.

I agree to the above statement

Yes

Our Reference: CM 13004

NSW Department of Planning and Environment
c/o NSW Planning Portal

28 February 2021

Dear Sir/Madam,

**WOLLONDILLY SHIRE COUNCIL SUBMISSION
SEPP DESIGN AND PLACE EXHIBITION RELATED DOCUMENTATION**

Thank you for the opportunity to provide feedback on the Draft State Environmental Planning Policy (Design and Place) 2021 and related suite of documentation. The intended future application of these documents is of key interest to the Wollondilly local government area.

As we have done with several other significant planning exhibitions, I need to express my continued disappointment about the exhibitions that took place during the local government elections caretaker period and over Christmas. This is not appropriate for seeking genuine consultation with our industry and as a result, the exhibition is not consistent with the Minister's Planning Principles.

A copy of the submission will be reported to the first available Council meeting, and the final endorsed submission will be provided to the Department after that time. Please accept this staff level submission as provided in good faith until that time.

Council recognises and supports the Department in raising benchmarks and improving design outcomes through the planning process. The need for sustainable and resilient places and delivery of good design is supported. In addition, the intention of the policy framework to improve alignment between a planning proposal or LEP and the development application process is strongly supported. The proposed DPSEPP and related documents should encourage local developers and land owners to step up to the task of delivering better design on the ground. If implemented well, the changes will lead to positive outcomes for the state and will improve the quality of the built environment.

We appreciate the Department's commitment to providing a six (6) month transition period before the SEPP is intended to come into effect at the end of 2022, to enable Councils to absorb the potential impacts and prepare for the implementation of the proposed policy framework.

It should be noted that Wollondilly Council previously provided comments on the exhibited material relating to the proposed introduction of the Draft Design and Place SEPP and associated documentation (Explanation of Intended Effects). We appreciate that a number of raised concerns have already been addressed in the new exhibition package, however,

have reiterated a number of key points in this submission which were part of Council's previous submission and have been expanded on, with the release of the full Draft package.

Our key recommendations:

- The SEPPs implementation **MUST** be supported by appropriate resourcing, training and further guidance to assist consent authorities to fulfil their statutory obligations.
- Further consideration is required to the resourcing, cost and governance implications of introducing Design Review Panels for Councils. In particular, alternatives such as 'shared' design review panels or 'as-required' options.
- Further consideration should be given to how the package is to be applied to rural and transition areas where there are often additional considerations such as metropolitan rural area settings, biodiversity areas and koalas.
- The extent of work, process and methodology proposed in the draft SEPP does not correlate with the unrealistic timeframes being proposed by DPE in the '*New approach to rezoning's*' and to the recently amended LEP making guideline. The timeframes must be more realistic and achievable if Design and Place is the genuine intended outcome.

Attached to this letter is our staff level submission (refer to **Attachment 1**).

Please contact Kylie Fairhall from Council's Strategic Planning Team on (02) 4677 5260 or email at kylie.fairhall@wollondilly.nsw.gov.au for any questions about this submission.

Yours faithfully



Stephen Gardiner
Manager Sustainable Growth

ATTACHMENT 1:

KEY POINTS RELATED TO PREVIOUS EXHIBITION

Council previously provided comments on the exhibited material relating to the proposed introduction of the Draft Design and Place SEPP and associated documentation (Explanation of Intended Effects) in 2021. We appreciate that a number of raised concerns have already been addressed in the new exhibition package, however, we wish to reiterate and expand on the following key points which were raised as part of Council's previous submission:

- **Support in principle the intended outcomes of the Draft SEPP** and the changes made to incorporate all potential forms of development to which the SEPP applies, as well as the additional considerations relating to heritage, street design, water management, green infrastructure and resilience, for example.
- **Application of the Policy framework** - There are still some discrepancies around the future applicability of the SEPP and the connection between the documents, which will need to be clarified prior to coming into force, particularly with the application of the Urban Design Guideline and how it will relate to planning proposals, precinct plans, master plans as well as development applications.
- **Need for further specific support, implementation guidance and funding assistance** – many councils will be impacted by the proposed changes with a substantial increase in development and strategic assessment processes which are currently not required. All councils would benefit from further additional support, guidance and staff training towards implementing the DP SEPP package.
The creation of practical tools such as quick reference “how to guides” tailored to suit the different stakeholder needs of planning and design practitioners, industry professionals and community members will help with the implementation and transition period and will promote efficient assessment given that it may be hard to determine what constitutes ‘good urban design’ in some contexts due to subjectivity and difference in opinion.
Council would also benefit from support and advice on potential funding sources to assist in implementation, including for the potential establishment of a Design Review Panel (refer to further discussion in the Table provided).
- **Expertise for assessment** – Many Councils, including Wollondilly, do not currently have in-house skills of an urban designer, landscape architect, architect, or other specialist staff such as an Aboriginal Liaison Officer who can assist the assessment of development applications and planning proposals against the provisions of the SEPP framework. For example, to assess compliance in particular, with the proposed Urban Design Guide and to determine whether Council (as the consent authority) is satisfied that a design complies with the objectives of the applicable Guide, Councils need ready access to registered or qualified practitioners. The required qualifications of an ‘urban designer’ to include a town planner are also questioned – different qualifications and a different skill-set despite experience in precinct or master planning;
- **Consistency with other relevant documents** - There is a need for integration of the SEPP with local, regional and state documents. The SEPP is viewed as having relevance to a range of policies at the state, regional and local level, including regional and district plans, local strategic planning statements and related local strategies such as the Integrated Water Management Strategy.

The exhibited documents should all be consistent in their references and application of all related policies. Refer to further discussion on the UDG in the Table. This includes consistency with terms and land use zones used in the employment land reforms, the upcoming consolidation of SEPPs and the recently released ‘A new guide to rezoning’. The Design and Place SEPP should also apply to non-standard land use zones such as those defined in the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 and State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

- **Over-complication of Planning Proposal Process** - Concern that the Draft Design and Place SEPP and associated extensive suite of documents will further complicate the planning process due to its interaction with other environmental planning instruments and development control plans at a local level and the extent of information included in the exhibition package. The Department will need to follow through with their promised support to practitioners and applicants.
- **Impacts in rural areas particularly the Metropolitan Rural Area** - The proposed Urban Design Guide has potentially far-reaching implications for rural and rural/Metropolitan fringe areas which should be further investigated. It is considered that further discussions need to occur with Councils on the implementation and practicality of the application of the UDG and it is suggested that this component could be separated from the other changes proposed to the existing documentation being the SEPP, Apartment Design Guide and BASIX provisions.
Council previously acknowledged the intention to exclude rural lands from applying to the SEPP and note this has been carried over into the exhibited document (except for the RU5 Rural Village zone, noting this may have implications for Council as this zone is being considered for our smaller rural village centres under the employment reforms). The application of the documents in relation to rural areas (particularly the Metropolitan Rural Area) needs to be clearly explained and may be more appropriately considered separately from the UDG application in metropolitan areas. An alternative approach for achieving better design principles on rural land must be outlined.
- **BASIX** - The timing of the finalisation of the BASIX requirements is significant in the application of the proposed SEPP provisions. Support the introduction of mechanisms to allow some flexibility relating to BASIX targets is supported. A separate submission has been made on this process.
- **Connecting with Country** - It is noted that the draft Connecting with Country framework is still a work in progress and that further opportunity may be given on the overlaps between this framework and the Design and Place SEPP delivery. Although the importance of Designing with Country is absolutely acknowledged, the shift from the previous exhibition to limit the requirement is supported in the context that Councils currently do not have the expertise or frameworks in place to undertake such work in an appropriate and sensitive way. Given the critical importance of Connecting with Country, it is recommended DPIE consider other mechanisms to support Councils in the process. Clarity is required in reference to the 9.1 Direction which still requires consideration of Design with Country. Council does not currently have staff with the appropriate expertise, will DPIE become a referral body for those matters? We would welcome relevant training and up-skilling for planning and design professionals which might include cultural awareness training and approaches to appropriately engaging with Traditional Custodians for precinct scale projects.
- **Design Review Panels** - The Policy changes will likely require Council to appoint or provide access to a Design Review Panel for certain areas or proposals. We would support and benefit from the approach allowing for a collaborative joint regional or adjoining council Design Review Panel given, initially, there is likely to be a fairly limited application of the Apartment Design Guide in Wollondilly and particularly to assist under-resourced Councils in implementing the policy framework. The use of a default state-wide Design Review Panel (for where there is no local constituted Panel) is not preferred in the Wollondilly LGA, as the need to understand the local character and relevant rural issues specific to Wollondilly is considered crucial.

- **Environment implications** - Resilience of the proposed UDG should include future proofing considerations to mitigate risks in line with long term climate projections. It is suggested that emergency services such as NSW Rural Fire Service and State Emergency Services are included as part of the process to establish the resilience frameworks for precinct, masterplan, and planning proposal scale development.

GENERAL ADDITIONAL BROAD COMMENTS ON THE CURRENT EXHIBITION DOCUMENTS

- **Overall intent and principles of the Design and Place SEPP Policy framework and the recognition of the place planning process are supported**, as they seek a greater integration of design for the purpose of creating more resilient, liveable, vibrant and green places.
- **Support the overall intent to address urban design and improve quality of development and planning at the early stages of the planning process.** The UDG provides a good foundation in supporting forward planning for healthier communities and environments. As the complying development pathway is common for dwelling houses, encouraging better design at the subdivision, precinct and strategic planning level where Council has greater input supports overall improved built form outcomes.
- **Consistency with other planning policy frameworks** – there are a large number of recently released or exhibited related plans and policies which either align or will influence the provisions of this Draft policy framework. Specifically, the Employment zone reforms, the Local Environmental Plan Making Guideline, A new approach to rezonings Discussion paper, and the implications of the SEPP Aerotropolis and biodiversity legislation. The package needs to be consistent with these other legislated policies and plans.
- **Employment zone reforms** - The references to land zones need to be consistent with current legislated zones, i.e. references to an Environment Protection zone E1, E2, E3 or E4 need to be updated to reference Conservation zones C1, C2, C3 or C4. This highlights the significant challenge that councils and others currently experience with too much change occurring without appropriate oversight.
- **Status of the draft instrument** - It is noted that the exhibition documentation on the Department's website provides that the Secretary stated that the draft DP SEPP is not a mandatory matter for consideration as it is not notified under section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979 (EP&A Act). Council questions whether this can actually be permitted, given the legislative weighting of a Proposed Draft SEPP under the Act and Regulation. Council's view is that the Draft SEPP must be considered as a draft environmental planning instrument in the assessment of development applications and planning proposals, in accordance with the provisions of the Act.
- **Principles based approach** - The principles-based approach is of concern, which means the documents are more subjective and could be open to different interpretations. The ADG and UDG documents are quite prescriptive and should provide clear guidance to both assessors and developers. Clarity is needed on how the consent authority should address response to the criteria which may be difficult to assess and restrict achieving the original objectives.
- **Additional requirements for LEPs, DCPs and Planning Proposals** – the requirement that Council's LEP and DCP need to be consistent with the Draft SEPP package places additional constraints on Council resources on top of regional and district commitments and review of LSPS documents. There are also increased requirements for planning proposals which council staff to review and verify – there appears to be no consideration for additional layer of reporting to a Design Review Panel that will be required for Planning Proposals.
- **Implications for Council-owned public land** - The application of the UDG will also extend to a Council's own development proposals or preparation of a masterplan on public land, such as including for new areas of public open space greater than 1,000 square metres. The application of the UDG to Council projects needs to be more clearly provided and addressed in the framework documentation, to ensure councils can properly address the potential implications for this on their ongoing operations. The potential implications for Council or government infrastructure projects is also unclear.
- **Alignment with the biodiversity statutory and strategic framework.** Recommend that the SEPP and associated guidance and documentation clearly outline the interrelationship between the existing biodiversity assessment framework and the Design SEPP in assessing development impacts to biodiversity. The documents need to outline the extent that environmental and biodiversity considerations will factor in to future assessment. Council's Environmental Services section would be happy to elaborate further on specific concerns with the links between these documents.
- **Practical implementation of the DP SEPP package** raising a number of concerns and challenges, particularly when considered in conjunction the range of other reforms currently under consideration by DPE. Council does not currently have a Design Review Panel (DRP), this will have significant implications on resourcing and processes. It is unclear from the proposed Regulations, DP SEPP and ministerial directions when strategic planning matters are required to be referred to the DRP. The Neighbourhood Planning process would likely trigger the need for the DRP. Further clarity is needed to understand:
 - The level of detail/analysis required prior to and post gateway determination;
 - DRP interaction with LPP referral;
 - Timing of input from other agencies ;
 - Integration into overall timeframes set for Council to process planning proposals or DCP amendment;
 - Savings or transitional arrangements for planning proposals, masterplans, DCP amendments or the like currently under consideration.
- **Updating BASIX requirements** - Strongly support updating the requirements for BASIX to address urban heat, clear air, climate change, sustainability targets for energy, water, waste electric vehicle readiness (EV), avoiding dependence on fossil fuels and aiming for net zero emissions, embodied carbon emissions. Support an increase to BASIX standards in line with the NCC changes proposed, which would reduce household energy demands and costs, increase comfort and reduce carbon emissions, and recognising the health and well-being benefits.

The following **Table 1** provides more detailed comments on each exhibited Draft document as provided:

Table 1 DETAILED COMMENTS ON THE CURRENT EXHIBITION DOCUMENTS

AREA OF CHANGE	FEEDBACK
Design and Place SEPP Overview (summary document for exhibition) (33 pages)	
Details overview of the changes as part of the DPSEPP framework.	<ul style="list-style-type: none"> The overview document states that the SEPP will not apply to the majority of rural, environmental or waterway zones "...unless it is proposed to be converted to other uses to which the DP SEPP applies (such as greenfield subdivision)." This is not reflected in the Draft SEPP, ie: the SEPP states that it does not apply to these zones, therefore, the greenfield subdivision provisions do not appear to be triggered.
Draft State Environmental Policy (Design and Place) 2021 (25 pages)	
Proposed changes include: <ul style="list-style-type: none"> ❖ Definition changes: ❖ Residential apartment development ❖ New definitions for: <p>Urban design development - includes development where an EPI requires a DCP or master plan to be prepared before development consent can be granted.</p> <p>Non-residential development Comprising:</p> <ul style="list-style-type: none"> ❖ Prescribed Office premises with a net lettable area of at least 1,000 square metres; ❖ Prescribed retail premises with a gross lettable area of at least 5,000 square metres; ❖ Hotel or motel accommodation with at least 100 rooms; <p>Non-residential State significant development</p> <ul style="list-style-type: none"> ❖ Does not apply to land WHOLLY within RU1, RU2, RU3, RU4, IN3, E1, E2, E3 (now C1,C2, C3), W1, W2, W3 zones ❖ New maps – 'BASIX Climate Zone Map' and 'BASIX Water Use Map' 	<ul style="list-style-type: none"> Support the general aims and intention of the Policy. Note specific comments on some of the aims in this section. Support the introduction of a place planning process. Support the inclusion of bushland in the definition of Green Infrastructure (noticed however not in the definition of this term in the Urban Design Guide). Reference development types rather than zones is supported as it captures non-standard zones such as the Urban Development Zone applied within the Wilton Growth Area. The SEPP should also apply to other zones similarly named under other EPIs, such as the SEPP (Growth Centres) or SEPP Aerotropolis), for example the UDZ zone in Wilton Growth Area. The provisions should apply to super lots in urban release and growth areas – these will often not be triggered by the 1ha minimum threshold. Definition of 'urban design development' needs to be clear as to whether all criteria need to be met. Also has Potential DCP implications. This has potential impacts in relation to existing clause 6.3 Development control plans under Wollondilly LEP 2011, for: <ul style="list-style-type: none"> Urban release areas (excluding Wilton URA - Bingara Gorge ONLY); Subdivision comprising: <ul style="list-style-type: none"> a realignment of boundaries that does not create additional lots, any lots proposed to be reserved or dedicated for public open space, public roads or any other public or environmental protection purpose, land in a zone in which the erection of structures is prohibited, Development of a minor nature and that would be consistent with the zone objectives. The SEPP may apply to a future development application for Council's Civic Centre in Picton as non-residential development (office premises) – Council will need to consider in detail any potential implications this may have once the final SEPP is released, depending on the timing of the development application lodgement. Will likely not apply to Council's Civic Centre, as the 16m portion is less than 1ha in area, and is valued at less than \$30M. Except possibly as non-residential development. Land to which policy applies – ie: 'WHOLLY' zoned – Wollondilly has a number of properties with split zones rural zones particularly – technically, the Policy would not apply to split zone properties. Is that the intent or should the policy apply to land which is partly zoned industrial/environmental, for example? There are many sites within Wollondilly which will be triggered by the 1ha provision, but may have a portion which contains either part C2 or C3 (formerly E2, E3) zoned land to which the SEPP provisions do not apply. Most greenfield and most sites over 1ha would have critical and endangered habitat in Wollondilly – ecologist/specialist review is needed. There are currently minimal implications for application to development involving the erection of 25 or more Class 1a (dwellings – single detached or group of attached) for Wollondilly, however, these provisions may be triggered therefore Council will need further resourcing, or training and guidance on the application to these developments. Council currently outsources urban design or architect comment for larger scale developments as considered necessary. Councils should be given the time to prepare any relevant clauses in their local EPIs which require a development control plan or masterplan for sites which are not triggered by the development of 'urban design development'. Implications that the SEPP will apply to land within an RU5 zone, as Wollondilly is currently considering the use of the RU5 zone as part of the Employment zone reforms (although unlikely the other criteria will be met). Clarification and further discussion is needed with affected Councils on any mapping to be included in the SEPP for the application of car parking requirements for new buildings and green travel plans for development on land shown as 'Public transport Accessibility Level (PTAL) 6. It is noted that certain developments carried out by a council or 'the Crown' may not need to be referred to the Panel - Confirmation is sought on what is considered "the Crown" – is it all land that is owned and managed by the NSW Government, ie: there is potential for the proponent of the Wilton North Precinct (Landcom) to satisfy this item given it is a government based organisation. The absence of any scrutiny of this application by the Panel is viewed as having adverse potential implications for its design as well as a range of related outcomes including canopy and liveability. There is concern over the apparent absence of reference to the Cumberland Plain Conservation Plan in either the Design SEPP or Urban Design Guide given its relevance. This Plan has direct relevance to the Wilton Priority Growth Area and (in part) the Greater Macarthur Investigation Area located within the Wollondilly LGA and therefore has direct relevance to the design of greenfield development and protection of areas of biodiversity value. It is requested that investigations over appropriate aligning of these documents occur prior to the finalisation of the Design SEPP to avoid adverse implications to the achievement of the intended outcomes of the CPCP. Savings and transitional provisions – it is likely this may encourage development in Wilton Town centre (to which the SEPP Growth Centres applies) to be lodged to avoid the application of the SEPP.
Part 2 – Design Principles and design considerations: <ul style="list-style-type: none"> ❖ Development consent must not be granted unless the development is consistent with the design principles (which have design considerations) relating to: ❖ Overall design quality; ❖ Comfortable, inclusive and healthy places; ❖ Culture character and heritage; ❖ Public spaces and public life ❖ Vibrant and affordable neighbourhoods; ❖ Sustainable transport and availability; ❖ Green infrastructure; ❖ Resource efficiency and emissions reduction; ❖ Resilience and adapting to change; ❖ Optimal and diverse land uses; 	
Part 3 – Assessment of development: <ul style="list-style-type: none"> ❖ Div 1 – Urban Design Development ❖ Div 2 – BASIX standards for residential development ❖ Div 3 – Residential apartment development 	

- ❖ Div 4 Miscellaneous – car parking requirements for new buildings and green travel plans

Part 4 – Design Review:

Applies to:

- ❖ State significant development;
- ❖ Development with a Capital Investment Value of more than \$30M;
- ❖ \$5M-\$30M if carried out by Council or the Crown;
- ❖ Site 1 ha or more;
- ❖ Residential apartment development;
- ❖ Other development specified by an EPI;
- ❖ Does not apply to development for Council or the Crown (with CIV of \$5M-\$30M) if the development will not have a significant impact on the public domain.
- ❖ Design Verification Statement and Design Review Report required. Review by Design Review Panel required and consent authority taken the advice into account;
- ❖ Schedule 1 – Energy and water use standards for non-residential development
- ❖ Schedule 2 – Energy and water use embodied emissions and thermal performance standards for BASIX affected development

Specific comments:

- Aim (f) - wording is viewed as being vague and generic in nature. Suggest amending to "Ensure consistency with Ecological Sustainable Development principles".
- Aim (d) - The use of the word 'good' is not considered sufficiently technically based. Suggest amending to "Integrate best practice design processes into planning and development".
- Dictionary – 'green infrastructure' – DA only?
- Dictionary – 'office' and 'retail' premises – need to ensure the definitions used are consistent with those being utilised under the Employment lands reforms.
- Dictionary – 'urban design guide' - suggest a date is not included as this will likely change with re-issuing;
- Section 6 - uncertainty over the term and context of Master Plan. It is suggested that the term "Masterplan" be more reflective of the development application process.
- Part 1, Section 8 (2), Page 6; The Policy is noted to not apply to E2 and E3 land but apply to E4 Zone. It is the preferred view that the SEPP allow for the retention of identified areas of biodiversity value (which would be E2 or E3 zoning). It is considered the Policy not applying to E2 and E3 land would prevent the adequate protection of the high biodiversity values of land with this zoning as part of the place planning based on its applicable design considerations as well as the (requested) alignment of the Policy with the biodiversity statutory and strategic framework. Request clarification over the application of the Policy to UDZ and reasons for not applying to land zone E4. It is recommended that the Design SEPP allow for retention of land zoned E2 and high biodiversity values of land Zoned E3 on a development site as part of the place planning processes given this land has been identified as being significant through the biodiversity strategic framework. Attachment 1 in this regard provides comments and recommendations to enhance the alignment of the SEPP and UDG with the biodiversity statutory and strategic framework at the state, regional and local level.
- Part 1, Section 8 (2) d(iii)Page 6; The need for a minimum area threshold for which the Policy applies to is recognised as being appropriate and necessary on a range of grounds including demands on Council resources. However there are concerns that the stated proposed 1 ha threshold would preclude design outcomes based on the Policy that are viewed as achievable through mechanisms such as landscaping. There are also concerns that the proposed approach does not address cumulative biodiversity, liveability, urban heat and other issues associated with smaller developments sites within a broader landscape context Recommend that Council's submission acknowledge the need for a minimum area threshold for application of the Policy. However the submission is requested to raise concerns (listed in column d) and recommend there be separate principles (Policy and Design Guide) based on broad threshold categories (For example certain principles apply to small greenfield subdivisions 4 lots or less)
- There are inconsistencies between this draft Policy and the Koala SEPP 2021 which applies to land zoned Rural and Environment Protection in the Wollondilly LGA. If the Design SEPP prevails in this inconsistency would its principles and aims prevail over those of the Koala SEPP with likely adverse implications to the protection and management of koala habitat in the Wollondilly LGA? Request the draft SEPP clearly specify its relationship to key relevant SEPP's. Specifically clarification is sought that the Design SEPP will not prevail over the Koala SEPP where there is koala habitat/corridors present on a precinct/development site. It is suggested that the DPE consult directly with the Biodiversity Conservation Division to identify the most effective means of minimising the potential for the current biodiversity framework to contradict the principles of the Design and Place SEPP.
- As mentioned in the general comments, there appears to be a detachment of the alignment of the UDG and applicable aims and principles of the Design SEPP with the planning framework and related strategies at the state, region and local level. It is considered important the UDG contain a description of the intended alignment of the SEPP with the planning framework at the state, regional and local level. It is also recommended that the UDG be amended to include appropriate guidance regarding this matter for applicants.
- Part 2, Section 12 (1) - Design Principles, Page 8; The design principle (d) to "deliver sustainable and greener places to ensure the well-being of people and the environment" is viewed as not adequately recognising positive biodiversity, liveability, stormwater and urban heat outcomes that can be achieved on larger greenfield development sites such as through measures including the blue/green grid, provision/retention of habitat corridors and water sensitive urban design. It is recommended that the wording of the Requirement be adjusted to "To deliver greener places consistent with the underlying 4 key principles ecological sustainable development principles that ensures the wellbeing of people as well as providing positive liveability, urban heat, canopy, biodiversity and stormwater outcomes as applicable".
- Section 12 - It is recommended that an appropriately worded note be inserted into Section 12(1) that requires applicants to consult with the applicable consent authority at the commencement of the design process to identify specific local strategies and requirements to comply with.
- Section 13: Consideration of design principles and design considerations by consent authority - It is recommended that the words "applicable strategies and mapping at the national, state, regional and local level" be inserted at the end of Item 13(1).
- Section 13 - Consideration of Design principles Page 8 A design consideration states the "consent authority must consider whether (amongst other matters) the development retains or improves waterways, bushland, tree canopy, green ground cover, parks and open spaces". This retention is a complex process and is the subject of a range of legislation, government and council initiatives and strategies that are viewed as not being addressed by the UDG or Design SEPP.
- Section 14 (a) and Section 14(b) Page 9 These design considerations are viewed as having relevance to the issue of retaining a level of canopy and areas of high biodiversity on a development site through measures such as the Green Grid. Item b is also considered to have an indirect relevance to the context of a development in terms of habitat corridors (a matter not referenced in either the SEPP or UDG). Support in principle, the application of Tree canopy targets (note detailed comments are provided on the actual targets contained in the UDG). However, their achievement is constrained by physical factors on a site largely relate to lot size, proportion of the building envelope occupying the lot and sufficient space for stress considering constraints for footpaths and utility installation. It is recommended that the SEPP in partnership with the UDG contain sufficient guidelines and

controls that will enable these targets to be achieved and facilitate associated positive outcomes in regard to liveability and urban heat.

- Section 15 Comfortable, inclusive and healthy places Page 9 The required items for consideration are agreed with. There is however an absence of reference to consideration over the urban heat implications of a development. It is requested that the SEPP also require the consent authority to consider where the urban heat implications have been adequately assessed based on current guidelines and scientific research.
- Section 16 Culture, character and heritage Page 9 The inclusion of a requirement to consider cultural landscape is appropriate. Such landscapes have often been observed to have a close correlation with natural landscapes. It is suggested that the words "including applicable landscapes" be inserted at the end of Item (b) (ii).
- Section 20 Green Infrastructure 20(a) Recommended amendments to enhance the consideration of ecological factors by the current definition of "Green Infrastructure" have been previously provided. The first part of the requirement "retains or improves existing green infrastructure" is supported, with the requested amendment to the definition of green infrastructure provided by these comments. The second part "contributes to the restoration and regeneration of natural systems" is however not considered sufficiently prescriptive for inclusion in the SEPP. It is recommended that this be adjusted to replace "restoration and regeneration" with "ecological functionality". This term has been selected as it has consistency with terminology in the Biodiversity Conservation Act and related documentation.
- Section 23 Optimal and Diverse landuses Page 11 Item b referring to lot widths and sizes to support diverse residential accommodation types is viewed as having wider implications to the Design Considerations of the SEPP. The inclusion of the words "as well as enhance canopy and green grid in accordance with the applicable DCP" is recommended to be included at the end of Item 2(b).
- Part 3, Section 24 Page 12 The alternate approach detailed in above including the consideration over whether a development achieves a neutral or more beneficial outcome is not opposed in principle. It is recommended the SEPP contain a definition of Neutral or Beneficial outcome for guidance and clarification to consent authorities and applicants.
- Part 4, Section 34 (1) Page 16 There is uncertainty over the purpose and application of the wording "significant impact on the public domain". Significant impact to biodiversity has definitions within the Biodiversity Conservation Act. The inclusion of a definition of 'Public Domain' within the SEPP is recommended for guidance and clarification to consent authorities and applicants. Also need clarification on the 'significant impact' – too subjective.

Draft Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021 (15 pages)

Proposed changes include:

- ❖ Amends the definitions for Apartment Design Guide, design quality principles, design review panel and residential apartment development.
- ❖ Introduces State Design Review Panel if a DRP has not been constituted for the LGA.
- ❖ Architect, Landscape Architect, and Urban Designer qualifications
- ❖ Documents and information to lodge with DAs (Division 1A)
- Support the principles and intent of the DPSEPP framework;
- Refer to General comments on the Design Review Panel;
- Qualifications – Councils need ready access to registered or qualified practitioners.
- Question the required qualifications of an 'urban designer' to include a town planner – different qualifications and a different skill-set despite experience in precinct or master planning;
- Request that Councils be given the time to amend their LEPs and DCPs in line with the legislation if considered appropriate, ie: consideration of design principles and design considerations.
- Information to be lodged with DAs – Councils will need to time to potentially amend their procedures and standard forms, etc. to include required lodgement information – support the 6 months transition period as a minimum.
- Definition/s or further clarification is needed on the 'public' and 'common' space which needs to have a Design Verification statement prepared by a qualified landscape architect – does this include 'public open space' or 'communal open space' or could it also include all land owned by a government authority for use by the public? A specific and clear definition (not just 'public realm') is needed if this terminology is used.
- Design Review Panels – There is potential for the need for the Panel to advise on biodiversity related aspects of applicable developments which will need to be incorporated into their design in accordance with these items of the Regulation. It is expected that a landscape architect or urban design person would not have sufficient knowledge/expertise in relation to these matters. Request that consideration be given to inclusion of a person with ecological experience on the Panel for the purposes of providing advice from an ecological perspective. This could be required only when a site would warrant the expertise. The Regulation would need to provide details over the capacity and role of such a person as well as mechanisms for obtaining their involvement in consideration of developments involving sites with biodiversity value.

Draft Environmental Planning and Assessment (Design Principles and Considerations) Ministerial Direction 2022 (2 pages)

Relates to Planning Proposals only:

Proposed Ministerial direction under section 9.1 of the EP&A Act.

Proposed changes include:

- ❖ To ensure design principles, design considerations and the Urban Design Guide are considered early in the planning process;
- ❖ Has consulted (or attempted to consult) with Aboriginal stakeholders of the land;
- Support the general principles and aims of the Direction.
- Assessment of affected Planning Proposals will require technical expertise in urban design particularly, which may not be currently available to many Councils. Refer to General comments in relation to the need for technical support, guidance and training for staff, and for potential financial sources to assist in reviewing documentation which will now be required at lodgement in order to enforce the Direction.
- Refer to separate General comments on Design Review Panel.
- Requires that planning proposals are to give effect to any relevant residential density, connectivity and open space design criteria and guidance of the Draft UDG which reduces Council's ability to influence local character.
- Question whether Councils will be given the time to prepare strategies or studies to support the DP framework which will enable certain proposals to be consistent with the Direction;

- ❖ Referred to Design Review Panel;
- ❖ Applies to a PP that will affect land greater than 1ha within an existing or proposed residential, commercial, mixed use or industrial zone OR any other zone in which residential development is permitted or proposed to be permitted;
- Note that applicants will be required to consult with Aboriginal stakeholders at pre-lodgement – can DPE advise on a way of communicating this to local aboriginal groups? Council does not currently have an Aboriginal Liaison Officer.
- Definition of ‘residential development’ is needed. Should this be ‘residential apartment development’? Does this just encompass those uses which fall under the group term of ‘residential accommodation’? Or is it all residential styles of development?
- For Wollondilly, this would apply to all zones except SP2, RE1, RE2, C1, C2; Question whether ‘rural workers dwellings’ permitted in SP1 would fall under this description;
- Will this encourage an applicant to submit planning proposals under 1 hectare in order to avoid triggering the provisions? The SEPP package needs to provide assistance in assessing appropriate design for sites less than 1ha, or allow time for Councils to update their DCPs and neighbourhood plans to incorporate the good urban design criteria in the package.

Draft Apartment Design Guide (Revised) 2021 (148 pages)

Proposed changes include:

- ❖ Detailed design and technical documentation or evidence is required to be submitted by an applicant to support alternative designs and demonstrate that the proposal delivers the best planning outcome for that site, to demonstrate consistency with each of the ADG objectives, to the satisfaction of the consent authority.
- ❖
- Assessment of applications will require technical expertise which may not be currently available to many Councils. ADG It is noted that detailed design and technical documentation or evidence is required to be submitted by an applicant to support alternative designs and demonstrate that the proposal delivers the best planning outcome for that site, to demonstrate consistency with each of the ADG objectives, to the satisfaction of the consent authority. This will require technical expertise within Council which is not currently available. Strongly request that additional support, guidance and staff training towards implementing the DP SEPP package, as well as providing advice on potential funding sources in order to implement the changes, needs to be given.
- The existing ADG has not yet been used within Wollondilly LGA to assess any development proposals, due to the low scale (less than 3 storey) nature of development and the application of the Metropolitan Rural Area. The exceptions will likely be within the Wilton Growth Area (Wilton Town Centre) currently under development and the Greater Macarthur Growth Area (Appin), when the proposed SEPP and ADG will likely be triggered for Wollondilly.
- In investigating the merits of implementing the Policy for Council and the Community, our experience has shown that the necessary support for Councils to implement the policy is, unfortunately, not available.
- It is requested that the proposed policy framework be supported with further guidance for Councils on how to implement the changes which will now affect a greater number of local government areas.
- Given Wollondilly Council has not yet assessed any applications under the current ADG, it is considered that detailed assessment of the provisions in the Revised Guide are not required. However, the below table provides a principles based review of the ADG noting this type of development is currently uncommon in Wollondilly.

Part One – Designing for the site	
1.1 Site and context analysis	Support objectives and design guidance. Response to Country guidance could benefit with more detail
1.2 Built form and siting	Support objectives and design guidance
1.3 Site access and address	Support objectives and design guidance.
1.4 Relationship to the street	Support objectives and design guidance. Support the residential ground floor guidance as alternatives to ground floor commercial. Consider Melbourne Urban Design Guide guidance re integrating utilities/services at ground floor
1.5 Green infrastructure	Support objectives and design guidance. Re Tree Canopy p30 Table 1.5.2 discusses Tree sizes at maturity. Is there a standard/reference for tree species that integrates with this?
1.6 Parking	Support objectives and design guidance
Part Two - Building Design	
2.1 Common circulation	Support objectives and design guidance. Support a maximum of 8 apartments per circulation core
2.2 Communal spaces	Support objectives and design guidance
2.3 Apartment mix and diversity	Support objectives and design guidance. Support the introduction of Livable Housing Design Guidelines Silver Level requirements.
2.4 Apartment configuration	Support objectives and design guidance
2.5 Private open space and balconies	Support objectives and design guidance
2.6 Sunlight daylight shade and thermal comfort	Support objectives and design guidance. Could the shading guidance be simplified?
2.7 Natural ventilation	Support recognition of the need for fresh air supply. Suggest energy efficient Passive House (distinct from solar passive design) Mechanical Ventilation with Heat Recovery (MVHR) systems may be more appropriate in many locations. MVHR offer consistent air flow independent of weather conditions supplying fresh air when windows are closed due to extreme heat, cold, rain humidity, air or noise pollution or other reasons. These systems also provide extremely high energy efficiency for thermal comfort. Note that cross-ventilation should still be optimised with operable windows.
2.8 Acoustic privacy noise and pollution	Support objectives and design guidance. See notes under 2.7 above re MVHR systems being more appropriate than relying on natural ventilation.

2.9 Visual amenity	Support objectives and design guidance
2.10 Storage	Support objectives and design guidance
2.11 Building articulation	Support objectives and design guidance
Part Three - Environmental considerations	
3.1 Energy efficiency	Support objectives and design guidance. More ambitious targets would be preferred. Remove the phrase 'where possible'. Suggest stronger guidance towards all-electric buildings and the elimination of all fossil-fuel options such as gas.
3.2 Water	Support objectives and design guidance
3.3 Waste	Support objectives and design guidance.
3.4 Materials and maintenance	Support objectives and design guidance
Appendices	
Appendix 1 – Application Requirements	Support the inclusion of a draft Design Verification Statement Template Would like to see good and bad examples of a DVS to clarify expectations
Appendix 2 – Site and Context Analysis	Support the inclusion of detailing of process and checklist for the site and context analysis and requirement of responses including the testing of alternatives
Appendix 3 – Sunlight Access Analysis Tool	Support inclusion of this information
Appendix 4 – Alternative Design Responses 4.1 Natural ventilation 4.2 Natural cross-ventilation	Support recognition of the need for fresh air supply. Suggest energy efficient Passive House (distinct from solar passive design) Mechanical Ventilation with Heat Recovery (MVHR) systems may be more appropriate in many locations. MVHR offer consistent air flow independent of weather conditions supplying fresh air when windows are closed due to extreme heat, cold, rain humidity, air or noise pollution or other reasons. These systems also provide extremely high energy efficiency for thermal comfort. Note that cross-ventilation should still be optimised with operable windows. Clarify if MVHR systems would comply with the Minimum performance requirements. Does Natural Ventilation include air supply via these systems?
Appendix 5 – Furniture Schedule	Support inclusion of this information
Appendix 6 – Indicative apartment layouts	Support inclusion of this information
Appendix 7 – Maintenance Schedule	Support inclusion of this information
Appendix 8 - Typologies	Support inclusion of this information

Draft Urban Design Guide 2021 (Proposed New) (120 pages)

Applies to all sites 1ha or greater

Will directly influence:

- ✓ Precinct Planning
- ✓ Planning Proposals
- ✓ State significant development
- ✓ Master planned developments
- ✓ Subdivision development applications
- ✓ Concept development applications

Can inform:

- ✓ Place strategies (city, town or neighbourhood scale)
- ✓ LEP reviews
- ✓ DCPs
- ✓ Urban design studies and guidelines

Proposes to include key design criteria including the following:

- ❖ Minimum gross residential densities of between 15 and 30 dwellings per hectare depending on the proximity to shops or a centre;
- ❖ Within 15-20minute walk of a collection of local shops, primary schools, public transport, supermarkets or grocery stores.
- ❖ Sunlight and shade provisions for Public Open Space, and significant places of heritage and cultural significance.

- Support the overall intent of the document to address urban design and improve quality of development and planning at the early stages of the planning process. The UDG provides a good foundation in supporting forward planning for healthier communities and environments.
- At a high level, the principles and objectives of the UDG are supported and align with the planning principles in Wilton 2040 which inform precinct and neighbourhood planning of the Wilton Growth Area. The overall intent of the UDG is supported, and it has the potential to be useful tool in the assessment process. However, there are a number of matters that require further consideration, particularly for the Growth Areas.
- Support the intention of the policy framework to improve alignment and line of sight between a planning proposal or LEP amendment, and the development application process.
- The Guide is consistent with the principles of Council's Local Strategic Planning Statement (LSPS) and Council endorsed Centres Strategy, particularly the principles of walkable well-connected communities and place-based design;
- The overall document is a very prescriptive 'guideline', which is therefore subjective and could be open to different interpretations.
- Need to ensure consistency in terminology with the new Employment zones reforms with respect to zone references (Environment now Conservation, new Employment/Business zones) and also references to neighbourhood centres, local centres etc. and their hierarchy.
- There are significant process, timing and resource implications for an applicant to consult with a Design Review Panel prior to lodgement of a development application and also prior to lodgement of a planning proposal. The process for this is not clear. The timings proposed under the currently exhibited Draft 'A new guide to rezoning' needs to be considered in the context of the changes proposed to the PP processes.
- Greater clarity is needed around what is "guidance" and what is a mandated "design criteria". Further, the application of the various Guidance/design criteria needs to be differentiation for the various planning phases e.g. planning proposal v. development application. Some specifics are too fine grain for a planning proposal e.g. details of public domain embellishments.
- Some of the matters may require input from State Agencies e.g. public transport routes, bushfire risk/response. Has the role of state agencies been considered in the assessment of proposals against the UDG?
- Has IPART been consulted in regard to the open space provisions? Has the 15% of net developable area as freely accessible public open space been tested and supported by IPART? Is this setting an unrealistic expectation for the community that Council's cannot levy or fund? Further comment may be needed from the Contributions Team.

- ❖ 15% of net developable area must be freely accessible public open space, with variety of size, within walking distance of all residents and workers.
 - ❖ Maximum block and mid-block length and connection requirements in residential, mixed use areas, and industrial, within walking catchments of key destinations and centres
 - ❖ Part One – A place-based approach
 - ❖ Part Two – Public space
 - ❖ Part Three – Implementing good urban design practice
- Implications for Council owned public land - where a DA is lodged that involves public or common spaces greater than 1,000 square metres (e.g. an open space or park), or a master plan, it must be accompanied by a design verification statement that is prepared by a landscape architect (within the requirements of the SEPP).
 - Urban Design Guide thresholds - It is noted that the precinct thresholds have been streamlined since the original exhibition (EIE) material. Support the 1 hectare minimum application for planning proposals and appreciate the UDG can still be utilised by Council's in their DCP reviews and updates where they deem appropriate in the local context. However, it does not appear to be clear how this figure was derived, and the Department needs to ensure the potential implications of this are considered carefully.
 - It is unclear whether a DCP has to be in place which complies with the UDG or one will need to be prepared if it does not comply. Councils will need time to review their existing broader DCPs, or site specific provisions in line with the UDG prior to the legislation coming into effect. DPE needs to ensure these provisions are consistent with the new LEP Making Guideline. The Department's intent needs to be clearly reflected in the legislated documents.
 - Note that some of the objectives do not include specific Design Criteria. Is this where Alternative Design Solutions are required? This should be made clearer in each section.
 - The provisions relating to development assessment against those relating to planning proposals needs to be more clearly defined or separated in the UDG.
 - The inclusion of a Design Process in the UDG is welcomed and its details are broadly supported. The process is noted to refer to consultation with stakeholders and also list as an outcome "The case for change is clearly defined and is guided by State and local strategic plans". There is however a noted absence of reference to consultation with local government. This is considered important given the process has relevance to a wide variety of Council responsibilities including determination, asset management and community advocacy. It is recommended that the Process within the UDG be amended to list consultation with local government as a process during both the Design Preparation and Design Development Stage for the purposes of obtaining specific requirements and relevant studies, local information as well as an overview of potential community views and preferred community consultation process.

Comments on specific requirements:

- The highly prescription nature of some of the guidance/criteria is contrary to the "place based approach" to planning. What flexibility will Council have as the Planning or Consent Authority?
- For example: the density criteria of 30 dwellings per hectare may not be appropriate for all activity centres within 5 minutes' walk of neighbourhood shops, neighbourhood centres or local centres. Density around centres should be determined by broader strategic planning strategies and plans that are more nuanced and understanding of the local context and place vision. This is particularly relevant to rural village locations and in the Metropolitan Rural Area. Current requirements in urban release areas in Wollondilly have historically been between 12 and 15 dwellings per hectare.
- Some of the Typical Road Sections (p31-36) contained in the Wilton Development Control Plan 2021 show verge dimensions in excess of those in the UDG (p54-55). Although consistent with Design Guidance 10.5 Ensure a diversity of street types enable tree planting, it is important the UDG does not inadvertently undermine recent strategic planning work which may set standards above and beyond.
- Question whether Council's current design controls/primary development controls (ie: there are currently no FSR or site coverage provisions in Wollondilly LEP 2011 due to the low scale nature of development in the LGA excluding the Growth Areas) are capable of achieving a minimum density and enable walkable vibrant areas to be created. Not every site will achieve this density, with housing diversity also needed. Should Council be considering introducing these development controls to enable more consistent application of the DP SEPP and associated Guides?
- Worked examples of the Design and Places SEPP and UDG applied to Greenfield developments would be valuable.
- Site specific DCP required for certain developments – what happens if a DA is lodged prior to the finalisation of a site specific DCP, or if Council refuses to endorse a DCP?
- *Design Guidance 1.5 Provide an integrated and connected blue and green infrastructure framework* – agree in principle, although it is preferred reference is made to the blue and green grid, as opposed to 'infrastructure' to enable the framework to have natural and/or unnatural components. In addition, Council has adopted an Integrated Water Management Strategy (available on Council's website) that has a broad goal of no adverse impact to the condition of waterways from development. It is considered appropriate and warranted that actions as part of the implementation of the UDG also be based on/consistent with relevant council documents such as this as well as broader documents. It is also recommended that the word 'infrastructure' in the guidance notes be replaced with 'grid'.
- Consider including a note which states that the blue grid should be overlaid with the green grid as much as possible. Stormwater should be used to support landscaped areas as much as possible to enable resilient greener neighbourhoods and local waterway protection.
- *Design Guidance 4.3 'Protect natural ecology as a system'* - More can be added here to benefit this section, such as adding 'Ensure landscaping and built form is sensitive to the local ecology for example through the diverse use of locally endemic species in landscaping.' And also adding 'Incorporate community education such as signage or artworks to inform/create awareness of the natural ecology, their threats and what they can do to help conserve the local ecology long term.'
- *Chapter - Natural System* - This Section of the Guideline is considered of relevance to the consideration of biodiversity related issues. A key identified issue that requires addressing is the considered strong level of inconsistency between the definition of Green Infrastructure by the UDG and the Design SEPP. Recommended amendments to this part of the Design SEPP detailed in Attachment 2 are the wording of the Objective be adjusted to 'Enhancement of microclimates, human health and biodiversity consistent with best practice and applicable strategic framework'. The current wording of Guidance Item 9.1 would be acceptable from an environmental perspective subject to the adoption by the UDG of Green Infrastructure within the SEPP with the requested amendments to this definition.

Comments on Tree Canopy provisions:

- Large development tree canopy targets table's (page 50) references standard zones. The Wilton Growth Area utilises a nonstandard Urban Development Zone. Table should be updated to ensure development in non-standard zones is captured.
- Street tree canopy targets are potentially unmanageable. When you add in street lights, driveways, drainage, services, signage and sight lines at the ends of streets, that does not leave much room for trees. A suggested more realistic target is minimum 1 tree per house block.
- Large development tree canopy target - Needs to be stated that those targets are for public and private land. Suggest it may be better to split this to say 40% on public land and 40% on private land to give a grand total of 40% over entire site. Otherwise developers tend to push all of the canopy cover onto public land.
- Would like to see a percentage of all land to be permeable land. This will help with stormwater run off.
- Suggest that road verges should be wider. For a 4m verge, once you take out the foot path it leaves 2.2m of space. Unless the footpath is hard up against the boundary and all services are under the path, then there is not enough planting room. Suggest a 2m wide minimum planting area is needed for the street tree.
- Would like to know how the canopy ratios are figured out. What is the formula used and is this consistent across all sites? Is the formula worked out on tree numbers, potential canopy coverage at maturity or actual canopy coverage? Applications often present with all the trees together, which do not give the same canopy coverage as those planted in open areas with no competition.

Sustainability in Residential Buildings (BASIX requirements) (14 pages) and BASIX Sandbox Tool**Proposed changes include:**

- ❖ Proposing some changes to BASIX standards and processes as part of the integration of the National Construction Code (NCC) with the Design and Place SEPP:
 - ❖ The higher BASIX thermal performance standards will be at least 7 stars, based on the star-rating scale defined by the Nationwide House Energy Rating Scheme (NatHERS), consistent with NCC. Note, currently, homes that comply with BASIX have been achieving 5.5 to 6 NatHERS stars on average.
 - ❖ All new homes and renovations over \$50,000 must meet the BASIX sustainability standards for energy and water use and thermal performance of the home, across NSW except for:
 - homes in the North Coast climate zones
 - small apartment buildings of up to 5 storeys in NSW.
 - ❖ New sustainability requirements for non-residential development.
- Support the overall increase in standards to improve energy, thermal and water performance/efficiency. The unmeasured benefits to improve efficiencies such as health and wellbeing should be communicated. The long term benefits (financial and otherwise) of more sustainably designed homes need to be communicated with the general public in an easy to digest and understandable way.
 - As part of this package, the NSW Government should investigate options to support and assist people in retrofitting existing homes.
 - How do the BASIX changes relate to the Cool Suburbs Tool? Support the use of other accredited modelling software, although unclear how this might work practically. The use of a single tool for all developments may be more appropriate.
 - Who should do the work and who should be accredited?
 - Note that comments on the BASIX changes are being taken as part of this submission with the Design and Place framework and are likely to take effect in a similar (or same) timeframe of late 2022. Seek confirmation and clarification on the timing.
 - Request additional guidance, material and training for planning assessment and industry professionals to help understand the implications and new reporting requirements.

Higher energy & Thermal Performance

- Strongly support increasing the standards for energy and thermal performance
- Suggest the benefits to health and wellbeing be included in the costing benefit analysis. This could justify a higher BASIX standards in areas such as Western Sydney where the impacts of extreme weather to health and wellbeing are greater
- DPIE should consider the removal of gas as an option for growth areas. This would remove the reliance on gas upfront and therefore remove the need to transition in the medium to long term.
- Question if thermal bridging and airtightness included in calculations? If so, air quality/humidity control should also be included
- Support the elimination of gas instantaneous as an option.
- Strongly support the inclusion of energy efficient electric appliances, and would encourage all-electric homes to be the new standard

Materials Index

- Strongly support the embodied carbon standard introduction.
- Question whether the low standard is enough to affect positive change. We need embodied carbon savings to be brought forward, the earlier the better.
- Recommend defined review periods and adjustments
- Recommend training / upskilling including mass homebuilder design teams

Alternative merit pathway

- Suggest that accredited energy assessors be included as recognised professionals. They are more skilled and experienced in this work than architects at present. Their commonly used software tools could be upgraded to provide energy, as well as thermal comfort assessments.
- Suggest integration of NatHERS Whole of Home tool / NCC 2022 requirements with Merit Assessment Pathway.
- Suggest clarification on auditing process

BASIX HIGHER STANDARDS (note, the below has been included in a separate submission)

- Support the changes outlined in the Proposed BASIX Higher Standard document.
- Strongly support an increase to BASIX standards in line with the NCC changes proposed, which would reduce household energy demands and costs, increase comfort and reduce carbon emissions.
- Support further increases to BASIX standards to improve health outcomes. As noted in BASIX overview document – higher standards, the cost-benefit analysis does not include benefits to health and wellbeing. Higher BASIX standards would be justified if these benefits were included, particularly for western Sydney which is already

- experiencing extended periods of heat stress. Adapt NSW forecasts significant increases to the number of days over 35 degrees in Western Sydney, and the detrimental effects of heat incidents are well-documented.
- Support the introduction of BASIX standards for existing buildings along with support to achieve the standards.
 - Support an increase in BASIX water standards. Water supply and waste disposal is a significant issue for western Sydney and higher BASIX water standards will help address this issue.

Draft Local Government Design Review Panel Manual (DRPM) (28 pages)

Proposed changes include:

Provides a guide to:

- ❖ Understanding design review panels
- ❖ Establishing a Local design review panel
- ❖ How a DRP operates
- ❖ Deliverables, application and governance
- ❖ Case studies and Templates for use by Panels

- Support the provision of a manual to detail the protocols and roles of DRP.
- Extremely helpful resource manual for Councils which do not currently have an operating Design Review Panel.
- At present, Wollondilly Shire Council has limited development that requires a DRP. The need for a DRP is likely increase over time, however, particularly with the growth in Wilton and Appin. Further discussions will be required between Council and DPIE on the most appropriate approach to the DRP is.
- Support the provision of the DRPM and request assistance from DPIE including training and resourcing to assist the development and implementation of DRPs, as well as and general information on the estimated cost of a Panel, before determining whether a joint or collaborative panel (or State DRP) should be utilised, would be extremely helpful.

Cost Benefit Analysis (Summary) (16 pages)

Overview and outcomes document of the economic evaluation to assess the impact of the Design and Place policy package

- ❖ This is a summary document. It aims to provide a brief and accessible overview of a range of other detailed analyses and reports relating to DP SEPP. These other analyses and reports will be updated as the DP SEPP develops. In particular, the components of this analysis relating to the Apartment Design Guide are based on the findings from detailed designs, feasibilities and costings prepared for five apartment sites.

- Concerned that the analysis focusses specifically on development feasibility, rather than broader governmental and societal costs and benefits. The analysis does not appear to capture some of the less tangible health impacts, and ‘wider economic benefits’ (e.g. avoided costs, cost to health system, cost to government, infrastructure failure, cost to community). To properly understand the impacts of the proposed SEPP, a more holistic approach is required. Any cost benefit analysis needs to take into account future climate modelling if it is to give an accurate representation of actual costs and benefits to the system.
- Does not consider the impact a principles-based approach will have on development approval times, resourcing, legal and other costs. Whilst principles-based regulatory approaches allow flexibility, they can also result in higher levels of ambiguity for both applicant and assessor. Further it should be acknowledged that moving to such a system will require significant upfront costs of skills building, and training of assessors.

NSW Department of Planning and Environment
designandplacessepp@planning.nsw.gov.au

Our Ref:
File:
Date:

Z22/44626
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To whom it may concern

WOLLONGONG CITY COUNCIL DRAFT DESIGN AND PLACE SEPP SUBMISSION

Wollongong City Council is pleased to provide this submission on the Draft Design and Place SEPP and associated documents.

Council staff from Land Use Planning and Development Assessment have been involved in consultation during the development of the Draft SEPP through the Regional Council Stakeholder Policy Working Groups. In addition, these staff have led multiple internal workshops with a diverse range of staff across the organisation in order to communicate the intent of the Draft SEPP and gather feedback relevant to the broad range of content covered by the suite of documents.

Council staff have briefed Councillors on the Draft SEPP and given a high-level overview of the direction of our submission. The attached final submission has not been endorsed by Councillors.

Councils were encouraged by the Department to provide extensive and thorough feedback through our submission. Council's submission includes comments, questions and recommendations and is intended to inform ongoing discussion and clarification as well as improvements to the useability and applicability of the Draft SEPP.

Council supports the intent and objectives of the Policy, though have concerns that their detailed application may not always be practical from a development assessment perspective

Council strongly encourages the Department to consider the alignment of the Draft SEPP with other pieces of reform that are currently being progressed.

This letter is authorised by

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Attach

Wollongong City Council Submission

Draft Design and Place SEPP

General Comments

Support

- Council is generally in support of the draft Design and Place State Environmental Planning Policy (DP SEPP), and the associated documents provided as part of this exhibition.
- Council particularly supports the aim of the DP SEPP to improve outcomes across the following areas:
 - sustainable, resilient communities through the incorporation of Net Zero, embodied emissions and revised energy and water use provisions into the planning framework.
 - the recognition and integration of Country and Aboriginal culture as an important part of the design process
 - requirements for appropriate design competency
 - a framework for considering and assessing large scale development in the Urban Design Guide
- The DP SEPP has the potential to reinforce Council's existing work relating to our:
 - Climate Resilience Strategies (mitigation and adaptation),
 - Assessment of Urban Design proposals
 - Design Review Panel structure and processes
 - Strategic Planning

Concerns

- While supportive of the documents, Council is concerned regarding the additional complexity the DP SEPP and associated guides will add in assessing applications, and the impact on our time, resources, and costs.
- *Resourcing:* Many councils will not be appropriately positioned to assess these new principles, and it should be acknowledged that additional training and/or staff are likely to be required. For example, in our case, we anticipate needing an additional full time Architect/Urban Designer within our Development Assessment division, and additional part-time support in our Land Use Planning team. We also anticipate needing to amplify our DRP with additional specialist Urban Design panel members.
- *Review and updates:* The introduction of the DP SEPP and guides, will require an overhaul of our existing planning documents to ensure consistency, particularly those areas which reference local controls which may not exist or be appropriate. This is not raised as a negative consequence of the DP SEPP, rather an honest acknowledgement of the flow on effects and their resourcing implications.
- *Flexibility:* Council is concerned that the DP SEPP's intention to allow for flexibility in design solutions and their assessment will weaken its influence on planning outcomes. The combination of broad principles and objectives, flexible assessment processes, and assessment planners not trained in design review has the potential to lead to the SEPP being ignored in design, assessment, and the courts. It may also create the potential for inconsistency in approvals, potentially damaging council's relationship with applicants and the greater community.

Clarification

- Council would like clarification regarding the guides and SEPP Principles.
- Are applications required to demonstrate both how they meet the 5 SEPP principles *and* the relevant ADG and/or UDG objectives? Our understanding from the webinar series is that by demonstrating consistency with the relevant guide's objectives, the application has demonstrated consistency with the SEPP principles. In the case that the objectives/criteria etc are not met, then the applicant would be required to demonstrate how they meet the SEPP design principles and design considerations. Is this the case? This is not clear from the suite of SEPP documents themselves.

- For applications that do not trigger the ADG or UDG (a large Office Building for example), it should be clarified how an applicant is required to respond to the DP SEPP principles. Is this to be included in the Statement of Environmental Effects? If so, this is usually written by a town planner, not necessarily someone with the qualified design expertise. A design verification statement or similar for these circumstances is needed.
- These processes should be clarified within a supporting guidance document (potentially a Design and Place SEPP How To guide or similar).
- Will the SEPP include a clause nominating a period after which a review and update will occur – similar to SEPP 65?

Training and Resourcing

- Council has concern that the additional time required to assess against the DP SEPP is in contrast to DPE's 'Faster Assessments Program' under the Planning Reform Action Plan, which requires faster approval times. In particular, this may result in Council having to put on more staff to meet reduced timelines with the potential to also have to refund applicants (under separate reforms) if the process becomes extended, putting further pressure on budgets.
- Additionally, staff are concerned that they may not have the expertise to fully assess parts of the SEPP and associated guides without appropriate training and resources. Council suggests that the Department provide training for aspects such as:
 - How to assess against DP SEPP Principles and the UDG objectives (with worked examples)
 - How the DP SEPP is applied/considered to Planning Proposals (worked examples)
 - The new BASIX Tool – particularly the merit assessment pathway
 - Cross Ventilation Tool in the ADG
 - Training in emissions target referrals
 - Urban Design for Strategic Planners
 - Connecting with Country training for assessment and strategic staff as well as Design Review panellists

Design and Place SEPP

Aims

- **3(1)(a)** we support consistent principles to guide design outcomes. Our concern is that – due to their attempt to be relevant to all places and all scales, they are too general. Whilst these principles are expanded on for particular typologies through the guides, there are many development types that do not receive specific attention and will struggle to demonstrate consistency with the high-level SEPP principles and considerations. This points to a need for further guidance for non-apartment or urban design development.
- **3(1)(d)** we support the highlighting of the importance of good design process and the inclusion of this into the planning framework.
- We would support the addition of an aim relating to the commitment to net zero emissions by 2050. Council suggests the inclusion of: "To provide a framework for development to achieve net zero emissions by 2050."
- **3 (1) (i)** Council supports the inclusion of connection with and response to country within the planning system.
- Council has concerns regarding the capacity of local Indigenous groups and the obligation this may put on them both in terms of time, money, and efforts. Additionally, these groups will need sufficient time to be able to properly engage with applicants and councils. A clear process (including suggested remuneration) should be put forward to facilitate the process and alleviate burdens on local Indigenous groups.
- Council is also concerned about the impact of assessing "Response to Country" within applications (as well as Planning Proposals and Development Control Plans), as currently there is limited expertise (with limited capacity) within our organisation.
- Will there be a pool of resources for Councils to draw from regarding specific Designing with Country attributes, or will there be shared DRP experts in the area of Country that Councils may utilise in the event of sensitive projects? We would like to ensure the integrity of the process and provide respect to those involved.

- A clear guide with examples of projects that had an appropriate Response to Country would be appreciated and a useful resource.
- **3(2)** we support the SEPP's aim to give effect to the stated objects of the act. The line of sight from these objects down through the planning framework is currently extremely weak and we believe this policy is fundamental to establishing a strong link.

Part 1 Preliminary

- Council would like clarification as to whether the DP SEPP could be applied to Part 5 assessments, and which types of activities under this should be captured. Many key urban structure decisions are made and then assessed under part 5 via an EIS or REF. If the DP SEPP is a matter for consideration in this type of assessment, this would provide the opportunity to bring the SEPP Principles into earlier planning stages.
- Will the SEPP be applied to the master planning of parks and other open spaces by Council? Currently there is no "application" or "activity" within this process and Council considers there could be benefit from utilising the UDG and/or SEPP principles within this process. Guidance regarding this would be welcomed.
- **5(1)** The application of the SEPP to different forms of residential apartment development is unclear. Council welcomes the inclusion of boarding houses (when Class 3) within the residential apartment development definition, if this is indeed the case, as we see particularly poor outcomes from this typology. Does the definition also capture Seniors housing? Is there a risk of duplication when considered alongside the Housing SEPP (for Seniors housing and boarding houses)?

The residential apartment development definition needs to be refined to make clear which of these accommodation types are included and excluded. If included, the ADG needs to be updated to cater specifically for these types.

- **6(1)** Council welcomes the addition of urban design development as a development type, and the related guidance. Many councils have no triggers in their LEP for site specific DCPs for large scale development and this new development type offers the opportunity to improve outcomes for the community.
- **6(1)(c)** Where councils already have EPI's triggering DCPs (or equivalent Concept DAs under EP&A Act 4.23) or masterplans for sites smaller than 1Ha (for instance in a city centre), we anticipate that much of the UDG's guidance will be irrelevant. How is this to be managed?
- **8 (2) (e)** Council has concerns that the exclusions provided will encourage developers to break developments into smaller parcels to avoid triggering the SEPP. This is also relevant to the application of the UDG to development on land over 1Ha.

Part 2 Design Principles and design considerations

- See comments against **3(1)(a)** above.
- Generally, the wording of the SEPP Principles will be difficult to uphold in court, and Council is concerned that applicants may use this to their advantage, taking any refusal or deemed refusal to court.
- **12(1)(a)** Council is concerned about the use of the term "beauty" as an extremely subjective word, which is likely to cause debate and contention in the assessment process.
- **12(1)(a)** A "sense of belonging" often comes from people within a location rather than buildings and is likely beyond the remit of the DP SEPP.
- **13(2) and 14** *Consistency* with the design principles is assessed by the consent authority *taking into account* the design considerations, of which the consent authority must variously – *consider whether overall, consider, be satisfied* the application has achieved. Is it intended that this language implies some design considerations and/or the listed sub-considerations under each, to be more important (in terms of assessment) than others?
- **14 (a)** Is it implicit that local planning controls will be considered in determining whether an application has responded appropriately to desired character? Consider whether an explicit reference is needed.
- **15(c)** Suggest rewording to include reference to the open space being of a suitable size for the context and provision of required activities.
- **16(c)** Why is State Significant Urban Design Development the only type that triggers a response to Country that considers submissions made to the applicant by Aboriginal

stakeholders? Council is also concerned that this wording does not imply a collaborative process with Aboriginal stakeholders.

- **17** Council notes that many public spaces are designed and assessed as activities under Part 5 of the EP&A act, given their ownership by government authorities. How will the SEPP apply to these activities?
- **18(a)** Suggest re-wording this clause from 'supports' to 'prioritises' or 'facilitates'. Council also notes that 'walkability' is not a defined term and has no measurable evaluation criteria other than the block length and mid-block connection minimum distances included in the UDG. Assessment guidance is sought here.
- **18(b)** The housing needs of the local population are defined through local housing strategies and/or the existing planning controls. Suggest making this more explicit otherwise any provision of housing could be argued to 'contribute to the housing needs of the local population'
- **18(d)** 'diverse mix of uses' Does this refer to land uses, public/private uses, different housing typologies? Clarity sought.
- **19(a)(i)** Many urban release areas and regional locations do not have good access to public transport. Council, let alone the developer, has little control over this. For this consideration to be relevant State-wide more collaboration and commitment from TfNSW etc.
- **20** Council understands the 12-month maintenance schedule has been applied for the green infrastructure (such as planting within developments) as this is the critical time for plants to establish. However, it is suggested that holding developers to a 5-year time frame would be more appropriate to ensure the ongoing tree canopy and provide opportunities for the replacement and reestablishment of planting due to failure within the first year. We currently require 5 years maintenance for Vegetation Management Plans for riparian corridors, for example.
- Additionally, there have been numerous cases recently where Council has seen poor building quality result in the failure of waterproofing of planting on structures. This requires the entire garden bed to be ripped up, disturbing established planting which may not be replaced. Council suggests that a standard condition for a 10-year warranty of waterproofing may be an appropriate means to address this issue.
- **22** Could this consideration also include non-natural hazards, such as air pollution, urban heat etc?

Part 3 Assessment of Development

- **24(2)(a)** if the criteria has been met to an 'extent' only should this trigger a supporting alternate solution?
- **24(3)(a)** Council is concerned that the DP SEPP's intention to allow for flexibility the assessment against the UDG will weaken its influence on planning outcomes. Council suggests the following rewording of the clause regarding the application of the UDG:

In determining whether development meets the objectives of the Urban Design Guide, the consent authority must-
 - apply the design criteria **flexibly by considering** the ~~and~~ design guidance set out in the Urban Design Guide ~~flexibly~~ and consider alternative solutions, and
 - consider the objectives of the Urban Design Guide ~~only~~ in relation to the ~~particular~~ subject development application **only**
- **30(3)(a)** See comment for 24(3)(a) above. Suggested text to apply as appropriate to the ADG.
- **33** Wollongong seeks clarification on the PTAL/s applying to the LGA.
- **33(3)** See notes on Green Travel Plans under EP&A Regs [9] 99A

Part 4 Design Review

- **34 (1)** there is a need for 'or' or 'and' between the descriptions.
- **34(1)(d)** This description is similar to the definition of Urban Design Development but not in its entirety. Does the Part apply to UDD as defined, or all developments on sites of at least a Ha (including on industrial land)?
- **35(1)** It is noted that there is no obligation on the applicant here to take into account the advice of the DRP.
- **35(2)** Council would like clarification regarding the requirement that a DRP is not required when a Design Competition has been run. Notably, what level of transparency is required for

this process, as there is concern a competition may be run with a preferred candidate already chosen to avoid the DRP process.

- **35(2)** Council requests clarification that the reference to *Design Excellence Guidelines published by the Department in October 2010* refers to the Director General's Design Excellence Guidelines 2011? If so, the reference should be amended.
- Council requests clarification on the status of the Draft Government Architects Design Excellence Competition Guidelines 2018. Are these likely to replace the Director General's Design Excellence Guidelines 2011 as planned?
- We note that the Competition Initiation and Requirements listed in the Director General's guidelines appear limited as compared with more contemporary documents.
- **35 (2)** Evidence that a Design Competition has been completed according to the Department's Design Excellence Guidelines (2010) should be easily identifiable and capable of verification for Council without significant additional time and resources during the assessment process (currently most staff at WCC are not familiar with the process or requirements of a design competition).
- Additionally, the DRP process is often more intensive and provides a review of detailed issues which may not be appreciated at the early stages. Council suggests that a *Pre-DA* DRP may not be required for those applications where a transparent and compliant competition is run, but if the design or information provided at the Development Application stage is insufficient, the Council may require a post submission DRP to address these issues.
- **36** The requirement for the consent authority only to 'consider' the design verification statement (DVS) or Design Review Report (DRR) weakens the potential effect of this document. The DVS is key to demonstrating how the application has satisfied the objectives of the relevant guide, or the principles and considerations of the SEPP, in the case of development that is not captured under the guides. Council suggests strengthening this clause as follows:
 - *Development consent must not be granted to development to which this Part applies unless the consent authority ~~has considered a~~ **is satisfied that the design verification statement or design review report that accompanied the development application under the Environmental Planning and Assessment Regulation 2000 demonstrates that the development achieves the relevant objectives of the ADG and UDG, as well as the Design Principles and Design Considerations of the Design and Place SEPP.***

Schedule 1 Energy and water use standards for non-residential development

- The inclusion of standards for energy and water use for non-residential development in Schedule 1 is supported. However, Council is concerned that the bar has been set quite low with 'minimum expectation' or basic 'credit achievement' levels set for water use and energy use. In line with the goal of achieving net zero emission by 2050, this should aim higher with a minimum of 5 green star or equivalent.
- **2 (2) – (4)** Council requests clarification of whether the standards prescribed apply to all scales of development – i.e., a small ground floor office vs a large office building of 10,000sqm NLA?

Schedule 2 Energy and water use, embodied emissions and thermal performance standards for BASIX affected development

- A tool will be required to assist developers in calculating embodied energy (Schedule 2 Part 4 s.5), and to assist councils in assessing. It is unclear why only CO2 has been mentioned, should this be revised to cover all greenhouse gases.

Ministerial Direction

Planning Proposals

- **Stages and roles in assessment:** Council requires further clarification regarding how Planning Proposals will be assessed against the Design and Place SEPP principles and considerations, the UDG and the other requirements of the Ministerial Direction. It is assumed

that as per the current practice proponents will be required to address consistency with the Ministerial Direction as a whole or provide justification for any inconsistencies with supporting information. Given the high-level nature of the SEPP principles and considerations, Council anticipates this will be both a challenge for proponents to undertake and for the assessing authority to assess. What differencing roles will Council, the Local Planning Panel, the DRP and DPE have in reviewing consistency with this ministerial direction? A detailed update to the Department's LEP making guide with clear process requirements is required.

- **Referral to the DRP:** Currently there is no requirement to refer draft Planning Proposal requests to the Design Review Panel, although Council officers have referred certain draft Planning Proposals to Council's Design Review Panel in the past where their input was relevant and of value. We note that referring *all* draft Planning Proposals to the DRP will need to be incorporated into Council's process and fee structure. We seek guidance on the intended timing of DRP review in the Planning Proposal Process. We also seek confirmation that the composition for the panels described in the EP&A Regulation is intended to be appropriate for the review of Planning Proposals. The Regulations note in 268C(4) that in appointing members the Minister must ensure that *as far as practicable, the panel consists of architects, landscape architects and urban designers*. Urban designers would be critical to the review of Planning Proposals but are unlikely to be in a majority on most panels.

Changes to EP&A Regulation (version 21 December 2021)

Part 1 Preliminary

- **[1] CI 3 Definitions**
 - **Architect** – Council doesn't support the move to utilise the definition of 'Design Practitioner-Architectural Class' as defined under the Design and Building Practitioners Regulation 2021 at Schedule 2, Part 2 CI 5. Registration under the DBP Act is only required for Architects signing off on Class 2 buildings and appears to exclude all other Architects from the definition, which contradicts with the Architects Act 2003.
 - If the proposed definition is pursued, will the definition of a 'qualified designer', which is defined as an architect in accordance with the Architect's Act 2003' be removed given all references to qualified designers have been removed from the Regs (and replaced with 'Architect'). It creates confusion to retain it here when the proposed Architect definition refers to the Design and Building Practitioners Act, not the Architect's Act.
 - **Design Review Panel** – clarification is sought on the meaning of the word 'constituted' in this clause. This implies an active role in the establishment of the DRP. What process is intended here – especially for Councils such as Wollongong who have an established DRP which functions in close alignment to what is set out in the Draft Local Government Design Review Panel Manual?
 - **Urban Designer** – The proposed definition of an urban designer is not supported in its current form. The definition excludes many practicing urban designers, has generated much debate, and revealed the lack of a consistent, industry-wide, accepted definition of an urban designer. Rather than resolve this matter prematurely it is proposed to remove the current definition to enable the relevant institutes (including PIA, AILA and AIA) as well as representatives from Universities, Industry and Government to work together with GA NSW to undertake further industry consultation, resolve a more appropriate definition and create the necessary context to support the urban design profession into the future.
 - It is also noted that the term Architect is used here – the definition of Architect in the Draft Regs would mean this needed to be someone registered under the Design and Building Practitioners Act 2020. This would be an irrelevant registration for an Urban Designer.
- **[3] CI 16(3)** Council supports the consideration of the design principles and considerations, and the Urban Design Guide when preparing relevant Development Control Plans. Council seeks clarification on the extent to which the principles of the SEPP and objectives of the UDG are expected to be achieved and/or prescribed in Development Control Plans – 'consider' does not appear to be a strong requirement. Is it intended that Councils would create their own policies which outline how the considerations will be incorporated and the DCP's evaluated in terms of the extent to which this has been achieved?

- Council would also like assurance that this clause applies to proponent led Development Controls Plans and/or Concept Development Applications. We note that WCC requires that consent must not be given to development in Urban Release Areas unless a development control plan has been prepared in alignment with the stated requirements. WCC's DCP Chapter for our Urban Release area (West Dapto) allows for this requirement to be satisfied through the provision of a Neighbourhood Plan and give particular requirements for this Plan. We assume that the Neighbourhood Plans should be considered under clause **[3] CI 16(3)** **but** reiterate that the requirements for them to demonstrate consistency with the SEPP and UDG are currently very unclear. This is a critical stage of planning, prior to a subdivision application (which would trigger consideration an 'urban design development') and needs clear requirements under the Regs to link with the SEPP and UDG.

Part 6 Division 1A Documents and information to accompany development applications

- Should these requirements be consolidated under **Schedule 1 Forms Part 1 (1) and/or (2)** where other information and documents to accompany DAs is listed?
- **[8] 57 (2) and 57A** Council supports the requirements for design verification statements to demonstrate consistency with the SEPP principles and relevant guide objectives, and demonstrate how the advice of the design review panel has been considered etc. The previous comments regarding the definitions of Architect and Urban Designer are relevant here, and Council would require them to be updated for these clauses to be supported in full.
- **[8] 57B** Council assumes that reference to DP SEPP CI 35 here should be to CI 34, which outlines which developments are applicable.
- **[8] 57C** It is unlikely that the design documentation will be sufficiently advanced at the development application stage to be able to accurately describe the total embodied emissions. What measures are in place to revisit these calculations as the design progresses post DA?
- **[8] 57D** Council wishes to clarify how this will be policed. Are councils expected to return to each development in 2035 and ensure that they are meeting their 2035 emissions targets?
- **[9] 99** Why have carparks (class 7a buildings) been excluded from these requirements? We note that they are excluded under Part 1 (2) (e) of the SEPP. Council suggests that these building types also have EV charging requirements, through a similar mechanism as how BASIX has been applied to development types that have also been excluded under the SEPP.
- **[9] 99A** The green travel plans previously supplied to Council have generally been of a poor quality. The provided requirements under the clause are very general, and likely to be insufficient to provide proper guidance for applicants. Council suggests a template of the information required may be a way to demonstrate requirements to applicants.
- For residential buildings utilising a Green Travel Plan, do these need to be registered with the stratum? And what happens if it becomes too onerous for residents to utilise the green travel plan or too difficult to enforce?
- Alternatively, Council suggests adopting a city-wide Green Travel Plan with clear guidelines, that if met mean that developments can utilise reduced rates. This provides an easier, more efficient means of assessing plans, and is less likely to result in poorly thought-out plans which are at the detriment of resident amenity or body corporate capacity.
- **[13] 143A (2)** Council do not support this clause. A certifier must do more than 'receive' a design verification statement. We also note that the design verification is relevant to the development approval. At construction certificate the certifier should be making an assessment of whether the construction documentation achieves equivalent design quality with that approved in the applications. Similarly, in regard to **[14] 154A**, the certifier should be ensuring that the development has been constructed to achieve the design outcomes approved in respect to the construction certificate.

[22] Part 16B Design Review Panels-the Act, s.4.64(1)

- **[22] 268B(1)** Flexibility is required to allow the Minister to endorse existing panels, or endorse those set up by Councils in line with the DP SEPP.
- **[22] 268B(2)** Does reference to the Minister here imply 'the Minister or their delegate'. The likelihood of the Minister themselves overseeing the constitution of DRPs across the state seems doubtful.

- **[22] 268B** This is not supported. Abolition 'for any reason' lacks transparency. Either a set of clear reasons should be included, or this clause should be deleted.
- **[22] 268C** the meaning of 'appointed by the Minister' needs clarification. It implies that councils have no role in the appointment of DRP members, and again appears to be in reference to the SDRP not existing local DRPs.
- **[22] 268D(4)&(5)** Making the DRP available for advice regarding council led planning changes (LEP/DCP/Masterplans) is positive and reflective of practice we already undertake at Wollongong Council. This will be particularly important for Councils with few staff with design skills.
- **[23], [24], [25], [26], [28]** are all supported as important improvements to the existing requirements.
- **[24] Part 1 Cl 2 (4)** Council seeks clarification as to whether the statement of environmental effects is intended to fulfil the function of outlining how the development (which does not fall under the ADG or UDG – i.e., a large office building) is consistent with the design principles and considerations of the SEPP? There does not appear to be another vehicle through which to do this – unless it is intended that these are addressed in the Statement of Environmental Effects? If so, what requirements will be added to ensure that these are completed by an appropriately qualified person?
- **[28]** Some definition and/or expansion on 'wider context' is suggested.

Urban Design Guide

Application

- Council requests greater clarification around when and how the UDG should be applied to planning proposals, strategic documents, developments control plans, and applications/activities which are not standard (such as infrastructure, parks, etc).
- Many requirements in the guide are out of the hands of Councils and/or developers. They exist with State Government agencies and utility providers. How will those important players be captured in order to collaborate towards achieving the objectives and requirements?
- Council remains concerned that land subdivisions are likely to be split up into multiple land parcels (and Development Applications) below 1 hectare as to avoid triggering UDG consideration. Clarification on how this should be handled, or controls to prevent this should be considered as part of the SEPP.
- The UDG could have greater acknowledgement of context and how different outcomes will be achieved dependent upon the location. It is suggested that like the ADG, alternative solutions could play a larger part within the UDG to demonstrate differing outcomes in urban, regional, and rural contexts.
- When assessing Concept Applications or Site Specific DCP's with detailed masterplans involving residential buildings, what adherence with and assessment against the ADG is required? This should be made explicit.

Starting with Country

- We note that there is a section in *1.2 Public Space as an urban design outcome* that relates to Starting with Country. This section does not appear to relate only to considerations of public space but would apply more broadly to urban design development. We recommend it is included under *1.1 Importance of place in urban design*.
- We also note the lack of design or assessment guidance relating to this area in the Objectives of the UDG. Given the emerging understanding of this consideration, Council requests that the UDG includes an objective and related guidance to provide a framework for designers and assessors.
- Council is concerned that applicants may not have information regarding their site's attributes prior to 1788. Revealing this information is a specialist task involving emerging research in disciplines such as paleoecology. Guidance on how/where applicants can find this information would be supported.

Parking Considerations

- While council supports the notion that reducing car parking for public spaces and parks should be prioritised, in some land release areas it is not possible for residents to access these spaces without driving, and reducing parking not only discourages park use but also has a detrimental impact on those living nearby, losing their on-street parking provisions.
- Additionally, providing accessible parking spaces for public spaces and destinations should be prioritised.

Existing Landform

- Council is concerned that often land subdivisions are accompanied by extensive land clearing, which wipes out the existing landform in favour of flatter and more “manageable” parcels of land. This disregards the natural environment and habitats, and Council is supportive of any measures to reduce this practice. However, there is concern the wording in the UDG is not strong enough to direct developers away from this practice.
- This land clearing is supported by the Codes SEPP and BASIX which preference slab on ground construction.
- Additionally, land clearing for subdivisions results in the top layer of soil often being removed from site. This is the most nutrient rich and often necessary for the establishment of healthy landscaping, particularly tree planting. The retention of this soil should be prioritised in the UDG, and DP SEPP generally to ensure the ongoing survival of tree canopies. Specification for the type of fill to be used to support tree growth or a requirement for a certain percentage of topsoil to be retained would be supported.

Housing Density

- The proposed densities appear to be more appropriate to Sydney land subdivisions, and do not recognise that regional areas are likely to have much lower densities in new subdivisions. For example, our Western Dapto divisions are currently meeting about 12houses/hectare rather than the suggested 15-30. Council suggests having density which are context appropriate (i.e., Sydney, large regional centres, and regional areas).
- Additionally, how density and walkability is measured requires more guidance – is walking as the crow flies or along pathways, and what happens if no safe footpaths are existing?
- Council requests some worked examples which show how suggested densities may be achieved alongside other requirements such as parks, schools, roads, tree canopies, etc. It would be appreciated if this also detailed the types of housing required to meet these densities and their appropriateness to regional areas as well as cities.
- Council supports the push towards housing diversity and differing lot shapes/sizes within blocks, however larger lots don't seem to meet a specific type of house and are often subdivided for dual occupancies. Typically, those smaller lots are the ones where Council sees the most certainty in housing outcomes.
- Guides should be provided on *how* density is achieved to prevent outcomes such as those in North America whereby higher density, affordable housing is used to buffer larger lot residences from transport corridors.

Proximity to services

- Council supports development in relation to proximity of services, including schools, however we note that the Department of Education has its own mandate to streamline and reduce schools, which is likely to make the suggested locations difficult to achieve in parallel with the development.
- Additionally, Council supports the push towards Town Centres as part of housing developments but have found there is a resistance from Developers to provide these in their projects as it is easier and more profitable to just provide housing. What mechanisms does the UDG provide for Council to require these town centres be completed appropriately (and not provided as tokenistic development with poor amenity)?
- Council is concerned that many housing developments in greenfield areas are putting residential sales before services (including town centres and infrastructure such as access to public transport). The UDG does not provide specific guidance that we should be refusing housing without infrastructure, rather it is an end goal for all these things in place. Council would like to acknowledge the importance of staging and timelines within these

developments, and if possible, guidance about how and when infrastructure and services should be provided alongside a new residential development of an urban scale.

- Multiple terms are used throughout the UDG without appropriate clarification – for example what is a local shop? What is high-frequency public transport? Those terms which might be quantifiable should be defined as such.

Block Lengths

- Council is often seeing block lengths well in excess of those suggested for residential and industrial lands in the UDG. Does the UDG provide avenues to reduce/increase block length based on amenity? The use of cul-de-sacs and easements should also be explored to ensure these are appropriately designed in conjunction with block lengths as listed.
- Additionally, the definition of through site links, including examples of typologies, should be provided to ensure that through site links are not just small, unsafe pathways between fences with little passive surveillance opportunities.

Tree Canopy + Residential Subdivision

- Council supports high tree canopy coverage but is concerned some targets are too high and may be ignored. Currently our targets sit around 35-38% canopy coverage for a suburb.
- Most of our streets do not have services within the road, and the control for tree canopies where there are underground services are unlikely to be achieved with services within the reserve. It should be clearly stated that underground services within the road are different to those within the reserve. Instead,
- . council suggests some of the best locations may be along main roads and boulevards for tree canopy, where the layout, servicing, etc is likely to change the least and trees can become established.
- Council support State Government requiring all new underground utilities being located within the road, but currently has no ability to enforce this.
- Council requests typical cross sections for pathways and road reserves which meet footpath/servicing/tree canopy requirements.
- Additionally, there is concern that utility providers are likely to tear up trees which are near services in any works, with little regard for tree canopy, however the UDG seems to promote the colocation of services and planting (particularly as tree location is also services providers preferred location). What is the best action to deal with this?
- Council would also like it to be recognised that there will be additional ongoing maintenance costs associated with additional tree canopies and the colocation of trees and pathways. Any recommendations on reducing maintenance costs (for example by reducing potential for roots to disrupt pathways) would be appreciated.
- Council supports the prioritisation of existing trees in any canopy targets.
- Often built form outcomes which come from density targets preclude tree canopy requirements – for example a 450sqm lots and dual occupancies often require double garages and a wide driveway, which either leaves little room for street trees or requires the removal of street trees. There should be stronger enforcement of the retention of these trees both on private and public land.
- Additionally, all dual occupancies should prioritise shared driveways to increase permeable surfaces and retain trees.
- Council recommends that certain types of trees be considered inappropriate for providing “tree canopy” as many times we are seeing poorly thought-out choices which are cheap and easy to procure (such as water gums) that provide little to no shade from their canopy. A recommended tree list would be very useful for applicants and council.

Open Space

- The suggested amount of public space is much higher than what is currently required by Council. It should be clearly noted whether the UDG or Council's control take precedence.
- Given there will be a significant amount of additional assets that will need to come to Council with the additional open space and WSUD elements, what provision has been made for how Councils will fund the management of these open spaces?
- Additionally, the definition of parks and public open space is not in line with our own controls which delineate between passive and active uses. These are:

Local Passive	0.5-2ha	400-600m
Local Active	1-2ha	400-600m
Neighbourhood Passive	2-4ha	2km
Neighbourhood Active	3-5ha	2km
District Active	5-8ha	Southern Ward
City Wide Active	8+ha	Whole of LGA

- Council tends to see the smaller (0.5ha) parks being built, often dominated by fig trees which are required to be retained. This provides green space but does not have any potential for active uses. There doesn't seem to be the appetite for developers to provide the larger parks, to the detriment of residents.
- Council suggests that a hierarchy be established whereby smaller parks cannot be built until the larger parks are completed first, in order to ensure there are many types of open space.
- Often a lot of the space left over for parks from developers is highly unusable space – steep areas, water course, basins, etc. There should be a requirement that certain portion be “useable” at grade, open/active space, whilst maintaining shade, tree canopy, riparian corridors, etc.
- In order for the open space requirements and the minimum density values to both be achieved, either a step change in the way housing is marketed and produced by developers in urban release areas, or introduction of minimum density requirements through the LEP is needed. As our land use zones cover a broad range of typologies, we rely on height and FSR controls to dictate typology, rather than zoning. This can result in a developer/market led approach where typology is dictated by the most marketable product, such as a detached house or dual occupancy, on land where a small apartment building would be permitted and possible under the controls.

Water Sensitive Urban Design

- There should be thought to the use of the term “water sensitive urban design” and whether it would more appropriately be replaced with “water sensitive communities” in order to address all aspects of our environments rather than just those “urban design” issues.
- Council supports the move towards natural and permeable means of water management, but there needs to be more consideration the ownership and management of these assets than the UDG currently implies.

Detailed feedback on Objectives

DC – Design Criteria

AG – Assessment Guidance

<i>Urban Structure</i>	
General	The function and role of streets should be emphasised in the objectives
1.1	<i>Strategic planning priorities</i> should be included in the place analysis.
1.2	Concern that by including reference to stream order and the WM Act, Councils DCP and Riparian Corridor Management Study (NSW Department of Infrastructure, Planning and Natural Resources, 2004) (RCMS) (this study and its recommendations are based on the local characteristics of the Wollongong LGA and seek to ensure that the long-term functioning of each waterway and riparian lands align with their assessed environmental value or category) will be undermined and the outcomes for West Dapto compromised as many of the riparian corridors are only 1 st order under the Strahler scheme. Change the Riparian Design Guidance to: Protect, conserve, enhance and connect natural waterways and watercourses, and enhance or restore engineered waterways and watercourses.
1.3	We support those significant environmental features are to be included the public realm, but this will need to be funded and maintained – sometimes by Councils. How will that be ensured?

1.4 1.5	This seems to push for the co-location of open space and natural areas. Whilst this is generally supported, there must be exceptions where there are areas of high conservation value and that any public use must be secondary to the environmental and conservation objective. High conservation areas should also not be part of the primary transport network and may only support passive, low-key recreation.
2.3	Definitions of high frequency should be included within the SEPP or guides. Additionally, there should be a correlation with density targets, particularly for regional areas. Additionally, it should be noted that in regional areas such as Wollongong •we are challenged by relatively poor public transport, making planning decisions to move towards greater PT and AT use difficult.
3 DC	Neighbourhood density: A range of densities would be better to suite a range of situations. If this policy is to apply state-wide it needs to speak into a very broad context. These densities may be too low for Greater Sydney, and too high for Regional NSW. What allowance is there for a more nuanced approach that references council's own strategic housing policies? Suggest: Determine Neighbourhood density to meet the requirements of relevant strategic planning documents including Regional Plans, District Plans, Local Strategic Planning Statements to set Minimum gross residential densities of 30 dwellings per hectare are provided: Transition increasing density towards centres based on: (etc)
3.4	Concern this guidance could result in excessive waterway crossings leading to unnecessary environmental impacts. This also appears to contradict 10.3 which requires soils along waterways to be protected by minimising pedestrian links and bridges
4.3	The guidance requires buffers to be provided to sensitive ecological areas. This is strongly supported but the guidance offers little specifics. What distance should the buffer be or how will its width be determined? And what may be within the buffer? Is it expected to be grassland or road? Or will it be revegetated and landscaped? More guidance will be essential here.
AG	Where has the 'design for resilience' template been provided for comment? Asking an assessment officer to be satisfied that the proposal meets the DP SEPP and EP&A Regulation requirements for urban design development under this objective seems misplaced – is the intent that there is a focus on the resilience aspects of these documents? If so, where are they summarised?
Movement and Connection	
General	The function and role of streets should be emphasised in the objectives Council feels the UDG should more clearly reference the Movement and Place Guide, the relationship to which seems to be unclear currently.
6 DC	Council supports a requirement for walkable block length. We are concerned that the criteria here will not be appropriate for all settings i.e., a Town Centre vs a residential subdivision.
6.1 6.2	We note that requirements for street sections and plans to be provided for every street type as part of the conditions needs to be established to realise this guidance.
7 DC	Block lengths: Council supports a control for maximum distance between intersections. We have concern that the block lengths prescribed for Industrial land will promote smaller lot subdivision than is desirable for this land use. Many of the lots in our IN1 and IN2 zones would have lot boundaries with greater 'block lengths' than these minimums. The nature of this land use would make walkable connections a

	<p>significant challenge. We would like to understand the testing that has informed the 220-250m maximum length for industrial areas.</p> <p>Mid-block connections: Council supports a requirement for mid-block connections. We are concerned that the criteria here will not be appropriate for all settings.</p> <p>Is the intention that mid-block connections would be in council ownership?</p> <p>We note that this requirement will need to be supported by strong DCP controls which guide good outcomes for these connections. The UDG offers little guidance.</p> <p>We note that these connections are often most needed in established urban areas where development sites may not trigger the UDG. We would welcome an iteration of the guide (or guides) that better addresses established urban contexts.</p>
8.2	<p>“Provide a minimum of 2 per cent of all parking spaces with EV-charging equipment (except where local controls exceed this).” Why is this loose guidance given here when the more specific guidance is given in the SEPP/regs? Does this guidance apply to carparking buildings (excluded elsewhere in the SEPP/regs)?</p>
Natural System	
9 AG	<p>What is ‘adequate’? How is that measured? This is too vague. Clear guidance is necessary on what level of amenity and human comfort are required.</p>
9 AG	<p>“Public open spaces include features to support human comfort and mitigate against negative sensory experiences” what is meant by this? Do they mean noise? Or no spikey plants? Too vague.</p>
9	<p>Guidance for private property is missing here. Examples/guides for residential garden planting e.g., small space, medium space etc, appropriate plants and what to include. This sort of guidance could assist greatly with increasing urban greening (not just canopy trees) and healthy microclimates.</p>
10.1	<p>“Deliver <i>sufficient</i> canopy to mitigate the urban heat-island effect.” How should this be calculated? Recommend applying these targets to all at grade carparks by removing the specific reference to business parks, industrial and bulk goods.</p>
All	<p>More guidance is needed on ‘water quality’. Water quality targets would help.</p>
Public Space	
General	<p>Concept of streets as places not just movement corridors could be emphasized also. Council would support the introduction of design guidance in relation to public art.</p>
12 DC	<p>It may not always be appropriate to include green corridors (<i>linear parks</i>) in open space calculations, particularly if it is of high conservation value, or conversely, low open space value. We see linear parks being introduced under high tension power lines – would these be included in the open space calculation?</p> <p>The term ‘freely accessible’ should be reworded or further explained to ensure it requires public open space that is accessible to and has facilities for all members of the community.</p> <p>Table: Green corridors and small parks should only be provided when local and district parks already exist.</p> <p>How are Sports fields considered? These are highly programmed and restricted by the sports they cater to.</p>
12 DC	<p>Solar access – how will this integrate with the tree canopy cover requirements? Is tree canopy excluded from considerations of sunlight access? Are deciduous trees anticipated?</p>

12.5	Open space as muster points – how is it envisaged that these spaces will be able to get off-grid renewable energy and water?
Built Form	
15 DC	Has the 20-minute walk to a primary school been agreed by the Department of Education? We have struggled to get any agreements to site locations for new schools in our urban release areas.
16.1	Suggest following text: Retain and integrate <i>heritage items and other</i> elements of history to enhance the place
16.2	Suggest following text: Respond to existing natural built and <i>other cultural environmental</i> heritage values This consideration is part of the very early urban design work, connected to the urban structure. We suggest this is reinforced in the Urban Structure section.
17 AG	The Assessment Guidance in this section could be improved if re-written to follow the <i>Evaluating Good Design GANSW guide</i> . We currently find these helpful when reviewing built form and public domain – they are well written and easy to understand.
18	Add additional guidance to provide setbacks etc to facilitate greening and tree canopy.
19	In general, the wording and guidance for this objective is very vague and soft. It offers no real meaningful guidance and does not reflect the push for emissions reduction and sustainability. This section does not currently support s57D of the (Draft) EP&A reg which requires a Net Zero Emissions Statement. This needs to be a clear part of this objective.
19 ‘Why’	Under “why is this important” – Include “To achieve net zero emissions by 2050”
19 AG	Suggest: <i>The development has considered and committed to 2050 Net Zero emissions targets through to implementation and considered onsite renewable energy generation and storage equivalent to 20 per cent of the annual electrical energy demand.</i>
19.1	Passive means: replace ‘prioritise’ with ‘provide’. Include reference to thermal comfort as well. Onsite renewables: Suggest: “ Create opportunities to provide onsite renewable energy generation and storage.” Renewable energy targets: Suggest “ Consider Deliver commitments to meet onsite renewable energy targets with the development”.
19.2	This guidance should include reference to ‘microgrids’ or ‘community battery schemes’ as a means to achieve resilience and net zero targets: a. “ <i>Deliver net zero emissions in alignment with NSW Net Zero Plan objectives for all scales of new development (prioritising efficiency first, electrification through renewables, battery storage, and elimination of reliance on fossil fuels).</i> ” b. “ Plan for Incorporate infrastructure such as PVs, microgrids and community batteries , that enables the transition from gas to low-emissions intensive options.” c. 19.4 – “ Consider integrating Integrate smart technologies and solutions”

Appendices	
A 2	<p>Method for providing public open space</p> <p>A step should include identifying/defining what type of open space and what uses should be included. This will assist in determining if a space is large enough. This relies on Council's being well prepared with social and recreational infrastructure needs analysis.</p> <p>Step 2 – There is some contradictions in the land zones that are and are not included in the NDL. E2 should not be included in the developable land calculations as it cannot be developed as is primarily for the purpose of conservation, similar with E3 zones which are for environmental management.</p>
A 4	<p>Dwell Space</p> <ul style="list-style-type: none"> – Generally, this section seems to rely mainly on input from other existing guidance. Is it necessary? Could it be deleted, and the referenced guides included in the body of the document? – UDG proposes a variety of elements to be provided within streets e.g., trees, benches (every 50m), multiple traffic lanes, etc. Have a range of streets been mapped in section and plan to see if these all fit? – Is there a conflict with sight lines and trees? E.g., what type of tree? Clearance between canopy and ground? Reality of trees in different urban environments (near traffic corners, along public transport paths etc?) – Clear path of travel for pedestrians – the allocation for different categories of streets makes sense, although doesn't represent reality for Wollongong. Some of our high activity street footpath areas (building to kerb) are 3.6m, sometimes less and are not able to have dwelling space or in some instances feasible outdoor dining. Given the UDG applies to significantly sized sites, we assume the intention is that building setback requirements will need to be amended to align with these requirements where possible? This is difficult in established urban areas where there is an established built form street alignment. – Space allocation assumptions - TfNSW and Councils generally require a min 600mm buffer from kerb to outdoor dining for car doors and to be away from vehicles. This increases dependant on the volume and speed of cars. This should be shown and factored into the metrics. – The 1,100mm metric given for dwell space with a 900mm café table may be appropriate if no one is sitting in the chairs, but not otherwise. This area would need to be more generous. Given the popularity of, and COVID related push for outdoor dining, some clear advice on street space for outdoor dining would be appreciated. – If trees are planted in footpath, consider how they pavement is treated to enable greater dwell spaces whilst protecting tree. – Lane widths can be reduced so long as there aren't buses or loading happening and need to be larger 2.5m – Some of these streets and dwell space ideas need slow moving traffic, consider TfNSW assisting in changes to speed limits e.g., 30-40km/h street in areas zones B3 + B4 + B1 + B2 could assist Councils greatly. – Consider providing a section which shows trees in carriageway or parking bays rather than all in footpaths. In urban areas, this is likely the only achievable outcome with services underneath footpaths. – Figure A4.1 on page 107 should include widths, to show how that works for a standard street which is defined as 20m.

Apartment Design Guide

General Comments

- Generally, Council supports the amendments to the ADG, including the addition of varied design guidance.
- Council suggests that in addition to “Alternative Design Solutions” sections regarding “Raising the Bar” should be added to encourage applicants to move beyond the standard and provide top level design and sustainability solutions.
- Council supports the introduction of the Pre-Da DRP (discussed further below) and the emphasis on getting the site analysis correct at the beginning. The provided examples are clear to follow and provide weight to council’s own position regarding the poor-quality site analysis we currently see.
- The ADG Design Verification Statement does not reference the need to include the Design Review Report within the DVS. This should be clearly articulated, and as noted above is likely to be required to be a separate document clearly under the regulations.

1.2 Building Separation

- The Objectives under Part 1.2 Built Form and Siting state that building forms respond to “the historic, cultural, and planning context, streetscape and open spaces with appropriate building height, bulk, setbacks, and separation.” However, design criteria only reference visual privacy which is inconsistent with the objective. This should be amended to include more than just visual privacy.
- Notably the potential to reduce building separation while maintaining visual privacy between apartments severely compromises opportunities for outlook from both private residences and the public domain and reduces opportunities for solar access to neighbouring properties and the public domain (particularly streetscapes). Council suggests the design criteria be amended to reflect building separation’s requirement to address these issues as well as visual privacy.
- Council would like clarification regarding LEP/DCP controls which have respect to building separation and reference “Outlook” or “Solar Access to the Public Domain” whether these would be defensible in contrast to the “Visual Privacy” criteria in the ADG.
- Finally, the ADG does not refer to street walls and where zero side setbacks made be necessary. Council believes direction on this should be provided under the Design Guidance.
- Council does not support using blank walls within a development to achieve reduced setbacks (as shown in Figure 1.2.2). These are also inconsistent with the building separation requirements from cross ventilation later discussed in the ADG.

1.2 Built Form + Siting

- Council supported the introduction of a maximum floor plate for residential towers, as previously included in the EIE. While 700sqm may have been seen as too small Council suggests the introduction of a floor plate control. Currently our DCP suggests 900sqm for residential towers, which may be appropriate and more flexible than the previously suggested 700sqm.
- Additionally, there is not building depth control which is related to bulk and scale of built form. While some buildings may achieve deep built forms while achieving the solar access and cross ventilation requirements, this may create imposing tower forms, inconsistent with public domain outcomes. For example, our DCP requires a building depth of 18m for residential development not including balconies, or 25m for commercial towers (which would be similar bulk to residential towers with balconies). Maximum building depths would be a supported addition to the ADG.
- Council supports the requirement to have rooftop COS and lift overruns included within the maximum building height.
- Figure 1.2.8 notes the floor-to-floor height of residential apartments as 2.7m. This is incorrect – the floor to ceiling height is 2.7m and 3.1m is required floor to floor to achieve this ceiling height.

1.3 + 1.4 Street Activation + Ground Floor Apartments

- Council supports the guidance for all ground floor units to have their own entrance.

- Council supports the integration of SOHO units into residential apartment buildings, particularly as they support post-COVID working from home arrangements. However, we have had difficulty approving these from a permissibility and/or BCA fire separation. It would be beneficial to have some guidance on how SOHO units can be achieved to meet these requirements in zones where commercial spaces are permissible.
- Currently, Council often sees inappropriate designs for through-site links that do not satisfy CPTED issues. Further guidance on the design of these links would be useful for applicants to inform decisions on when open air, sheltered or enclosed links are most appropriate and how they may be best designed.

1.5 Green Infrastructure (Deep Soil and Tree Canopy)

- Council does not support the reduction in width for deep soil and would prefer to see the retention of 6m width for larger sites. Additionally, there is concern that the 25% rule will be difficult and convoluted to assess, adding time to assessment processes.
- Council supports the increase in deep soil area requirements.
- The advice and guidance regarding green roofs and walls could be more extensive to consider when their use is appropriate in addition to (or instead of) other landscaping.
- Council supports the retention of existing trees, particularly their contribution towards tree canopy targets. Potential incentives to prioritising retaining existing trees should also be considered.
- Council suggests the tree planting targets and canopy for the ADG could be raised as the levels seem very low in comparison to other canopies stated.
- The guidance provides very limited guidance on green walls and green roofs. Lacks any detail on how this can be incorporated and best designed, and how it can be combined with solar panels.
- As noted above, waterproofing is also a large issue regarding green infrastructure and planting on

1.6 Parking

- Council supports the reduction of carparking tied to zoning rather than public transport, as it acknowledges regional towns which may not have the frequency of services to impact uptake, while proximity to services and shops is more likely to reduce dependence on cars.
- However, the use of the TfNSW/RTA/RMS parking rates is likely to require updating as the document is now 20 years old. A new rate based on regional/city requirements would be supported.
- Council suggests that a portion of “EV ready” spaces should be provided ready for use now as we see an uptake of EV cars generally. Council notes that the need to install EV chargers (i.e., not already in place) may deter potential EV ownership.
- E-Bike provisions are not addressed under Bicycle Parking (1.6)
- Council does not support the inclusion of Class A bicycle spaces in storage calculations and believe these should be separated, with storage remaining unchanged.

2.1 Common Circulation

- Council rarely sees the design of lifts at the DA stage, often falling under CC requirements. While Council supports the need to have selected a lift at the DA stage, specifications, models, and costs often change during the documentation process. This is likely to be conditioned and required as part of the CC stage, rather than assessed at a time when the item might change. Additionally, understanding of lift operation and technical specifications is likely outside the expertise of planners.
- Instead, the number of units sharing lift cores overall and on each floor is an easier means of unsung a level of amenity. Additionally, while one lift may meet the wait times as outlined in the guidelines, if broken down will cause major issues for residents. As such the retention of the of “no more than 40 units sharing a lift” control is suggested.

2.2 Communal Open Space

- Council supports the move towards occupancy rates rather than area calculations for COS, however, we are concerned that generally this will reduce the amount of COS in almost all developments. Additionally, there is little incentive for applicants to go above the 25% site area.

- There should be clear guidelines as to what is and is not included in COS area calculations, particularly with a reduction in COS. Too often Council sees applications with long walkways to COS, as well as excessively large planting areas with no functional space, included in area calculations. These provide little to no amenity for residents. Instead, Council suggests that any part that is not “usable” for activities should be excluded to prevent this.
- Council supports that COS should be strongly tied to demographics; however, we find this is usually at the developers’ discretion. Stronger controls to enforce active and passive spaces as well as family or pet friendly COS is supported.

Waste Servicing

- Council supports the introduction of green waste separation in apartment buildings.
- However, waste is a large problem in applications with no clear guidance on what is appropriate or best practice. Council would appreciate guidance on when chutes are appropriate and how many are required, and when bins on each level are more suitable. Referencing the EPA guide may also be helpful as another document for us to point to for applications.

Energy Efficiency

- This section is weak and does not provide good, strong guidance to achieve Net Zero as outlined in s.21 of the SEPP. This section should clearly reference net zero emission target and what is expected.
- ‘All-electric Building’ does not mention renewables, battery storage, etc Just appears to focus on appliances
- No guidance given in relation to the provision of battery storage within apartment developments. This should be included, particularly for those developments with larger energy producing capabilities.
- Council supports the use of solar panels and would encourage all development to have a certain percentage of roof space utilised for energy production. Additionally, guidance regarding the use of solar panels as shading (either as a pergola/roof structure or on the side of buildings) is highly encouraged. Additionally:
 - should be renamed to include other forms of solar and energy production, such as walls. Perhaps ‘Onsite energy production and storage’
 - It should require the development to allocate a % of roof space to solar production.
 - It should specify a % of the sites energy requirements that must be produced on site.
 - Should require the provision of battery storage for the site.

Facades

- Council supports the move away from glass towers towards more energy efficient and shaded facades that are more amenable for residents. The removal of Low-E glass as suitable shading is also welcomed, as are the new shading guidelines.

A2.2 Site and Context Analysis Checklist

- Council is concerned that applicants may not have information regarding their site’s attributes prior to 1788. Revealing this information is a specialist task involving emerging research in disciplines such as paleoecology. Guidance on how/where applicants can find this information would be supported.

Design Review Panel Manual

Role of DRP + Selection

- There needs to be a clear outline that the DRP are not there to assess technical aspects of the project but provide general design advice against the DP SEPP Principles. In discussion with our DRP members they were concerned about assessing technicalities like cross ventilation and lift capacity at a Pre-DA stage, despite our suggestion that this will be handled by council staff.
- Council would like to highlight the differences between the SDRP and local DRPs – notably that a local DRP (as outlined within the DRPM) is likely to be a similar team of experts each time, with consistency in advice. They also attend site visits, provide much more detailed

notes, and are usually very familiar with local planning controls as well as the context generally. Further consultation with local DRPs should be taken to ensure the particularities of local DRPs are captured in the DRPM.

- There is concern from staff involved in DRP staffing, that the types of development listed under the SEPP will put immense pressure on Council's existing DRP, many of whom also sit on other panels and have other commitments.
- Council supports the retention of the existing panel for applications which have gone to review previously. However, there are times when this can be extremely difficult due to scheduling and may blow out assessment times if the same panel cannot be convened promptly. In those scenarios, retaining the chair and one other existing panel member should be sufficient, with the replacement of only one panel member, to maintain consistency.
- Additionally, setting up a monthly meeting does not allow flexibility to reuse existing panels where required – for example a returning application may have to wait three months until the same panel is convened again. While more time consuming, the flexibility to call certain panels are needed in likely to continue.

Timeline

- Council supports the introduction of a Pre-DA DRP to address issues before the DA stage, and to potentially speed up DA assessment timeframes. However, there should be further guidance on the level of detail which should be provided at Pre-DA stage.
- Additionally, the DRP should have the ability to nominate that an application come back for another Pre-DA DRP if insufficient documentation is provided, or the application will require substantial redevelopment.
- There should also be clear guidelines about when a DA should be referred back to a DRP following the DA submission, and when council can utilise internal staff to assess the merit of the application.
- Council's DRP are concerned about their ability to assess a project's response to Country as part of the design review process. It is suggested that either DRPs should meet with local representatives, or the Department should provide training to panellists regarding connecting with Country.

DRP Process (on the day)

- Council and our DRP believe that reviewing 4 applications within one day is likely to be too much. Currently our schedule is as follows:
 - A briefing session with council staff and panel from 9am-10:45 – half an hour per application, with 15min buffer
 - 15min break (or whatever is left after briefing)
 - 11:00-12:00 Session 1
 - 12:00-12:45 Lunch break (with time for overrun if necessary)
 - 12:45-1:45 Session 2
 - 1:45-3:00 Session 3
- As noted above the proposed timeline within the DRPM does not appear to be sufficient and will not allow meaningful discussion on more contentious or difficult projects. The process within the meeting is generally similar to that proposed with applicants presenting their work (without a presentation – usually informally talking to drawings), DRP clarifying points, and then providing comments. However, a post discussion is usually only 5-10min, particularly as the manager does not write notes.

DRP Advice

- Council and our DRP suggest that the provided DRP advice template is too loose and having the DRP advice structured in the same manner as the applicant's ADG and UDG reports would be of more use to the applicant and be clearer for council to follow advice in assessment. Council is likely to supply our own templet in this manner to both the panel (for Design Advice) and the applicant (for a Design Advice Response).
- Council does not support the DRP Manager writing the notes. This loses the independence of panel advice, diminishes the importance of DRP commentary, puts much more emphasis on the DRP manager role, and adds more time and cost to the process. As noted above, there is generally not an issue with consistency or tone in local DRPs and any value added by the DRP manager drafting the notes is negligible. Additionally, the panel often add comments

following the meeting which were not covered due to time constraints, which is much more valuable.

- Additionally, Council's Panellists are opposed to openly discussing and coming to an agreement on a proposal's merits in front of the applicant. Often this requires nuance and debate, and a balance between opinions which may not be achieved within a meeting. Additionally, any comments by panellists may be taken out of context by applicants during this discussion.
- Council and our panel support the requirement for a Development Application to include a design report which responds to the DRP commentary as well as the ADG/UDG reports.

Planning Proposals and Development Control Plans

- As noted above, further clarification is required as to how the design review process will work alongside the existing Planning Proposal and DCP processes. Particularly information regarding what level of information should be submitted to the DRP, noting that if too much information is submitted the design is less likely to change, and if not, enough information is submitted then there will be unresolved issues.
- Additionally, it should be considered as to whether a Planning Proposal or DCP requires the same DRP between the PP/DCP stage and later Development Applications, noting the amount of time which may have lapsed and the differing need for expertise between these two development types (for example: a land subdivision and an apartment building).
- Additionally, should the Pre-DA DRP coincide with a council pre-lodgement advice? These are not mandatory but going to DRP without this information will be to the detriment of the process. The DRPM or DP SEPP should note that a PL should be completed minimum two weeks prior to any DRP so that advice can be included and not contradictory. This will also provide a useful document if an application is required to go back to the DRP.
- Our panel suggest the above report should be titled "Design Advice Response" which links to the Panels' own "Design Advice."

Other Types of Development

- Council would like clarification regarding our ability to send other types of development to DRP under the SEPP. Currently it would seem as if an amendment to our LEP would be required, however if a specific development application appears to be struggling to demonstrate satisfactory compliance with SEPP principles could this application be sent to a DRP without an LEP amendment?

Construction Certificates

- The manual seems to suggest that some specific items might need a condition whereby at the Construction Certificate stage the certifier has to refer the application back to the DRP for approval. While Council supports this idea in theory, there is concern as to who is paying the DRP for this time, as the application is likely no longer with Council.

BASIX

Overall, Council generally supports the proposed higher standards to BASIX. We would like to acknowledge the positive contribution these amendments will have on sustainability and climate change mitigation and adaptation. Council, however, requests that DPE considers recommendations from Wollongong City Council staff to build on these standards and further expand climate change mitigation policies in the planning, environment, and development sector.

Wollongong City Council has targets which are more ambitious than those in the SEPP, in order to reach net zero emissions across the LGA by 2050. Council is supportive of net-zero and energy efficient design and actively promotes the raising of the design standard for all developments.

Council is open to and encouraging of system and process improvements that will achieve positive design and planning outcomes for industry and community. However, the potential complications arising from changes such as an alternative assessment pathway and increased reliance on management require further consideration, testing and engagement with Councils. Council looks forward to seeing the improvements and providing further input into the process.

Below are suggested improvements to the BASIX Higher Standards in greater detail.

Recommendation 1: *Encourage and provide flexibility for people to build homes beyond requirements*

Wollongong City Council is currently in the process of amending our current planning framework to incorporate greater sustainability and climate change mitigation requirements across the organisation. Council aims to encourage developers to go above and beyond existing sustainability requirements, to achieve organisational sustainability targets and mitigate climate change.

Council encourages DPE to do the same. BASIX should set minimum standards but provide flexibility to allow Councils that are more aspirational or have more immediate and/or higher achieving environmental goals to require higher standards. It is our understanding that it will not be possible for Council's to do this under the current proposal.

Recommendation 2: *Clarification needed on alternative merit assessment pathway*

The incorporation of a new, alternative assessment pathway into the BASIX process provides opportunities for developers to reach higher sustainability goals and a more comprehensive approach. Council asks that this alternative pathway clearly gives developer's the opportunity to go *beyond* BASIX requirements in detail, as opposed sticking to minimum requirements.

Staff raised concerns surrounding an alternative merit assessment pathway and how this could lead to developers avoiding sustainability requirements, similar to those risks associated with private certifiers. Staff were also concerned that an alternative assessment would be an additional workload item. Planners are trained to assess BASIX certificates and are familiar and expectant of current requirements. To introduce an alternative alongside BASIX without indication on the format, structure, and style of report, delivers uncertainty surrounding increased workload and Council expectation and therefore must be clarified. Staff are also keen to understand how they could incentivise better outcomes through this process.

It is important that requirements for this alternative merit assessment are set out clearly as to avoid confusion for both Council assessment staff and developers.

Recommendation 3: *More promotion and access to information regarding lifecycle costs*

Council requests DPE provides support material and guidance information to applicants regarding lifecycle costs and cost-benefit analysis, regarding which materials have high/low embodied emissions, similar to the "Your Home" website. Reports to require inclusion of this information so the 'mum and dad' consumer can see the potential long term financial benefit will encourage applicants to adopt increased standards. Information should be communicated in simple, easy to understand, plain English with supporting informative diagrams/ graphics.

Recommendation 4: *Gas appliances*

With heavy focus on the electrification of products, will the government be strongly discouraging the use of gas household appliances, for example through a penalisation process under BASIX or other?

Recommendation 5: *Fans in residential properties*

Research has found fans are an effective and inexpensive way of cooling down. It must be noted that climate change will inevitably bring increased heatwaves and extreme weather events, yet other methods of heating and cooling pose great environmental risks. Council asks that DPE makes the installation of fans in residential properties a priority consideration. As noted elsewhere, Council suggests reintroducing the ADG control for ceiling fans in all habitable rooms as per the EIE.

Recommendation 6: *Greenhouse gas emissions*

Council staff noted the intention to reduce the greenhouse gas emissions factor has been justified by the expected transition of the grid to renewable energy provision. Given that this is based on an averaging calculation for the next 10 years, are we likely to see an increase in emissions in the short term?

Recommendation 7: *Light coloured roofs*

Council requests that light colour roofs be mandated in line with thermal comfort, heating, and energy efficiency targets.

Recommendation 8: BESS (Built Environment Sustainability Scorecard) Tool

Discussion and collaboration between Council staff has revealed a possible alternative assessment tool, BESS (Built Environment Sustainability Scorecard) used by Victorian Councils. This tool is a more comprehensive approach to assessing sustainable development which is currently only operating in Victoria. However, Council believes there is potential to adapt BASIX to align with BESS. Unlike BASIX, BESS can be used to assess both residential and non-residential developments, and the applicant has multiple options to demonstrate compliance.

BESS pushes compliance to a higher standard through a comprehensive approach, which covers management, energy, water, stormwater, indoor environment quality (IEQ), transport, waste, urban ecology, and innovation. An overall score is given depending on how well the proposal performs in each of these areas.

BESS differs from BASIX as it does not replace or overwrite the building code requirements. Alternatively, the measures are additional items aimed at improving a proposals performance beyond the minimum national standards. By doing so it works much in the same way as Green Star, however when BESS is applicable it is mandatory.

Wollongong City Council asks DPE to consider adopting the BESS tool for NSW Council's as an alternative and/or adaptation of BASIX.

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 2:36 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: woollahra-council-submission---sepp-design-place.pdf

Submitted on Mon, 28/02/2022 - 14:35

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Emma

Last name

Williamson

I would like my submission to remain confidential

No

Info

Email

emma.williamson@woollahra.nsw.gov.au

Suburb/Town & Postcode

RANDWICK

Please provide your view on the project

I support it

Submission file

[woollahra-council-submission---sepp-design-place.pdf](#)

Submission

Please find attached a submission from Woollahra Council staff.

I agree to the above statement

Yes



Council Ref: SC2593-02 - 22/19881

28 February 2022

Meagan Kanaley
Director Codes, Planning and Assessment
Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124
designandplacesepp@planning.nsw.gov.au

Dear Ms Kanaley

Submission to the draft *State Environmental Planning Policy (Design and Place) 2021* and supporting guides public exhibition

Woollahra Council staff welcome the opportunity to comment on the exhibition of the draft *State Environmental Planning Policy (Design & Place) 2021* (Design & Place SEPP) and supporting guides.

Council staff support many aspects of the Design & Place SEPP and associated documents which introduce a principle-based system to improve design quality of the built environment across the State and implement higher sustainability standards through revisions to BASIX.

However, we are concerned that some of the proposals contained in the draft documents are overly complex and restrictive, and therefore may not achieve their intended effect.

Our key concerns are that:

- The mandatory introduction of the Design Review Panel will have significant staff and financial resource implications for councils and is not supported by mechanisms to allow suitable flexibility or to enable councils to adequately recover expenses incurred
- The Design & Place SEPP and supporting guides do not support the application of place-based provisions or controls contained in local planning instruments and strategies that would support the delivery of higher design quality or sustainability requirements
- The prescriptive nature of some clauses does not encourage the degree of flexibility intended by the Design & Place SEPP which may inhibit its effectiveness in delivering improved design quality
- The scope of the Design Review Panel to consider planning proposals creates unnecessary duplication in the planning system.

Our submission is attached. We request that you review our comments and recommendations to help deliver improved design quality and sustainability outcomes in new development.

If you require further information about our submission please contact Emma Williamson, Strategic Planner, on (02) 9184 1014 or Emma.Williamson@woollahra.nsw.gov.au

Yours sincerely,

A handwritten signature in red ink, appearing to read 'Anne White'.

Anne White
Manager – Strategic Planning



Submission to the draft *State Environmental Planning Policy (Design and Place) 2021* and supporting guides

Woollahra Council staff's submission to the draft *State Environmental Planning Policy (Design and Place) 2021* (Design & Place SEPP) and supporting guides is provided below.

1. Draft Design and Place SEPP 2022

Part 1 Preliminary

Aims of Policy

We generally support the objects of the Design & Place SEPP to promote high quality design, sustainable development, community wellbeing, and integrate Aboriginal cultural knowledge in the built environment.

However, the aims of the policy as set out under CI 3(1)(a-i) do not reference heritage or encourage development that responds to the desired future character of a place.

We recommend that the aims incorporate objectives to protect valued heritage character and to ensure new development is delivered in line with the desired future character that is established via local planning provisions.

Part 2 Design principles and design considerations

The Design & Place SEPP sets out five (5) design principles, each of which is supported by two (2) design considerations. There are ten (10) design considerations in total.

Design principles

We support the introduction of the design principles and the scope of matters they address. However, the drafting of the design principles is somewhat vague and complex. Each principle contains two parts – a **design objective** and an **intended outcome**, for example:

- **Deliver beauty and amenity** to **create a sense of belonging for people**.
- **Deliver inviting public spaces and enhanced public life** to **create engaged communities**.

The outcomes prescribed in each principle limit the application of the principle, when those specific outcomes could be reasonably applied to support all of the design principles.

We support the following refinements to the wording and revised structure proposed by the City of Sydney to further improve the design principles:

12 Design principles and design considerations

- (1) The principle for design in New South Wales are the following:*
 - (a) to deliver **beautiful, healthy and high amenity** places for people,*
 - (b) to deliver **inclusive and inviting** places for people,*
 - (c) to deliver **productive and connected** places for people,*
 - (d) to deliver **sustainable and greener** places for people,*
 - (e) to deliver **resilient, diverse and enduring** places for people.*
- (2) In this clause places for people means places that:*
 - (a) create a sense of belonging for people,*
 - (b) create public spaces,*
 - (c) enhance public life,*
 - (d) create engaged communities,*
 - (e) enable communities to thrive,*
 - (f) ensure the wellbeing of people,*
 - (g) create **sustainable communities and environments,***
 - (h) **respond to and support Country and Aboriginal cultural knowledge,***
 - (i) **are climate responsive and comfortable.***

Design considerations

Currently, the *design principles* are listed under Cl 12 and the *design considerations* are listed individually under Cl 14-23. This split structure makes it difficult to understand which *consideration* relates to which *principle*. It may also open up the possibility for applicants to disregard certain design considerations if they are not linked to a particular principle.

Furthermore, the links between the *design considerations* and *design principles* is not always clear. For example, the principle ‘Deliver beauty and amenity to create a sense of belonging for people’ is supported by the consideration of ‘Comfortable, inclusive and healthy places’. That consideration could arguably be linked to many of the other principles, such as ‘Deliver inviting public spaces and enhanced public life to create engaged communities’ or ‘Promote productive and connected places to enable communities to thrive’.

We suggest that the structure of the Design & Place SEPP should be simplified so that all of the *design considerations* apply to all of the *design principles*.

Table 1 below contains our comments on specific design considerations:

Table 1 – Design Principles & Considerations

Design Principle	Design Considerations
Deliver beauty and amenity to create a sense of belonging for people	<p><i>Overall design quality:</i></p> <ul style="list-style-type: none"> 14(a) – We support this clause requiring the consent authority to consider the development’s response to the desired future character (DFC) of the surrounding area. However, this clause should contain an explicit reference to the relevant local provisions that establish the DFC, such as Local Environmental Plans (LEP), Local Strategic Planning Statements (LSPS), and Development Control Plans (DCP), so that it is clear where the interpretation of DFC is drawn from. Omitting such a reference may have the unintended effect of undermining the DFC vision established by councils and their local communities.
Deliver inviting public spaces and enhanced public life to create engaged communities	<p><i>Culture, character and heritage:</i></p> <ul style="list-style-type: none"> 16(a) – This clause requires the consent authority to consider whether development detracts from an area’s DFC. New development should actively contribute to the desired character of an area consistent with the local strategic planning vision, rather than merely not detracting from it. Further consideration should be given to strengthening this provision through positive language that helps to deliver better design outcomes that actively contribute to the character of an area. 16(b)(i-ii) – We support the inclusion of provisions in this clause to ensure that development responds to heritage and areas of Aboriginal and non-Aboriginal significance. However, we reiterate that heritage should be elevated to the aims of the policy to ensure heritage considerations are included in the overarching objects of the Design & Place SEPP. <p><i>Public spaces and public life:</i></p> <ul style="list-style-type: none"> 17(a)(iii) – This subclause should be amended to include <i>urban designer</i> alongside <i>landscape architect</i> as the type of professionals qualified to design new public space. 17(c) and (d) – We support the introduction of provisions to ensure that development does not result in a net loss of public open space (c) and that development promotes connectivity between existing and proposed active transport networks (d). Retaining public open space and encouraging active transport modes are particularly important in dense infill LGAs such as Woollahra to help maximise our constrained land availability.

<p>Promote productive and connected places to enable communities to thrive</p>	<p><i>Vibrant and affordable neighbourhoods:</i></p> <ul style="list-style-type: none"> 18(b) – This clause requires the consent authority to consider whether residential development contributes to the housing needs of the local population. We are concerned that this clause does not contain a reference to the relevant local strategic plans, namely councils' Local Housing Strategies (LHS), which clearly set out responses to local housing needs. <p>We request that further consideration is given to this clause to ensure it reinforces the place-based housing strategies set out in LHSs and does not unintentionally weaken local provisions that have been endorsed by the local community.</p> <ul style="list-style-type: none"> 18(c) – We support the requirement for the consent authority to consider whether development in walking distance of a train station or in a town centre contributes to a diverse mix of uses and active streets. This clause should be enhanced by adding <i>development contributes to a diverse mix of <u>non-residential</u> uses and active streets</i> to discourage the emergence of exclusively residential development in centres and near train stations. <p><i>Sustainable transport and walkability:</i></p> <ul style="list-style-type: none"> 19(a) and (e) – We support these clauses encouraging the use of active transport, a reduction in private car parking, and provision of charging infrastructure for electric vehicles.
<p>Deliver sustainable and green places to ensure the well-being of people and the environment</p>	<p><i>Green infrastructure:</i></p> <ul style="list-style-type: none"> 20(b) – This clause requires consent authorities to consider whether the development maximises tree canopy cover. We recommend that this provision is strengthened so that tree canopy is not only maximised, but that there is no net loss of tree canopy cover resulting from development. <p>It is also vital that local controls that prescribe tree canopy targets prevail over the targets set in the Draft Apartment Design Guide (section 1.5).</p> <p><i>Resource efficiency and emissions reduction:</i></p> <ul style="list-style-type: none"> 21(a) – This clause should be revised so that <i>all development</i>, not only <i>urban design development involving subdivision</i>, minimises the use of on-site gas for cooking, heating and hot water. Discouraging gas appliances will better support the achievement of the State's net zero carbon targets.
<p>Deliver resilient, diverse places for enduring communities</p>	<p><i>Resilience and adapting to change:</i></p> <ul style="list-style-type: none"> 22 – We support the introduction of a principle to promote resilience and the accompanying design considerations that require consent authorities to be satisfied that the development is resilient to natural hazards. <p><i>Optimal and diverse land uses:</i></p> <ul style="list-style-type: none"> 1(c) – This clause requires consideration of appropriate residential density for urban design development. We understand that this clause links to the residential density targets contained in the Draft Urban Design Guide. As stated in our previous submissions, we strongly oppose the introduction of residential density targets at a state level. <p>Density targets should be developed via a place-based assessment in consultation with the community to determine the degree of density appropriate for the local area.</p>

Part 3 Assessment of development

Division 1 Urban design development

- 24 – The Design & Place SEPP promotes a flexible approach to applying the design principles and criteria in the assessment of new development. We recommend the following amendments to the clause to ensure that flexibility is applied to the degree intended by the Design & Place SEPP and the guidance in the UDG is not unintentionally subverted:

24 Objectives of Urban Design Guide

- (2) Development may meet the objectives of the Urban Design Guide by -
 - (a) meeting the applicable design criteria set out in the Urban Design Guide, ~~to the extent possible,~~ or
- (3) In determining whether development meets the objectives of the Urban Design Guide, the consent authority must –
 - (a) apply the design criteria **flexibly by considering the design guidance** set out in the Urban Design Guide ~~flexibly~~ and consider alternative solutions, and

Division 2 BASIX standards for residential development

- 27(2) – We support that the Design & Place SEPP does not require energy use, water use, embodied emissions, or thermal performance standards to be met for development involving a heritage item or within a heritage conservation area, at the discretion of the Planning Secretary. This flexible approach will help to protect the unique character of our valued built heritage.
- 29(3)(b) – We are pleased to see that this clause takes steps towards upholding local provisions that encourage or offer incentives for higher sustainability measures than those contained under the BASIX scheme. However, we recommend further amendments to enable local LEP & DCP provisions that exceed BASIX standards (i.e. higher sustainability standards) to prevail over the Design & Place SEPP provisions. Supporting higher sustainability standards in local place-based provisions would be consistent with achieving the objects of the Design & Place SEPP to design sustainable and greener places that promote resource efficiency and emissions reduction.

Enabling Councils to set higher BASIX targets is further supported by principle 1.8 contained in the Minister's Planning Principles (December 2021) that:

The planning system should enable councils to plan for their local areas, provided they promptly meet their responsibilities in achieving the strategic visions, priorities and targets set out in regional and district plans.

Division 3 Residential apartment development

- 30 – Consistent with our comments on clause 24, we recommend the following amendments to the clause to ensure that flexibility is applied to the degree intended by the Design & Place SEPP and the guidance in the Apartment Design Guide is not unintentionally subverted:

30 Objectives of Apartment Design Guide

- (2) Development may meet the objectives of the apartment Design Guide by -
 - (a) meeting the applicable design criteria, ~~to the extent possible,~~ and the design guidance set out in the Apartment Design Guide, or
- (3) In determining whether development meets the objectives of the Apartment Design Guide, the consent authority must –
 - (a) apply the design criteria **flexibly by considering the design guidance** set out in the Apartment Design Guide ~~flexibly~~ and consider alternative solutions, and

- 32(3)(a) requires car parking rates to be equal to or greater than the recommended minimum rates under the Apartment Design Guide or the minimum rates under an applicable DCP, whichever is less.

A number of NSW councils, including Woollahra, Canada Bay, and Waverley, provide *maximum* car parking rates in DCPs in order to limit car parking rates and encourage active transport in accessible locations.

We request that this clause be revised to ensure that local *maximum* car parking rates are not exceeded and help reinforce the approach taken by many local councils DCPs that aims to encourage a modal shift from private car usage to active and public transport.

We note that under CI 33 of the Design & Place SEPP, developments may be able to provide a lower parking rate in areas of high transport access, subject to the lodgement of a green travel plan. We strongly request that councils are consulted during the development of the Public Transport Accessibility Map that will determine which areas are considered to have high transport access and are therefore able to employ this clause.

2. Draft Apartment Design Guide

General comments

Woollahra Council commends the major revision of the Apartment Design Guide, containing many amendments in response to detailed review of the existing Apartment Design Guide, outcomes and public submissions.

We support the restructure to more clearly align parts and objectives to the process of designing apartment developments from the context, overall site and external considerations, through to internal design considerations and to the environmental performance details.

We also support the consolidation of existing parts of the Apartment Design Guide to simplify the structure and objectives to be more manageable during the design and assessment process.

We support and encourage the good use of cross referencing of interrelated parts, to assist consideration of interrelated design factors in the design process.

Council staff recommend that local place-based controls should prevail in the event of any inconsistency with the Apartment Design Guide design criteria where councils' local controls would result in a higher quality design or sustainability outcome. The design guidance should more strongly support the application of appropriate local council controls that are tailored to local character and other conditions.

Part 1.2 Built form and siting

We support the combination of all built form and siting controls together under this section, as they are all interrelated. This will allow comprehensive and proper consideration of the built form, as currently Part 2 doesn't include objectives and the *Environmental Planning and Assessment Regulation 2000* only requires consideration of the objectives in Part 3 and 4 of the Apartment Design Guide and not consideration of Part 2.

The design guidance should support the application of local council's controls in relation to front, side and rear setbacks to respond to local character conditions.

The design guidance provided under Figure 1.2.3 relates to building separation, however this section is focused on building articulation. The guidance under Figure 1.2.3 should be positioned with the *Building separation and setbacks* guidance on page 15 for ease of interpretation.

Also the guidance that buildings should be divided into separate elements where building length exceeds 40m is excessive and should be reduced to provide more suitable built form modulation. For example, the *Woollahra Development Control Plan 2015* (Woollahra DCP 2015) identifies a maximum unarticulated wall length of 6m to the street frontage and 12m to the side elevation. Clearer guidance is required in relation to creating appropriate overall massing of the building in this section.

The requirement to accommodate communal open space, including lift and stair access and shade structures, within the permissible building height is strongly supported. However often the height of building (HOB) and FSR standards contained in LEPs do not factor this into the number of storeys to achieve the permissible FSR. Greater guidance and policy integration about access and use of roof tops for communal use, integrated with the LEP HOB, FSR and appropriate envelope is required. This requires clearer definitions and guidance in relation to building height, gross floor area, lift, stair access, internal communal space, communal open space and shade structures, to take advantage of (and potentially incentivise) the use of the roof space for communal use, while creating an appropriate building form for the context.

Part 1.3 Site access and address and 1.4 Relationship to Street

Parts 1.3 and 1.4 should be combined as there is considerable overlap of issues.

We recommend that the Apartment Design Guide includes guidance for incorporating stepping of the ground floor level slabs to relate to the footpath ground plane, particularly sensitive for non-residential ground floor uses to ensure successful functionality of non-residential uses and street activation.

When a site is subject to flood controls, more guidance should be provided on the design of commercial and residential lobbies in mixed use developments to ensure they still achieve the Apartment Design Guide objectives.

Part 1.5 Green infrastructure

We strongly support the inclusion that local controls for deep soil area, which reflect variations in character and local context, take precedence where their requirements are greater than the design criteria in the Apartment Design Guide.

We request that the same principle be applied to tree canopy targets to ensure local controls that require greater tree canopy prevail, where present.

Part 1.6 Parking

Change Part heading to *Parking and facilities*

Objective 1.6.2 should be amended to state: *Support cycling, walking and other sustainable transport and active recreation, with bicycle parking, **charging facilities and, for non-residential floor space, sanitary and personal locker facilities.***

We recommend the inclusions of a design criteria for bicycle parking, charging facilities and, for non-residential uses, sanitary and personal locker facilities. However, local council's controls should take precedence where these exist and are greater than proposed under the Apartment Design Guide.

We recommend the inclusion of design guidance for design of charging, end of trip sanitary and locker facilities and other design considerations to support bicycle, walking, other sustainable transport modes and active recreation.

We suggest guidance be provided on the use of stepping in car parking slabs, particularly for larger mixed use development sites, to ensure non-residential ground floor uses can relate to the footpath ground plane.

Part 2.2 Communal spaces

For large developments sites (ie could specify over a certain site area) a % of communal indoor space should be required as a design criteria, to ensure it is actually provided. Currently Part 2.2 is very vague in relation to the provision of communal indoor space. In many instances communal open space will be significantly enhanced by the provision of adjoining communal indoor space, such as a room and kitchen facilities opening onto a rooftop or ground communal open space. The policy package could also incorporate incentives for the provision of communal indoor space, such as a proportion being excluded from the calculation of gross floor area.

The design guidance should discuss flexibility in providing communal open space, communal indoor space and the provision of generous sized private open space. It should also discuss appropriate arrangements of communal spaces in a way that achieves the best outcomes and ensure privacy and good space management. For instance on smaller or particular site environments it may be better to allocate landscape space to have larger ground apartments that support family use than as underutilised common space or causing privacy impacts. Or, in a tight urban context, where it is not possible or the best outcome to provide communal open space, such as on a rooftop where it would cause major privacy conflicts, provision of communal internal space may be a better option.

Specific requirement for the provision of sanitary facilities to support communal open space and communal indoor space should also be included in the design criteria.

Part 2.3 Apartment mix and diversity

The policy wording should be strengthened to support an appropriate unit mix to cater for the needs of the community now and into the future. The draft Apartment Design Guide provides an inadequate mix of unit sizes, for example 20 dwellings is considered too high a threshold for the apartment mix requirement to be enforced. Apartment development outside of centres in the Woollahra LGA rarely contain 20 or more dwellings, and are often predominated by large apartment sizes, following market forces. We recommend stronger policy to guide unit mix to deliver housing diversity for our community, consistent with the Woollahra Housing Strategy.

We recommend a more appropriate threshold is six or ten dwellings and a greater mix is required e.g. no less than 15 per cent of the total number of dwellings are one type. The Apartment Design Guide should also include a minimum bedroom mix guide to ensure that there is a supply of one, two and three-bedroom apartments to provide greater housing diversity. It should also consider setting a different required mix for in-centre and out-of-centre locations.

However, Woollahra Council supports that local council's controls on unit mix should take precedence where these exist.

Part 2.4 Apartment configuration

While the Explanation of Intended Effects proposal for 4.2m floor-to-ceiling height for ground floor non-residential uses was excessive, the 3.3m height proposed in the draft Apartment Design Guide is considered insufficient. We recommend a slight increase to 3.6m for habitable room, is appropriate to strike a better balance to ensure more flexibility of use and amenity of ground floor spaces, for non-residential or community uses.

Part 2.6 Sunlight, daylight, shade and thermal comfort

The introduction of a shading control for windows is strongly supported, given this is a significant oversight of the current Apartment Design Guide.

3. Draft Urban Design Guide

Woollahra Council is very supportive of the introduction of the Urban Design Guide, although given the 1 hectare threshold it will have limited application to the Woollahra LGA.

Key concerns and recommendations regarding the Urban Design Guide are:

- Objective 5 – we do not support the definition and design criteria of walkable neighbourhoods, being homes that are within 15 to 20-minutes walk of a collection of local shops, a primary school, public transport, a supermarket or grocery store. It is broadly accepted that the benchmark for a walkable neighbourhood is a 10-minute walk (20-minute round trip) for daily needs. Less frequently used services and facilities may be located within a 20-minute walk. We strongly recommend that the Urban Design Guide is revised to define walkable neighbourhoods as being within **10-minutes** walk of people's daily needs. We also note that the phrasing of a *collection of local shops* is ambiguous as it is not clear what constitutes a *collection*. This language should be updated to be consistent with definitions in the Standard Instrument to ensure consistent interpretation.
- The Urban Design Guide needs to have more measurable design criteria and clearer design guidance where alternative design solutions are proposed.
- The assessment guidance needs to better relate directly to the objective and/or design criteria.
- A clear design criteria metric is required for the percentage of urban land that should be allocated (or result in) as part of a development for public space, such as 50%.
- Objective 6 – the definition and design criteria of a walkable block being maximum block length for industrial areas of 220–250m and maximum block length for residential and mixed-use development as 160–220m is too large to support truly walkable and vibrant neighbourhoods, especially in denser locations. A truly walkable and sustainable pattern of block lengths is in the order of 90-180m. Importantly the design criteria also needs to incorporate variation depending on the location from suburban through to dense urban contexts.
- There is a lot of duplication throughout the Urban Design Guide that can be open to inconsistencies, especially in relation to street structure. A more logical structure would be to move from starting with Country and natural systems, to structure of public space, to structure of private land and control of built form.

4. Draft Regulation Amendment

Below is our submission on the proposed amendment to the *Environmental Planning and Assessment Regulation 2000* (Regulation amendment).

- Clause 3 Definitions – The definition provided for an *urban designer* as being a qualified town planner, an architect, or a landscape architect is overly restrictive and may unintentionally exclude many experienced urban design practitioners. Many qualified urban designers hold degrees in urban design or complementary built-environment fields, or have experience that bridges the fields of architecture and planning. We recommend this definition is reconsidered to appropriately encompass the breadth of urban design professionals practicing in NSW.
- Division 1A(57) – This division sets out the requirements for design verification statements and design review reports. Cl 57 states that certain development applications

must be accompanied by either a design verification statement or design review report, where relevant, and that these documents must incorporate advice from the design review panel. The Design & Place SEPP and Regulation amendment should be revised to make clear that a design review panel meeting is required for DAs at the pre-lodgement stage.

- 99 – We support the inclusion of provisions to require charging facilities for electric vehicles for development that includes a car park. However, we are concerned that the Regulation amendment does not support local planning controls which impose higher electric vehicle charging standards and request that this be reconsidered.

The Woollahra DCP 2015 ([E1.11](#)) requires electric vehicle charging points to be integrated into all off-street car parking of new residential and non-residential development to ensure that 100% of car spaces can install electric vehicle charging points in the future. Woollahra was the first council to introduce this progressive standard which is being successfully integrated into our approvals and built form outcomes. We recommend that this clause is amended to give effect to local planning controls with higher sustainability standards, and secondly to ensure that all car parking spaces have integrated electricity supply to be able to cater for the growth of electric vehicles into the future.

- 164a – This clause specifies that a merit assessment can be completed by a suitably qualified professional as an alternate pathway to BASIX compliance. If an alternate merit pathway is introduced, it is vital that it is governed by clear and transparent standards to ensure that it delivers sustainable development to the same degree as BASIX certified development. BASIX risks losing rigour if the alternate pathway doesn't have clear and transparent standards.
- 248 – The proposed amendments to this clause omit vital information regarding fees for matters other than DAs which are required to be reviewed by a design review panel under the Design & Place SEPP, such as certain planning proposals and pre-lodgement DAs. We note that the overview document provided in the public exhibition states this will be updated when fees are increased to align with the Consumer Price Index.

We urge that design review panel fees for planning proposals, pre-lodgement DAs, and all other development types required to be referred to a design review panel are made public for comment **as a matter of urgency**.

The establishment of design review panels will have significant resourcing and finance implications for local councils (refer to **Part 6** of this submission). It is critical that information regarding fees is made available urgently to enable councils to plan for the constitution of mandatory design review panels, and to ensure that the fees cover the costs of running the panels.

- 268B(3) – This clause allows the Minister to *abolish a design review panel at any time and for any reason*. This should be amended to *for a reasonable cause*.
- 268B(2) and 268C(1) – These clauses state that the Minister is responsible for the appointment of members of the design review panel, however the Minister must consult with the local council in this process. We suggest an alternative arrangement is included so that councils, by agreement with the Minister, are permitted to appoint panel members.
- 268D(3) – This clause requires the design review panel to provide advice within 14 days of a request from a person seeking to make a DA or a consent authority. While we generally support the intent to improve the efficiency of the planning system, this timeframe is too tight to allow for the arrangement of a panel meeting and consolidation of written advice. We recommend 30 days as a more realistic and economically viable timeframe.

- Schedule 1(2) – We strongly support the new requirement for DAs to be accompanied by a site analysis that includes drawings of the site and wider context, streetscape, and adjacent public areas. The standards outlined in cl (3A) should also require the site analysis to highlight heritage items or conservation areas, and landscaping and canopy trees present in the surrounding context. This requirement will help support high-quality design that responds to the unique context of the site and the surrounding area.
- Schedule 7 – Members and procedures of design review panels:
 - 1(3) – This clause states that panel members are entitled to be paid remuneration and expenses as determined by the Minister. However, it is unclear how these fees will be determined by the Minister and who is responsible for the expense. We request further clarification of the financial implications for local councils. The expenses associated with the Panel is a significant concern to Woollahra and the documents on public exhibition do not provide any mechanisms to recuperate the expenses councils are now responsible for as a result of this State-imposed requirement.

5. Draft Ministerial Direction

The new draft *Environmental Planning and Assessment (Design Principles and Considerations) Direction 2022* requires planning proposals for sites greater than 1ha to be referred to the Design Review Panel (Panel) for advice and to have regard to the Design & Place SEPP design principles and considerations, and consider the Urban Design Guide objectives.

- Cl 4 – This clause requires applicable planning proposals to be referred to the Panel for advice. We note that it is also mandatory for planning proposals to be referred to the Local Planning Panel for advice, under the *Local Planning Panels Direction – Planning Proposals*.

The proposed requirement to refer planning proposals to the Panel will result in the planning proposal being considered by two similar advisory bodies, leading to unnecessary duplication in the planning system. We do not support the introduction of the mandatory requirement for applicable planning proposals to be referred to the Panel and recommend that this is instead at the discretion of the local council.

We note that the proposed referral process for DAs that are required to be considered by both the Design Review Panel and Local Planning Panel is appropriate, as the first is an advisory body and the second is a determinative body.

- Cl 7 – This clause allows councils to seek a special exemption from referring planning proposals of minor significance to the Panel. We recommend that the draft Ministerial Direction is amended to require only planning proposals that will result in *significant built form impacts* to be referred to the Panel for advice. This approach would reduce the administrative burden for councils to seek a special exemption for planning proposals of minor significance and provide clarity about the types of matters that should be considered by the Panel.
- (6) – We do not support the inclusion of this clause, which requires that applicable planning proposals must give effect to residential density, connectivity and open space criteria and guidance provided in the UDG. This clause is predominantly relevant to greenfield areas only. In Woollahra and other infill council areas, most planning proposals that apply to a land area greater than 1ha relate to an LGA-wide LEP amendment, they are not for master-planned precincts and do not propose amendments that would alter residential density, connectivity or open space.

6. Design Review Panel

CI 35 of the Design & Place SEPP introduces a new compulsory requirement for all councils to constitute a design review panel if one is not already in operation.

We support the aim of the panel to provide expert advice early in the planning process to help improve the design quality of the built environment.

However, we do not support the mandatory introduction of a Panel. We have significant concerns about the financial and resource implications, along with concerns about certain administrative procedures and the scope of matters required to be considered by the panel. These matters are discussed below.

Financial implications and staff resourcing

The compulsory introduction of a Panel will have financial and staff resource implications for all councils, particularly those like Woollahra who do not presently operate a panel.

The documents on public exhibition do not provide sufficient mechanisms for councils to cover their expenses to operate the now mandatory Panel, and this gap in funding will result in adverse financial outcomes for local councils.

As previously stated, it is unreasonable for the Department to mandate the establishment of the Panel and broaden its scope to consider pre-lodgement DAs and certain planning proposals without providing accompanying mechanisms to collect fees from applicants for these services. It is inadequate to state that these fees will be integrated into the Regulation at a later date when updates are made to align all fees with the Consumer Price Index. This provides no certainty to councils about the length of time we will be required to cover the gap in fees.

We have undertaken a review of all determined DAs in Woollahra between 1 January 2021 and 24 January 2022 to extrapolate the likely impacts across a one year period.

Table 2 below provides a conservative estimation of the financial and resource impacts resulting from the establishment of a Panel.

Table 2 – Design review panel estimated impacts in Woollahra per year

Matters to be referred to design review panel	No. referred	No. panel meetings required ¹	Panel member consultant fee ²	Council staff cost ³	Fee payable by applicant ⁴
DA – apartment development	14	28	\$50,400	\$16,800	\$42,000
DA – capital investment >\$30m	1	2	\$3,600	\$1,200	\$3,000
Planning proposals >1ha land	3	6	\$10,800	\$3,600	-
DCP amendments (at Council's discretion)	2	4	\$7,200	\$2,400	-
	20	40	\$72,000	\$24,000	\$45,000
Total cost to Council (panel member fees + staffing expenses)					\$96,000
Total fees payable by applicant					- \$45,000
Total gap to be funded at Council's expense					\$51,000

¹ Assumes 2 meetings/matter, consistent with CI 57A(1) of the draft Regulation and Design Review Panel Manual estimate of 2-3 times.

² Based on 3 consultants required for a quorum, professional fees of \$200/hr, and 3 hours spent per matter, in accordance with Schedule 7 of the draft Regulation and Design Review Panel Manual.

³ Based on 2 staff members (Design Panel Manager and Design Panel Coordinator) at \$50/hr, and 6 hours spent per matter referred to panel, in accordance with the compulsory roles and tasks set out in the Design Review Panel Manual.

⁴ CI 248 of the draft Regulation states that a \$3,000 fee is payable on lodgement of DAs that require review by the design panel. There is currently no mechanism to collect fees for pre-lodgement advice, planning proposals, or other matters required to be referred to the panel. Accordingly, the applicant fee has been calculated for 1x panel meeting at time of lodgement for DAs only.

Our analysis demonstrates that after considering 15 development applications, 3 planning proposals and 2 other discretionary matters, and collecting applicant fees in accordance with the provisions of draft Regulation, Woollahra would be responsible for funding a gap of \$51,000.

This is a conservative estimate. It assumes only 2 meetings per matter, it includes minimal Council staff time spent servicing the panel, and excludes venue, catering and other sundries associated with operation the Panel. It is not possible to obtain a true understanding of staff time commitments and other operational expenses until the panel starts operation.

The cost estimates also exclude any 4.55(2) and 4.56(1) modifications to DAs that may be required to be considered by the Panel. Cl 116 of the draft Regulation provides that modification applications must be accompanied by a design verification statement that takes into account the panel's advice on the development. This only applies where the original DA was required to be reviewed by the Panel.

While cl 116 implies that modification applications must be reviewed by the Panel, we request this clause and/or the Design Review Panel Manual be revised to provide greater clarification and certainty on this matter.

Administrative procedures

A number of statements and requirements in the Design Review Panel Manual and draft Regulation amendment allude to the requirement for applicable DAs to be referred to the Panel for advice at the pre-lodgement stage. However, there is no clear clause or mechanism that clearly outlines this requirement or the threshold.

We recommend the Design & Place SEPP, Regulation amendment, and Design Review Panel Manual are updated to clearly articulate the stage in the application process that Design Review Panel meetings are to be held. This will provide greater certainty to applicants and assist councils forecast resource requirements when establishing a Design Review Panel.

Scope of matters to be considered by the Design Review Panel

There are a number of issues related to the scope of the Panel which require further clarification or refinement to ensure the panel operates as intended, as discussed below.

Residential apartment development:

- Cl 5(1)(a)(ii) of the Design & Place SEPP includes the term *substantial* redevelopment or refurbishment of an existing building as a type of residential apartment development that requires review by the Panel. We recommend this term is refined to provide more detailed guidance about what is considered *substantial*. This will help to ensure consistency of the types of DAs referred to the Panel and provide transparency to applicants.

Boarding houses and student accommodation:

- Under Cl 34 of the Design & Place SEPP, *boarding houses* and *student accommodation* are not required to be referred to the Panel for advice. We strongly recommend that these accommodation types are required to be considered by the Panel. While they do not have the stringent design requirements that Apartment Design Guide buildings have, they are still bulky development forms that can significantly impact on the public domain and would benefit from the same rigour of design review as similarly scaled residential apartment development.

We note that Cl 34(1)(f) of the Design & Place SEPP provides an avenue for councils to refer other development, such as *boarding houses* or *student accommodation*, to the Panel so long as this requirement is present in an environmental planning instrument

such as an LEP. However, it is our view that these development types must be referred to the Panel to ensure the delivery of high-quality design State-wide.

Role of the Panel Chair:

- We recommend that the Design Review Panel Manual is amended to require the Panel Chair to state that the panel serves an advisory role only and the comments will be used by planning officers in preparing a comprehensive assessment. This will reduce potential ambiguity as to how applicants interpret the weighting of advice received from the Panel.

Claire Krelle

From: noreply@feedback.planningportal.nsw.gov.au
Sent: Monday, 28 February 2022 4:58 PM
To: PDPS DRDE Design and Place SEPP Mailbox
Cc: DPE PS ePlanning Exhibitions Mailbox
Subject: Webform submission from: The Design and Place SEPP 2021
Attachments: wsroc-submission-to-draft-design-and-place-sepp_february-2022.pdf

Submitted on Mon, 28/02/2022 - 16:57

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Judith

Last name

Bruinsma

I would like my submission to remain confidential

No

Info

Email

judith@wsroc.com.au

Suburb/Town & Postcode

Blacktown, NSW 2148

Please provide your view on the project

I support it

Submission file

[wsroc-submission-to-draft-design-and-place-sepp_february-2022.pdf](#)

Submission

Submission on behalf of the Western Sydney Regional Organisation (WSROC) is attached.

I agree to the above statement

Yes



SUBMISSION:

Draft Design and Place SEPP

NSW Department of Planning and Environment

Western Sydney Regional Organisation of Councils Ltd.

February 2022

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1. Introduction

1.1 About WSROC

The Western Sydney Regional Organisation of Councils (WSROC) is a membership organisation that represents local government in the Greater Western Sydney region.

With a reputation for considered policy analysis and bipartisan advocacy, WSROC brings a collective voice to those issues which are crucial for Greater Western Sydney's growing population.

WSROC's primary role is to represent the councils and communities of Greater Western Sydney, as well as developing resource sharing and other co-operative projects between member councils. WSROC also manages a number of projects, which are either funded jointly by its members or from external sources.

Western Sydney Regional Organisation of Councils (WSROC) welcomes the opportunity to provide a response and submission to the Draft Design and Place SEPP and related guidance documentation released by the NSW Government.

1.2 This submission

This submission is prepared on behalf of WSROC member councils. Some of our councils will make their own submission. This document should be viewed in addition, and complimentary to those responses.

When reviewing content relating to waste, resource recovery and circular economy provisions, WSROC's submission has been prepared on behalf of nine western Sydney councils participating in the regional waste strategy program. These include Blacktown, Blue Mountains, Cumberland, Fairfield, Hawkesbury, The Hills, Liverpool, Parramatta and Penrith.

1.3 Contact

WSROC would welcome an opportunity to further discuss this submission. Should there be any questions, please do not hesitate to contact WSROC CEO, Mr Charles Casuscelli on charles@wsroc.com.au or 02 9671 4333.

2. General comments

WSROC supports the NSW Government's intent to consolidate planning instruments to streamline the planning system for new development across NSW. A planning system that delivers well designed places and communities for the residents of Western Sydney whilst also supporting the delivery of housing choice, housing diversity and housing affordability is largely supported.

The development of planning policy that recognises the importance of good design for establishing healthy places that support the wellbeing of people, community and Country is also welcomed.

As such, there is generally broad support for the inclusion of the five design principles that are to be given effect within the Design and Place SEPP. WSROC is particularly pleased to see the strong focus on resilience. There is an increasing need for better urban design that not only ensures people stay safe, but can thrive in future climatic conditions.

There are several key areas of the Design and Place SEPP package that WSROC believes could be strengthened. These are outlined below.

2.1 The Cost Benefit Analysis is incomplete

The Cost Benefit Analysis (CBA) for the draft Design and Place SEPP as a whole (Deloitte Access Economics 2021) reports on interim results of the CBA, which is still underway. It provides a brief explanation of the approach to the CBA and a preliminary result for one of the options.

Three options are considered:

- Option 1: Proposed Design and Place SEPP without the flexibility provision
- Option 2: Proposed Design and Place SEPP with the flexibility provision

If a design proposal which varies design criteria can meet the objectives of the design criteria in the zone in which the development is proposed and the applicant can demonstrate the departure will result in improved planning outcomes, the applicant may deviate from prescribed design criteria.
- Option 3: Proposed Design and Place SEPP with the flexibility provision and adjustments of selected policy initiatives.

The CBA is not clear exactly what would be adjusted. It states:

Generally, those initiatives which are expected to significantly increase construction costs or impose stringent minimum standards are adjusted in this option.

It appears that Option 1 is the version on exhibition. We cannot find reference to the 'flexibility provision', or anything resembling this, elsewhere in the consultation documents. However, Deloitte (2021) only provides a result for Option 2 (a positive BCR of 1.42). Our concern would be that the CBA will be used to justify modifying the SEPP and introducing more flexibility (less stringent requirements)

post-exhibition, or to enable trade-offs that are not truly equivalent (e.g. would developers be able to trade off deep soil and canopy cover for something else?). Deloitte (2021) states:

Although the proposed amendments to the Design and Place SEPP maintain that variations to development standards should meet the objectives of the development standards, there is a small reduction (5%) in the full realisation of benefits associated with provisions related to build requirements and open space requirements as a result of the flexibility provision.

Deloitte (2021) lists a wide range of costs and benefits included in their analysis, including ‘reduced urban heat island’, ‘increased walkability and health benefits’, and ‘improved social cohesion’. However, it is unclear how these elements have been quantified. There is no breakdown of the total costs and benefits, and no acknowledgement of uncertainties or unknowns in accounting for broader social costs and benefits.

Recommendations:

- That options 2 and 3 in the CBA are fully disclosed for public review prior to finalisation of the draft SEPP, including an explanation of what they involve and why they are being considered.
- WSROC expresses concern regarding the risks of introducing flexibility. This has the potential to enable trade-offs that are not truly equivalent (e.g. would developers be able to trade off deep soil and canopy cover for something else?).
- A full evaluation of Option 1 be conducted in the CBA, including information on how all costs and benefits have been accounted for, a breakdown of cost and benefit estimates, and acknowledgement of uncertainties and costs/benefits not able to be assigned a monetary value.

2.2 Ensure design principles are backed up by minimum standards and clear guidance

The proposed shift to a principles-based approach is a significant one. We recognise that allowing room for innovation and place-based planning is important. However, we equally caution that due consideration will need to be given to potential consequences to assessment processes, council resourcing, development costs, and community liveability outcomes.

It is important to ensure that the design principles are supported by sound and improved minimum standards and design criteria on which developments can build. We stress that “Guidance” will not be able to be relied on in court and so will not be able to be enforced. Failing to identify enforceable quality performance standards will result in overall loss of quality and a rapid increase in development-inequity across the city whereby lower-socioeconomic groups see poorer development outcomes due to an increased focus on feasibility.

In addition, a lack of enforceable standards can cause uncertainty for both applicants and consent authorities resulting in delays and costs for both parties.

We urge the NSW Government to ensure that the SEPP is supported by minimum standards and design criteria to ensure, safe, functional, and productive development outcomes.

The SEPP design considerations include matters that are complex and many consent authorities will need guidance as to how these can be manifested in development applications.

Concise interim guidance for assessment of different development types including objective measures should be provided while full guides are developed. These documents should be given status either in the SEPP or Regulations.

In addition, we express concern with the current wording as used in in the SEPP Clauses 24 and 30 (3)(a) which states that the whole ADG and UDG be applied “flexibly”. This means that every part of the guides can be flexed, or bent, without limit. The effect of this drafting is that no part of the ADG or UDG can be applied with certainty.

Additionally, Clause (2)(a) includes the phrase “to the extent possible”. What constitutes “possible” will be subject to dispute and create uncertainty; increasing potential costs for both applicants and consent authorities.

Lastly, WSROC cautions that for some elements of the built environment such as waste management, there are certain standards and requirements that need to be applied to ensure developments can function safely and sustainably and can be effectively integrated with the relevant councils’ waste management service. Failing to do so will result in residents losing access to waste diversion and recycling services and result in more waste disposed at landfill.

WSROC urges the NSW Government to ensure that the SEPP is supported by minimum standards and clear guidance to ensure, safe, functional, and productive development outcomes. We further strongly recommend that the wording of SEPP is codified to ensure that flexibility is properly applied and to reduce ambiguity.

Recommendations:

- Ensure the design principles are underpinned by minimum standards.
- Ensure these minimum standards are continuously reviewed and adjusted based on latest available data and information. Options to scale-up standards and for ongoing investment in tools and pathways is recommended.
- Align ADG objectives with terms used in the SEPP and ensure appropriate design guidance is provided to inform ‘alternative solutions’.
- Develop additional design guides to support the design considerations and give them status in the SEPP.
- Refine the wording of SEPP Clauses 24 and 30 and to ensure flexibility is properly applied and reduce ambiguity.

2.3 Invest in capability to deliver

WSROC commends the vision outlined in the Draft Design and Place SEPP, but also recognises that a change of this magnitude will require appropriate resourcing to ensure implementation is

appropriately supported. Training and upskilling will be required to ensure all actors have the skills and capabilities required to deliver the new SEPP.

We also highlight that overall clarity regarding the process is needed, including strong consultation with local government, assessment authorities and other stakeholders, to inform the new process. A key consideration should be assessment and compliance. We note that a design and principles-based approach will be inherently difficult to assess and monitor. Appropriate processes and safeguards should be put in place to ensure the intended effect is indeed achieved, and certain developments do not fall under the radar. As such, WSROC recommends piloting all elements of the new SEPP and associated guides to ensure there are no unintended adverse effects.

We further point to the need for appropriate funding and resources of potential additional studies, training and upskilling. Local government should be a key stakeholder in identifying what training and resourcing will be required for them to implement the SEPP, and training of the Design Review Panels.

Recommendations:

- Strong consideration be given to ensuring assessment and compliance of any development is appropriately resourced.
- The NSW Government develop a capability pathway that ensures all actors and stakeholders have the appropriate skills and knowledge to deliver the SEPP. Investment in clarity of process is critical to ensure the intended outcomes are achieved.
- The NSW Government ensures each element of the draft SEPP and accompanying guidance material is piloted across private and public stakeholders to ensure that the intended outcomes are achieved.

2.4 Exempt and complying development

WSROC notes the intent to review the Exempt and Complying Development Codes. Councils have expressed concern regarding Exempt and Complying Developments; in many cases they do not deliver the best outcomes for communities.

Ensuring the same resilience principles are prioritised for Exempt and Complying Development is critical to ensure liveable communities, particularly in view of a changing climate. While affordable and sufficient housing stock is important, speed and cost saving at the development stage should not come at the cost of healthy, quality housing that is affordable to run. We caution that sub-standard developments will ultimately shift the costs and risks (health and economic) to the occupant. This is particularly important for households on low-incomes or engaged in rental tenancies.

Recommendation:

- Ensure that Exempt and Complying Development Codes are reviewed to ensure quality of developments are safeguarded, especially in view of climate extremes. Any cost benefit analysis should consider whole of life costs for a development (e.g. energy costs) instead of focusing solely on up front development costs.

2.5 Resilience

We commend the Government's leadership in the recognition that resilience is fundamental to creating sustainable places and communities. We note and support the following statement in the Minister's Planning Principles:

"Resilience is a foundational characteristic of sustainable development across all 3 objectives (social, environmental, economic). Ensuring NSW is resilient and able to rebound strongly from social, environmental and economic challenges, is key to creating sustainable places and communities."
[Ministers Planning Principles page 6]

While the inclusion of resilience in the planning system is supported, WSROC is concerned regarding the lack of clarity, and guidance on how resilience is embedded in the proposed SEPP. We note a reference to the *'design for resilience' template and accompanying guidance*. We have been unable to locate this template and assume it is not currently on exhibition.

We further highlight that a resilient planning system should enable adaptability, redundancy, modularity and subsidiarity (see PIA discussion paper 2021). Currently, adaptability for resilience over time is not reflected in this Principle and the inclusion of words that *anticipate* exposure, or that reflect the *design life* of a development or *useful life* of materials may serve to ensure resilience is long lasting and does not expire at a certain point.

Lastly, to enable resilience to truly be embedded in the planning system, clear, user-friendly guidance is required. We note that a significant number of documents have recently been published relating to resilience. These must be consolidated, and the Resilience Template exhibited for consultation.

Recommendations:

- Exhibit the mentioned Resilience Template for public consultation
- Ensure adaptability for resilience over time is reflected in the principles.

2.6 Urban and extreme heat

We are extremely pleased to see strong recognition of how the planning system can support urban cooling. Western Sydney's heat challenge is widely recognised, and Sydney's District Plans establish three key priorities related to urban heat (Greater Sydney Commission, 2018):

- Adapting to the impacts of urban and natural hazards and climate change
- Reducing carbon emissions and managing energy, water and waste efficiently
- Increasing urban tree canopy cover and delivering Green Grid connections.

As these priorities suggest, there are different ways to address heat and it needs a multi-faceted approach, with new principles embedded in planning and design to reduce heat impacts in new development.

The draft Design and Place SEPP includes some positive guidance and targets relevant to urban heat, including:

- New cool roof standards
- Improved targets for energy efficiency and thermal performance in BASIX
- Stronger targets for deep soil areas and canopy cover
- A requirement to shade glazed façades.

However, there are also important gaps and missed opportunities in the draft SEPP and its supporting guidelines. The Urban Design Guide (UDG) in particular, should be a key opportunity to set up a strong set of principles for addressing urban heat, however:

- Resilience principles are left to a guideline yet to be completed. Where resilience is mentioned, it is lacking a strong framework or clear set of guiding principles. Resilience should be a core theme underlying our whole approach to planning and design.
- Measures to address urban heat are largely limited to the 'natural systems' theme and the role of trees. It is positive to see the role of trees well supported with strong principles, clear guidance, and specific targets, however, this rigour is lacking when it comes to other measures known to reduce the impacts of urban heat e.g. street orientation, cool materials. These latter measures are briefly mentioned but not supported by strong principles, guidance, targets nor a clear approach to assessment.

While some of this could be added later (e.g. we expect the resilience guideline is still under development), they would be much better addressed if embedded from the beginning.

It is good to see that strong targets are proposed for deep soil areas and tree canopy, including specific targets applicable to streets, public open space and private lots, however there is a concerning suggestion in the Cost Benefit Analysis that two options are under investigation to allow applicants to deviate from prescribed design criteria such as the deep soil and tree provisions.

This is particularly concerning as deep soil and space for trees require integration into the most permanent components of urban morphology, lot and street network design. Once in place, retrofit to accommodate these elements is extremely challenging, costly and in some cases impossible to achieve.

Further comments follow on each part of the proposed SEPP and its supporting documents, where relevant to urban heat.

Recommendation:

- Strong support for the recognition of the need to address urban and extreme heat through urban planning.

2.7 New cool roof standards

WSROC strongly supports the inclusion of cool roof standards due to the positive outcomes that can be achieved for both individual households (thermal comfort and energy use), and communities (urban heat island mitigation), and the ease of implementation.

We understand that cool roof standards are currently under consideration (and not yet included in any draft) for the Codes SEPP and Standard Instrument LEP. This would be a positive step. Inclusion in the Codes SEPP and Standard Instrument LEP would not pick up all types of development but would capture the majority of residential development.

We note that solar absorptance is slightly different to the 'Solar Reflectance Index' proposed in WSROC's Urban Heat Planning Toolkit. While SRI accounts for both solar reflectance and thermal emittance, SA is a simpler measure. It is acknowledged that the SA measure has likely been proposed as it is already referenced in BASIX and the National Construction Code (NCC). The use of SA instead of SRI would still drive the market towards cool roofs, however it is likely to skew preferences away from certain roofing materials, which would perform better on an SRI measure than on an SA measure.

The proposed target of $SA < 0.7$ is modest. The NCC defines a dark roof as one with $SA > 0.6$, and there a wide range of products available with SA less than 0.6 (the [SA ratings of the Colourbond range](#) are illustrative). 0.7 has likely been proposed because BASIX already defines a dark roof as one with $SA > 0.7$. However, it would be good to see the BASIX SA ratings brought in line with the NCC.

Recommendations:

- Cool roof standard be introduced into the Codes SEPP and Standard Instrument LEP.
- Expert and industry consultation be undertaken to identify the most appropriate measure/s to include in the standards. These should take into consideration climate zones where cool roof standards would be beneficial.
- For the definition of 'dark roofs' in BASIX to be brought in line with the NCC and for the target to be set at $SA < 0.6$.

3. Design and Place SEPP

3.1 Waste in the Design and Place SEPP

Part 2 Design principles and design considerations	Potential Amendment	Comments
<p>Design Consideration:</p> <p>8) Resource efficiency and emissions reduction</p> <p>Section 21: The consent authority must consider whether the development—</p> <p>(a) for urban design development involving subdivision—minimises, and excludes as far as practicable, the use of on-site gas for cooking, heating and hot water, and</p> <p>(b) is designed to minimise waste from associated demolition, construction and during the ongoing use of the development, including by the choice and reuse of building materials</p> <p>(c) minimises greenhouse gas emissions, as part of the goal of achieving net zero emissions by 2050, including by incorporating the following—</p> <p>(i) passive design,</p> <p>(ii) energy efficiency, and</p> <p>(iii) the use of renewable energy.</p> <p>(d) uses water sensitive design and maximises water re-use.</p>	<p>Split consideration 21(b) to separate considerations surrounding waste and resource recovery and circular economy.</p> <p>Suggestion amendment:</p> <p><i>21(b1) is designed to minimise waste from associated demolition, construction and during the ongoing use of the development. including by the choice and reuse of building materials</i></p> <p>Insert 21(b2):</p> <p><i>Is designed to ensure design and construction contributes to the circular economy and circular economy design principles are embed into the design of the building.</i></p>	<p>It is recommended that clause 21 of the draft DP SEPP be amended to make specific reference to and include a stand-alone design consideration for circular economy.</p> <p>There is a strong need for clear planning policy direction that supports the implementation of circular economy principles across all phases of the development process.</p> <p>The existing written form of 21(b) is lengthy and the important need to reduce waste in the development's ongoing use is lost by integrating two issues in one point.</p> <p>The proposed amendment would better support the delivery of:</p> <ul style="list-style-type: none"> design principle (4): design sustainable and greener places to ensure the wellbeing of people, and the environment, and design consideration (8): resource efficiency and emissions reduction. <p>The draft DP SEPP represents a significant opportunity to apply circular economy principles across the life cycle of new developments in ensuring new buildings are both durable and adaptable and accord with state adopted circular economy principles.</p> <p>A specific design consideration that recognises the importance of transitioning to a circular economy would also prioritise the potential for material reuse and support high-quality recycling systems across new developments. This approach best places new developments to accord with state-wide principles and sustainability priorities that feature</p>

		<p>across a number of endorsed state government policy such as:</p> <ul style="list-style-type: none">• <i>Greater Sydney Region Plan and supporting District Plans</i>• <i>Circular Economy Policy Statement</i> (February 2019)• <i>NSW Waste and Sustainable Materials Strategy 2041: Stage 1 – 2021-2027</i> <p>In addition to the above, the inclusion of a stand-alone consideration for circular economy would reinforce the NSW state government commitment to transition to a circular economy over the next 20 years. This is a key commitment contained within <i>NSW Waste and Sustainable Materials Strategy 2041: Stage 1 – 2021-2027</i> and would support a number of policy directions and targets including:</p> <ul style="list-style-type: none">• Have an 80% average recovery rate from all waste streams by 2030• Significantly increase the use of recycled content by governments and industry
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4. Urban Design Guide

4.1 Need for measurable criteria for assessment

WSROC believes that the development of an Urban Design Guide has great potential to elevate design and development across the state. However, the current UDG criteria are often ambiguous and vague. WSROC expresses concern that this can lead adverse outcomes. We point to the learnings from the implementation of the ADG, where the greatest improvement to performance were aligned with those aspects of design that have clear and objectively measurable design criteria. The UDG criteria are often ambiguous and vague.

Recommendation:

- Undertake further consultation and re-draft the Urban Design Guide (UDG) to ensure it is supported by objectively measurable criteria for assessment.

4.2 Missing resilience framework/design guidance

The diagram in Figure 4 (components of successful places) could include sustainability and resilience as one of the elements surrounding the whole structure (along with Country, place, people and culture).

Country is the subject of a separate Connecting with Country Draft Framework document and Designing with Country discussion paper ([Government Architect NSW](#)). Resilience is not supported by any equivalent framework or design guide.

Within the Urban Design Guide, the main organising structure is the '5 key urban components' in the centre of Figure 4. Designing for resilience doesn't fit neatly into any single one of these components, but the guide places it into 'urban structure' as:

Objective 4: Place-based risks are mitigated, and ecological values sustained to ensure resilient communities.

The guidance in here is very general, attempting to address a wide range of hazards in a few basic principles. These over-simplify the principles of planning and design for resilience, including a few random details rather than a strong high-level framework. For example, under 4.2 'Ensure safety and resilience underpin new communities', the only advice is to provide safe zones for use in emergency management. Heat is not mentioned under Objective 4, despite several specific hazards being listed.

There is a vague indication of more guidance to come. Under 'assessment guidance', there is reference to a "design for resilience" template and accompanying guidance'. Presumably this is still under development, however this is unclear.

We understand that resilience is a new and complex area for state planning policies, however it is not an area that can be glossed over. Resilience, by its nature, touches on all elements of urban planning and design and therefore must be central to policy development. If applicants and consent authorities

are to understand what is required of them in this new and complex space, it is essential to have a clear overarching framework, strong requirements, and detailed guidance.

Recommendations:

- Review the UDG to ensure resilience is clearly articulated as a central component of successful places
- Release the 'design for resilience' template, including strong accompanying guidance, for public consultation
- Review Objective 4 to ensure efficacy and clarity of intent. The Objective currently mixes together ecological resilience and community resilience, doing both poorly and lacking a coherent set of principles. Including references to other hazard related guidance docs (e.g. Floodplain Management, Bushfire Protection) could strengthen coherence and implementation of this objective.

4.3 Criteria for minimum provision of public space

WSROC strongly supports establishing minimum criteria for public open space. We propose for the NSW Government to collaborate with councils and other stakeholders on establishing such criteria and subsequent targets, which should include streets and land for community and public facilities but excluding regional open space, environmental land, and infrastructure. This should be accompanied by design guidance for how this should be measured, and circumstances where alternative solutions may be considered.

Recommendation:

- DPE consult on the development of minimum criteria for the provision of public space with clear guidelines to aid application and assessment.

4.4 The UDG criteria for walkability is not good practice

Western Sydney has far higher rates of lifestyle-related disease than other parts of Sydney, due in part, to an urban structure that does not support physical activity and walkability. While older urban forms are slow to change, the large swathes of development occurring in Western Sydney provide a unique opportunity to deliver healthier urban structures for future residents.

The UDG must ensure walkable neighbourhoods that support improved physical activity and health outcomes for the community. Comfortable walking environments for people requires well designed street and public open space layouts but also a land use pattern and services that support daily life like small parks, schools, supermarkets, green grocers, and bus stops are within easy walking distance.

For most people, a 10-minute walk (a 20-minute round trip) is the accepted measure. Only infrequently used facilities may be within a 20-minute walk. The design criteria must distinguish between daily needs (up to a 10-minute walk) from other needs (up to 20-minutes). It also requires

that walking is safer and easier for local trips than driving, which requires local area traffic management (including speed and pedestrian priority management).

Recommendation:

- Revision of walkability criteria be reviewed and improved to ensure walking is an easy and viable alternative.

4.5 Deep soil and canopy targets

WSROC is pleased to see that the draft Urban Design Guide (UDG) includes deep soil and tree canopy targets. We note that targets vary for different land use types and site areas, and there are separate targets for private lots, streetscapes and public open space. WSROC deems these targets reasonably well considered and thus supports their inclusion.

However, we note that there is minimal guidance provided in either the ADG or UDG on estimation of mature tree canopy spread. There is a risk that poor species selection, poor installation, and poor establishment could all contribute to canopy cover outcomes that are much lower than estimates made at the design stage.

Recommendations:

- The proposed deep soil and tree canopy targets be implemented
- Provision of improved guidance on tree selection and a more rigorous methodology to estimate future canopy cover be developed to support these targets.

4.6 Glazed facades

Glazed facades can have detrimental impact on urban heat, reflecting and radiating heat onto pedestrian areas. We note that glazed façades are more common on commercial buildings than apartments, however the only requirement in the UDG is a high-level principle to:

Avoid materials and façade treatments that result in unacceptable levels of glare or other negative effects.

We recommend that UDG shading requirements be brought in line with the ADG to ensure reductions in reflected heat from all types of buildings in CBDs.

Recommendations:

- Implement the shading and glare control requirement for apartments as outlined in ADG
- Develop similar requirements, which requires shading of all glazed façades, to be included in the UDG.

4.7 Gaps in addressing urban heat

The UDG offers broader opportunities, beyond the ADG, to address urban heat in a greater range of development types and also in the public domain. However, the principles of resilience and strategies to mitigate the impacts of urban heat are buried in the detail of the UDG and do not come across clearly.

The UDG includes some good design guidance, however far more focus is given to urban canopy than other, equally important, measures for UHI mitigation. This is reflected in the placement of urban heat measures under ‘natural systems’, leaving several principles somewhat out of place. For example, street orientation to catch prevailing breezes is mentioned under Objective 9 instead of fitting into the urban structure section. There is a reference to low albedo and light-coloured materials under Objective 17, where it is disconnected from other urban heat principles.

Among the high-level principles for natural systems, the UDG does include some good design guidance, including the principles listed in Figure 1.

Objectives	Design principles
OBJECTIVE 9: Landscape features and microclimates enhance human health and biodiversity	9.1 Use green infrastructure to improve human health and biodiversity 9.2 Use nature to provide delight
OBJECTIVE 10 Tree canopy supports sustainable, liveable and cool neighbourhoods	10.1 Enhance urban tree canopy 10.2 Support urban tree canopy with deep soil 10.3 Provide an interconnected soil network 10.4 Place trees to allow for maximum canopy growth 10.5 Ensure a diversity of street types enable tree planting
OBJECTIVE 11 Water is retained and water quality improved in urban places	11.1 Retain water in the landscape and contribute to urban cooling 11.2 Reduce water consumption, reduce stormwater run-off and improve water quality

Figure1. Excerpt from draft Design and Place SEPP.

Tree canopy has been given greater emphasis and greater weight than all other urban heat objectives. Objective 10 is supported by clear and specific requirements for deep soil and canopy cover in different development types. The other objectives are only weakly supported by very general design guidance. For example, under Objective 9, the following principles are listed:

- Provide trees and landscaping in public spaces as early as possible to establish long-term amenity
- Optimise local breezes and urban cooling through green infrastructure placement and street orientation to catch prevailing breezes
- Ensure landscape features are appropriate for the scale, location and use of the area
- Integrate urban greening, such as green roofs or green facades, to support urban ecology and biodiversity, reduce stormwater run-off, reduce urban heat and increase amenity.

Under Objective 11.1, the following principles are listed:

- Retain as much water in the landscape as possible
- Preference natural methods for stormwater control, integrating passive landscape elements and water-sensitive urban design
- Use water-sensitive urban design elements to support green infrastructure such as wetlands, parks, community gardens, tree canopy, corridors and bioswales to provide habitat and ecosystem services while building resilience and fostering urban cooling
- Integrate water-sensitive urban design measures such as reed beds and urban swales along green infrastructure corridors within streets and public open spaces such as parks and streets
- Support greening and reduction of urban heat by providing tree canopy in accordance with Objective 10.

The above principles could be much better supported with more specific guidance and quantitative targets; providing a much stronger basis for assessment. The assessment guidance under Objectives 9 and 11 is extremely vague – asking proponents to ‘demonstrate [that] adequate amenity and human comfort can be achieved’, to ‘mitigate against negative sensory experiences’, and to ‘contribute to reducing the urban heat-island effect’, but providing no information on how a satisfactory outcome would be measured.

There is clearly a need for a better approach to assessing these objectives, and the [Cool Suburbs Tool](#) and [Urban Heat Planning Toolkit](#) have a potential role to play here. It would be good to see some commitment from DPIE to developing these assessment tools further, but even before such tools are ready to be adopted formally as part of the assessment process, DPIE could adapt their approach to quantitative targets for assessing urban heat mitigation such as:

- Requirements for total pervious and/or total landscaped area
- Requirements for shade (e.g. a minimum % shade cover) in high-activity public spaces
- Requirements for irrigation (e.g. a minimum % irrigated area) in certain situations (both private common areas and high-activity public spaces)
- A quantitative target for the amount of water to be retained in the landscape (a % reduction in mean annual runoff could be a simple measure that aligns well with other quantitative WSUD objectives).

Recommendations:

- WSROC generally supports the high-level principles in the UDG, however we note that some of the urban heat principles get lost in the way the document is structured
- Implement the targets set for deep soil area and tree canopy as outlined
- Establish quantitative targets for green cover, shade and water retention in the landscape to ensure that trees are not the only measure reliably included in new development to address urban heat
- Develop clear design principles on orientation to minimise the impacts of urban heat. This should include guidance on orienting streets, buildings and open space, to maximise summer

shade where it will have the greatest benefit and to make the most of prevailing breezes. Simple drawings (like those used throughout the Urban Design Guide) would help illustrate each principle

- There is an urgent need for new assessment tools and methods. We seek support from the NSW Government to develop these tools, even if it must be a future commitment beyond the 2022 version of the Design and Place SEPP. We particularly seek collaboration with the Government to further develop the Cool Suburbs Tool, which has the potential to be used as comprehensive guidance and assessment to support the urban heat objectives outlined in the UDG.

5. Apartment Design Guide

5.1 Clarify ‘alternative solutions’

For the ADG to have clear meaning and strength, a clear line must be able to be drawn from a principle straight through to an objective and its related design criteria and design guidance. This will ensure that the meaning, verification, and assessment of objectives is clear and not overly onerous.

While WSROC supports a framework that allows reasonable ‘alternative solutions’, we stress that the ADG must provide design guidance that reasonably and comprehensively outlines how alternative solutions should be considered in relation to each design criteria separately.

Recommendation

- Ensure appropriate design guidance is provided to inform ‘alternative solutions’.

5.2 Support for deep soil and tree canopy targets

WSROC strongly supports the improved, clear targets that have been developed for deep soil and tree canopy in the ADG. The challenge of delivering canopy under the current planning system is significant when trees are competing with infrastructure (footpaths, energy, water, parking) and land prices for space and funding.

Strong targets and clear guidelines are essential for ensuring Greater Sydney meets the Greening our Cities Premier’s Priority and delivers positive outcomes in addressing urban heat, drawing down emissions, and deliver pleasing, comfortable places that communities can enjoy.

WSROC notes the proposed changes to the Apartment Design Guide (ADG) include:

- Modest increases to deep soil requirements:
 - For sites <1500 m²: 10% site area, minimum 3 m wide (DC)
 - For sites 1500 m² +: 15% site area, minimum 3 m wide with 6 m portion (DC)

While we recognise these targets are an improvement on the 2015 ADG, we note that these deep soil targets are lower than those proposed in the EIE.

- New targets for tree canopy cover:
 - For sites <1500 m²: 15% minimum tree canopy target (DC)
 - For sites 1500 m² +: 20% minimum tree canopy target (DC)

While WSROC supports the improved deep soil and tree canopy targets, we seek clarification from the NSW Government as to why there has been a step down from the deep soil targets proposed in the EIE for apartments.

Further, WSROC is concerned that there is minimal guidance provided in either the ADG or UDG on estimation of mature tree canopy spread. There is a risk that poor species selection, poor installation, and poor establishment could all contribute to canopy cover outcomes that are much lower than estimates made at the design stage. As such further practical guidance on these elements is suggested.

We recommend consulting with stakeholders involved in tree delivery including councils and universities (Which Plant Where program) for guidance.

Recommendations:

- Implement improved deep soil and tree canopy targets
- Explain why there has been a step down from the deep soil targets proposed in the EIE for apartments
- Develop improved guidance on tree selection and a more rigorous methodology to estimate future canopy cover.

5.3 New shading and glare control requirement for apartment buildings

WSROC supports the introduced requirement for glazing greater than 30 per cent of the wall to have external shading to block 30 per cent of summer sun. High performance glazing is not considered a substitute for shade. This requirement is supported with technical information on how to demonstrate good solar shading.

We note that the proposed approach is simpler than for example that taken by the City of Parramatta in their CBD Development Control Plan (DCP), however we acknowledge it follows similar principles. The emphasis on shade is a positive – as we know shade is the most effective measure to reduce heat reflected from façades into the public domain.

Recommendations:

- Implement the shading and glare control requirement for apartments
- Review similar requirements to require shading of all glazed façades in the UDG.

5.4 Rainwater tank requirements for apartment buildings

In the updated draft ADG, there is a requirement for rainwater tanks to be installed. A minimum size is specified and connections to toilets and washing machines are required.

However, there is no requirement for rainwater to be connected to irrigation or other outdoor uses, where increased water use could assist with mitigating the impacts of urban heat.

The sizing requirement for rainwater tanks is strange and unclear. Rainwater tanks should be sized based on many years of actual rainfall data (not design storm events) to account for seasonal and

longer-term variability in rainfall. As they are constantly filling and emptying, they should be sized using a daily water balance model, to supply a proportion of total demand. To require full use of the water from a single rain event is absurd. For comparison, Sydney Olympic Park Authority sets a much clearer requirement for rainwater tanks in apartment buildings:

A minimum of 0.25 kL rainwater storage is to be supplied per dwelling and an additional 1 kL of rainwater storage is to be supplied per 100m² of non-residential net floor area. ([SOPA 2016](#))

Recommendations:

- Implement the requirement to provide rainwater tanks in apartment buildings
- Require rainwater be connected to outdoor non-potable uses including irrigation systems
- Clarify rationale behind the strange sizing requirement for rainwater tanks.

5.5 Waste is an essential service

Waste and recycling is an essential service provided by local councils to every household. The potential impact of waste planning and service delivery on the safety, health, amenity and well-being of the community cannot be underestimated. For the best environmental and social outcomes waste management needs to be considered early on in the design process.

Unfortunately, waste is often overlooked and undervalued in the design and planning stage for new developments, resulting in poor and costly outcomes for future residents as well as perpetual impacts on the built environment from the ongoing service requirements. Failing to provide adequate design guidance for waste and recycling services, particularly in apartment developments has important implications on how the development interacts between the crossover of the private and public domain.

When waste services are not considered appropriately, efficient servicing cannot occur and impedes on the ability to provide green, attractive, and safe street networks for the community. Current developments are also failing to incorporate well designed waste management facilities that are responsive to the waste management needs of the occupants, such as bin rooms that promote waste stream separation. This has significant impact on the resource recovery rates of the development and the ability of the NSW Government to deliver on the Waste and Sustainable Materials Strategy 2022-2027 and Net Zero Plan Stage 1 2020-2030.

To improve on the proposed waste and resource recovery apartment design guidance and objectives, we propose the following changes to the revised Apartment Design Guide, determined by a working group of councils in February 2022.

Part 1 Designing for the site		
1.3 Site access and address	Potential Amendment	Comments
Minimise conflicts between pedestrians, vehicle access and movement routes adjoining the site.	Potential amendment: Minimise conflicts between pedestrians, vehicle access, service vehicles (such as waste collection) and movement routes adjoining the site	It is agreed that well-designed building entries also enable efficient servicing of the development and delivery of goods to residents. Minimising conflict and maintaining safety of residents, waste collection staff and pedestrians is also vital and should form part of the considerations in early development design.
Provide clear sightlines where vehicles cross pedestrian pathways.	Ensure the safety of all users including waste collection staff and provide clear sightlines where vehicles cross pedestrian pathways	The proposed amendments reflect the need to include specific reference to ensuring that new developments have waste infrastructure and waste servicing requirements integrated into the overall design of the development. For larger apartment buildings this will require a heavy rigid collection vehicle accessing the site and nominated collection point which is best considered early in the design process.
1.4 Relationship to the street	Potential Amendment	Comments
Reduce the visual impact of utilities and building services on public space by locating them in basement car parks wherever possible, including substations, pump rooms, water tanks and waste storage areas.	Potential amendment: Reduce the visual impact of utilities and building services on public space by locating them in basement car parks wherever possible, including substations, pump rooms, water tanks and waste storage and waste collection areas. This also includes integrating waste collection vehicle access cohesively with the development.	The location of waste infrastructure within the development footprint and basement is generally supported. However there needs to be an emphasis of ensuring new developments are integrated with Councils standard waste service and that this may include on-site waste collection by a heavy rigid vehicle. There should be a recognition that it is essential that local councils waste service requirements for site servicing and waste collection is understood early in the design process.
1.6 Parking	Potential Amendment	Comments
Balance the visual impact of vehicle entries so they are clearly visible but also recessive to the	Potential amendment: Balance the visual impact of vehicle entries so they are clearly visible but	It should be reflected within the ADG that waste collection vehicles require specific height clearances for movement, circulation and operation to ensure that waste collection safely and efficiently takes place.

overall building form and streetscape.	also recessive to the overall building form and streetscape without limiting the ability to safely and efficiently service (such as waste collection) and access the site.	This factor needs to be considered in the overall design and site layout to minimise impacts on the built form and streetscape.
Consider deep soil zones, stormwater management and the retention of trees during initial design stages, as these can affect the size and shape of a car park footprint.	Potential amendment: Consider deep soil zones, stormwater management, the retention of trees during and servicing requirements (such as waste) for the development initial design stages, as these can affect the size and shape of a car park footprint and basement design (including height clearances)	<p>It is our experience that early design and consideration of waste management systems for new developments result in positive outcomes for the community, built and natural environments.</p> <p>It is accepted as better practice in waste management systems for medium and high-density developments for the waste collection vehicle to enter the site to collect waste and service the development. This can be from a nominated collection point within the building footprint or within the basement car parking area where waste rooms are located.</p> <p>It is therefore essential that upfront planning for vehicle access and manoeuvring reflect the need to consider whether the development must be designed to facilitate on-site waste collection vehicle collection.</p> <p>The common standard waste collection vehicle for high density developments is a heavy rigid vehicle. Failure to consider safe and efficient access, egress and manoeuvring at the early design and planning stage of developments can have significant consequences for the development. Best outcomes for the site and the development are achieved when considerations of waste collection vehicle access requirements are considered and designed upfront in the process.</p> <p>It is recommended that the ADG be amended to reflect considerations of waste servicing requirements so that it can be integrated into the development early on in the design process.</p>
Minimise the width and number of vehicle access points, ramp length and visual impact.	Potential amendment: Minimise the width and number of vehicle access points, ramp length and visual impact without compromising	As above.

	the servicing needs of the development.	
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Part 3 Environmental Consideration		
3.3 Waste	Potential Amendment	Comments
<p>Objective 3.3.1</p> <p>Minimise waste storage impacts on the streetscape, building entries and amenity of residents</p>	<p>Replace objective 3.3.1:</p> <p>Minimise waste storage impacts on the streetscape, building entries and amenity of residents</p> <p>Insert revised objective:</p> <p>Incorporate well-designed and innovative waste and resource recovery systems that minimise impact on the streetscape, public domain, building presentation areas and amenity of occupants.</p>	<p>The incorporation of good design solutions for waste and resource recovery systems where they are integrated holistically within the development will not only result in improving on-going waste management practices for the development but will also result in improvements to the overall design quality and environmental performance.</p> <p>Waste and resource recovery systems are essential elements of a development yet are often undervalued or considered too late in the design and development process.</p> <p>Waste and resource recovery systems are often retrospectively applied and designed to fit in around other development and site considerations and constraints. This results in poor outcomes for residents and the community in regard to amenity, reduced resource recovery and costly outcomes to local councils that burden the community for the life of the development.</p> <p>There is opportunity for the revised ADG to recognise the importance of integrating waste and resource recovery systems holistically within developments to secure sustainability planning priorities and State-wide resource recovery targets.</p> <p>It is proposed to revise objective 3.3.1 to broaden its application. The current focus on “waste storage” does not consider the additional components of waste management and resource recovery systems that are key to delivering residential apartment buildings that deliver improved design quality and sound planning and waste management outcomes.</p> <p>It is recommended that this objective be broadened to refer to waste and resource recovery systems to better reflect and integrate all aspects of required on-site waste management infrastructure for residential apartment buildings.</p> <p>This broadens the focus of waste and resource recovery beyond just waste storage areas for residential apartment buildings and through the proposed amendment would now include</p>

		<p>consideration of waste and recycling infrastructure such as bin presentation areas, collection points and any interim storage areas for all waste streams.</p> <p>Poorly planned and designed waste and recycling systems can have significant amenity impacts on future occupants but also broader community such as neighbouring sites and pedestrians in terms of visual impacts, noise, traffic and safety as well as odours, in addition to the obvious environmental impacts from wind blown litter and illegal dumping.</p>
<p>Objective 3.3.2</p> <p>Minimise occupants' waste to landfill by providing safe and convenient onsite organic and inorganic waste and recycling facilities.</p>	<p>Proposed amendment:</p> <p>Minimise occupants' waste to landfill by providing waste and resource recovery facilities that promote waste stream separation including safe and convenient onsite organic and inorganic waste and recycling facilities.</p>	<p>It is recommended a minor change be made to objective 3.3.2 to include the importance of designing waste and resource recovery facilities that support waste stream separation.</p> <p>The proposed expansion of Objective 3.3.2 would require new developments to consider and demonstrate how the efficient waste separation of general waste, recycling and organics as well as problem waste occurs on site.</p> <p>The reference to ensuring safe and convenient access to these facilities is retained and supported.</p>
<p>New objective: Objective 3.3.3</p>	<p>New objective proposed:</p> <p>Developments are to ensure the quality design of waste management collection services are integrated with and are a cohesive part of any new development.</p>	<p>It is recommended that a specific objective be included that prioritises the consideration of waste collection as part of the environmental considerations for future residential apartment buildings.</p> <p>The proposed amendment ensures local councils waste collection service is considered early on in the design phase of new developments and are integrated holistically within the development akin to considerations of car parking and landscaping. Considering the requirements of local councils waste collection service is vital in ensuring new developments deliver waste collection services that are safe, efficient, cost-effective and do not impact on amenity.</p> <p>There is a real opportunity for the ADG to establish the importance of good design of waste management systems that integrates the consideration of waste collection early on in the development and design process.</p>

Design Guidance: Waste Collection		
Encourage waste separation at the source, ideally in the kitchen, by providing a dedicated waste storage area within each apartment to accommodate 2 days' worth of waste, recycling and organics.		No change
Integrate waste management infrastructure to facilitate separation of waste, recycling and organics at the point of disposal – for large buildings, on each residential level.		No change, however clarification is sought on what is considered a large building.
Prepare an operational waste management plan for residents (and other occupants in mixed-use developments) addressing waste collection, separation and storage, including locations of collection points, bin cart routes and equipment such as chutes.	<p>Proposed amendment:</p> <p>Prepare an operational waste management plan for residents (and other occupants in mixed-use developments) addressing:</p> <ul style="list-style-type: none"> Expected waste generated from the development and how the development will manage waste generated on site. This is to include identifying all allocated waste bins. 	<p>The proposed amendment expands the considerations and inclusions for the preparation and submission of a waste management plan for new residential apartment buildings.</p> <p>The waste management plan is a valuable tool in communicating and demonstrating how the consideration of waste and resource recovery has been integrated cohesively within the development and supports the delivery of the local council waste service.</p>

	<ul style="list-style-type: none"> Waste separation and storage, including locations of collection points, bin cart routes and equipment such as chutes. How waste will be collected and managed for the development. This includes responsibility for cleaning, transfer of bins between storage and collection points and general maintenance of waste management facilities. 	
For safety, limit direct resident access to any areas that house chute systems and compactors.	<p>Proposed amendment:</p> <p>For safety, limit direct resident access to any areas that house chute systems and compactors.</p> <p>Single or dual waste chute systems are encouraged in high density residential apartments and are designed to include:</p> <ul style="list-style-type: none"> Single-chute system for waste and a service room on each residential floor containing the chute inlet and enough space for one mobile garbage bin each for recyclables and organics. 	<p>The proposed amendment supports the design and inclusion of waste chute systems within larger residential apartment buildings.</p> <p>This approach accords with the EPA Better Practice Guide that recognises that waste chutes are the most effective method for waste collection.</p> <p>Chute system areas and waste service rooms on each residential floor need to be large enough to ensure a resident can move in the space in addition to the space required for bins and chute inlets.</p>

	<ul style="list-style-type: none"> • Dual chute system for waste and recycling with a service room on each level with enough space for a mobile bin for organics. • Restricted access for residents to waste chute discharge rooms and compactors. 	
Integrate all waste management facilities and collection infrastructure within the built form of the development to improve amenity for residents and the neighbourhood.		No change.
New design guidance	<p>Proposed new design guidance:</p> <p>Integrate development design with local council waste collection service. For some developments this may include:</p> <ul style="list-style-type: none"> • an on-site waste collection service, and • on-site loading, manoeuvring and access by Councils Standard Heavy Rigid Collection Vehicles. 	<p>An additional design guidance for waste collection is proposed that responds to the need for new developments to give early and adequate consideration of councils waste collection service.</p> <p>Waste management requirements need to be given adequate consideration early on in the design phase of the development process to ensure safe, affordable and sustainable outcomes for the community. Unfortunately, there have been many examples of developments where waste management (particularly designing for waste collection) has been an afterthought, resulting in impeded access of essential waste collection vehicles, inadequate kerbsides resulting in bins on road thereby impacting amenity and public safety, additional costs to the ratepayers and services unable to be provided by Council, resulting in residents left without recycling and bulky waste services.</p> <p>An additional design guidance for waste collection is proposed to ensure new developments are integrated with councils waste collection service and reflect that waste collection services for residential apartment buildings vary across local government boundaries.</p>

		<p>The proposed amendment requires local waste collection service to be understood and considered early on in the design process to support improved design and resource recovery outcomes.</p> <p>The amendment also reflects that in some instances, on-site collection is required, and this can include requiring access and loading areas that accommodate a heavy rigid vehicle.</p> <p>The <i>Better practice guide for resource recovery for residential developments (EPA)</i> supports the use of on-site collection systems for medium and high-density residential apartment buildings given that kerbside collection for this development type is likely to result in adverse safety and traffic impacts.</p>
Design Guidance: Waste Storage		
In mixed-use developments, separate residential waste infrastructure from commercial waste infrastructure to facilitate secure management.		No change.
Allocate communal space for residents to temporarily store unwanted bulky items such as furniture, appliances and mattresses awaiting disposal through council's clean-up service, or to be available for re-use by other residents.	<p>Proposed amendment:</p> <p>Allocate communal space for residents to temporarily store unwanted bulky items such as furniture, appliances and mattresses awaiting disposal through bulky waste clean-up services, or to be available for re-use by other residents.</p> <p>Allocate communal space for residents that supports materials</p>	<p>The inclusion of providing space for bulky waste items are important safeguards that reduce incidents of illegally dumping bulky waste in common areas or the footpath. Regular illegal dumping can attract other dumped waste which can detract significantly from the quality and appearance of the development and result in amenity and safety impacts.</p> <p>The proposed amended recommends an expansion of the design guidance to include allocation of communal space within the development footprints for problem waste. Providing space for additional waste streams such as e-waste, textiles, household batteries and <i>Return and Earn</i> containers will help to:</p> <ul style="list-style-type: none"> • Increase resource recovery rates for the building and support state-wide resource recovery and waste diversion targets mandated within <i>Waste and Resource Recovery Strategy</i>

	separated at source to achieve high value recovery such as textiles, e-waste, glass, and plastics.	<ul style="list-style-type: none"> Support occupants within a high-density environment with a convenient and correct way to dispose of problem waste <p>The <i>Better practice guide for resource recovery for residential developments (EPA)</i> recognises the need for new developments to incorporate high value resource recovery. The revised ADG provides a good opportunity to align with and support best practice measures.</p> <p>The Better Practice Guide identifies practical solutions for how early design solutions can encourage high value recovery in residential apartment buildings and is supported by a Case Study 2: High-rise mixed-use development with a problem waste collection service.</p>
Locate communal waste and recycling storage rooms in convenient and accessible locations for each vertical circulation core.	<p>Replace design guidance with:</p> <p>Locate communal waste and recycling storage rooms in convenient and accessible locations for each vertical circulation core.</p> <p>Waste storage areas are to be provide adequate capacity for storing all generated waste streams and are located to support the convenient use of all users (including waste collection staff) that supports waste stream separation and higher value recovery.</p>	<p>It is the experience of many local councils that developments are failing to incorporate well designed waste management facilities that are responsive to the waste management needs of the occupants, such as waste storage areas that promote waste stream separation.</p> <p>This has significant impact on the resource recovery rates of the development and limits the potential for the development to fulfill broader sustainability planning priorities and objectives as well as deliver on state government led commitments on transitioning to a circular economy.</p> <p>The proposed amendment reflects the need for waste storage areas to be designed so that they are of sufficient size to cater for all waste streams and support waste stream separation.</p> <p>A key consideration in designing and locating waste storage areas within developments is the safety and convenience for all users such as occupants as well as waste collection staff and caretakers. Designing to ensure that waste storage areas are adequately sized and are conveniently located maximises higher value recovery and reducing contamination.</p>
<p>For onsite waste storage facilities, provide:</p> <ul style="list-style-type: none"> hot and cold water drainage connected to the sewer 		No change.

<ul style="list-style-type: none"> • self-closing, sealed and outward-opening dual doors • automated lighting • mechanical ventilation • waterproofing. 		
Where applicable, allow for vehicle access (as required by Australian Standards) on site for local council or contracted waste collection service vehicles	<p>Proposed amendment:</p> <p>Where applicable, Where on-site waste collection is required by local council, waste collection vehicle access is to be designed to comply with AS2890.2</p>	Minor change to reflect the relevant Australian Standard and a direct link to local councils waste service.
Locate collection infrastructure for council waste collection services wholly within the development's basement and within close proximity to the onsite loading dock to permit unobstructed access for collection contractors.	<p>This consideration should be moved to the Waste Collection: Design Guidance.</p> <p>Proposed amendment:</p> <p>Locate collection infrastructure for council waste collection services wholly within the development's basement and within close proximity adjoining the onsite loading dock to permit unobstructed access for collection contractors.</p>	Waste collection infrastructure should be adjoining or directly opening onto the onsite loading dock for safe and efficient collection

New design guidance	<p>Insert the following new design guidance:</p> <p>Demonstrate that organic waste can be managed in the development through measures such as:</p> <ul style="list-style-type: none"> • Multiple options for on-site organic waste management to maximise recovery (e.g. communal composting, worm farms, individual composting, dehydrators); • Organics and recycling service to all households; • Consolidated organic waste drop off points designed to minimise any potential odour and vermin risks. This includes the provision of rooms that are temperature controlled and suitably ventilated. 	<p>It is proposed that additional design guidance for waste storage be included that addresses how new developments will integrate organic waste separation and collection within new developments.</p> <p>While some local councils may not be ready to provide an organic waste service to all new residential apartment buildings, it is important that new buildings are designed to future proof developments to ensure compatibility with future organic waste service.</p> <p>The <i>Better practice guide for resource recovery in residential developments</i> (EPA) identifies that “food waste can make up 70% of the average residential bin and is a highly recyclable product when source separated”. The importance of ensuring new developments support separation of organic waste should not be underestimated and would support achieving adopted targets and commitments within the Waste and Sustainable Materials Strategy.</p> <p>The proposed inclusion of more specific design guidance would also better support the delivery and application of Objective 3.3.2: Minimise occupants’ waste to landfill by providing safe and convenient onsite organic and inorganic waste and recycling facilities</p> <p>The additional design guidance for organic waste also identifies that it is also important to consider potential amenity impacts associated with the storage of organic waste which should not be overlooked in the design phase for new developments.</p> <p>The <i>Better practice guide for resource recovery in residential developments</i> (EPA) provides considerations for the management of organic waste (food waste) within residential apartment buildings. This is a valuable source of information for applicants and designers and could be referred to within the revised ADG, specifically Appendix E: Treatment and management of food waste.</p>
New design guidance	<p>Insert the following new design guidance:</p> <p>Waste storage areas are to provide adequate capacity for storing all the waste and recycling likely to be generated between collection cycles. Developments are to refer to</p>	<p>It is recommended that guidance be provided for the development to consider the likely waste generated by the development in accordance with the relevant local councils waste generation rates for residential apartment buildings.</p> <p>Waste generation is a key consideration in determining the required number of allocated bins (and their sizes) which will influence the size of bin storage areas for the development.</p> <p>Currently the ADG is silent on waste generation rates and their influence on the design of waste and resource recovery systems in new developments.</p>

	individual council waste generation rates to determine expected waste generation and bin allocation.	
<p>Figure 3.3.1: Waste Chutes</p> <p>Waste chutes for separate waste streams can offer spatial efficiencies in larger apartment buildings and provide for convenient collection and disposal of waste and recycling. Diverter systems offer further efficiencies and can be arranged with multiple compaction systems within the waste collection room. Providing a dedicated waste room on each floor can help to minimise impact on the amenity of adjacent apartments. Ensure universal access is considered.</p>	<p>It is recommended that Figure 3.3.1 Waste Chutes be deleted.</p> <p>Potential amendment:</p> <p>Replace Figure 3.3.1 with a link to Appendix G of the Better Practice Guide for resource recovery in residential developments and Figure G2.2.</p>	<p>Councils do not support the use of triple waste chutes and many councils do not allow the use of dual chutes. Concern is also raised over the implications of illustrating waste chutes catering for the three waste streams when many local councils are not in a position to service organic waste stream currently for residential apartment buildings and are unlikely to support this collection system in the future.</p> <p>In addition, local councils are waiting for further guidance on the best method for the safe and effective serving of onsite organic waste in high density residential development.</p> <p>It is recommended that the ADG provide a link to the waste chute system considerations provided within the guide: <i>Better practice guide for resource recovery in residential developments</i> (EPA) (Appendix G).</p> <p>Figure G2.2: Cross-section of chute and bin storage and service room system illustrates the general principles and operation of a waste chute system supported by recycling and organics bins located in the bin storage and service room on each level. Extra recycling and organics bin storage and the bulky waste storage area are provided in the basement.</p>
<p>Figure 3.3.2</p> <p>Integrated waste rooms for separated streams offer considerable space savings compared to manual bin storage.</p>	<p>It is recommended that Figure 3.3.2 be deleted.</p> <p>It is recommended that a revised illustration be provided that is reflective of local councils waste and</p>	<p>It is recommended that the Figures for waste storage rooms be deleted and replaced with illustrations that reflect the <i>Better practice guide for resource recovery in residential developments</i>.</p> <p>Alternatively, WSROC and relevant local councils are available to assist in the preparation of illustrations that better reflects the servicing requirements of local councils.</p>

	resource recovery system requirements.	
Figure 3.3.3 Waste collection room bin infrastructure for each waste stream: residual, recycling, organics.	It is recommended that Figure 3.3.3 be deleted.	Councils are concerned this figure is a poor example of bin room layout that is contrary to bin room design requirements and safe access.
New: Part 3.3A Circular Economy		
New environmental consideration to be included within Part 3: Environmental Considerations 3.3A Circular Economy	Insert objective: Embed circular economy design principles into the design of residential apartment buildings to maximise the recycling and reuse of materials.	It is recommended that Part 3 of the revised ADG be amended to make to include a stand-alone design consideration for circular economy. There is a strong need for clear planning policy direction that supports the implementation of circular economy principles across all phases of the development process. The proposed amendment would better support the delivery of: <ul style="list-style-type: none"> • <i>design principle (4): design sustainable and greener places to ensure the wellbeing of people, and the environment, and</i> • <i>design consideration (8): resource efficiency and emissions reduction.</i>
New design guidance: Circular Economy		
To best support the delivery of circular economy principles it is recommended that the following additional design guidance be provided within the revised ADG.	Potential Amendment	Comments
	New design guidance: Ensure demolition, construction and design contribute to the circular economy.	The proposed design criteria strengthen the consideration of circular economy and best aligns with circular economy principles that have been committed by current state policy directions. This approach better strengthens the planning framework to align with current state policy targets and commitments surrounding transitioning to a circular economy and waste reduction targets.
	New design guidance:	The proposed amendments reflect the current and innovative approach that has been used by the DPIE in the preparation of the draft Phase 2 Aerotropolis Development Control Plan and builds on the objectives from the Phase 1 Development Control Plan.

	Reuse and recycle construction and demolition waste, aiming for zero waste to landfill.	
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Appendix 5: Furniture Schedule		
Appendix 5.2 Kitchen furniture schedule	Potential Amendment	Comments
Waste and Recycling bin required for studio apartments, but only waste bin listed for 1 bedroom, 2 bedroom, 3 bedroom and 4 bedroom apartment types.	<p>Both waste and recycling bins listed required for all apartment types, as listed for studio apartments.</p> <p>Recycling bin should be included in adjacent diagrams for all apartment types.</p> <p>A dimension of 300mm width per waste or recycling bin is required, or displayed as 600mm if waste and recycling bins are to be integrated into one furniture unit diagram.</p>	<p>An allowance of 600mm is required to allow for bin configuration with space for waste, recycling and organic waste. A 600mm width provision reflects existing underbench bin systems (as preferred in the diagram notes) currently provided by existing suppliers to cater to source separation of 3-4 waste streams.</p> <p>Larger apartments require larger waste storage to meet to design guidance: waste collection (3:3, page 91) <i>“Encourage waste separation at the source, ideally in the kitchen, by providing a dedicated waste storage area within each apartment to accommodate 2 days’ worth of waste, recycling and organics”</i></p>

6. BASIX

WSROC supports the review of BASIX and subsequent updates. The proposed higher targets to reduce greenhouse gas emissions and improve thermal comfort in the residential sector are supported.

We acknowledge that the proposed changes go some way towards new housing meeting the NSW Government's net zero goals, but we stress that more stringent standards will be required in future reviews to meet the net zero goal. Higher standards now would be preferred to ease future effort and costs given the long lifecycle of developments.

6.1 Improved BASIX targets for energy efficiency

We acknowledge the NSW Government's proposal to improve the standards for energy efficiency in BASIX. The higher BASIX energy performance standards vary with climate zone and building type. The [BASIX Proposed Higher Standards](#) document shows that Western Sydney spans climate zones 24, 28, 56 and 65, where proposed energy targets range from 53-72.

Current BASIX targets put most of Metropolitan Sydney into the E1A energy target zone, where energy targets range from 25-50 as outlined in Figure 1.

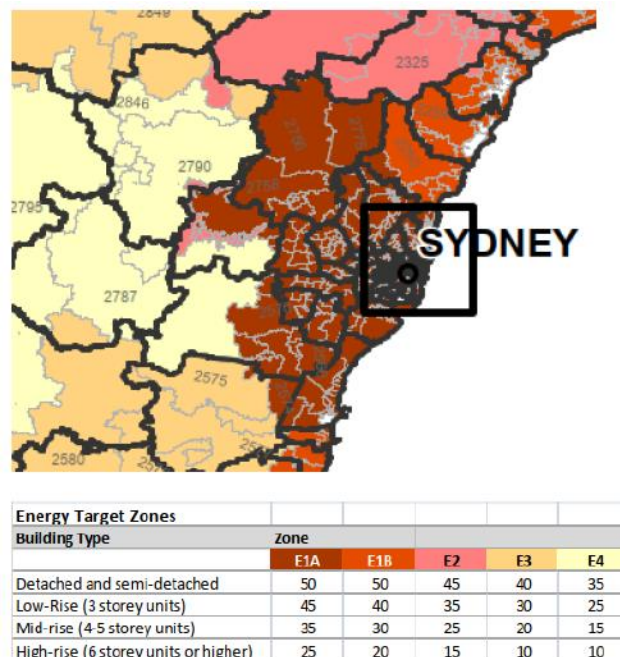


Figure 1. [Current BASIX Energy Target Zones.](#)

The proposed BASIX targets use different climate zones, making it difficult to do a simple comparison between targets across the Western Sydney region:

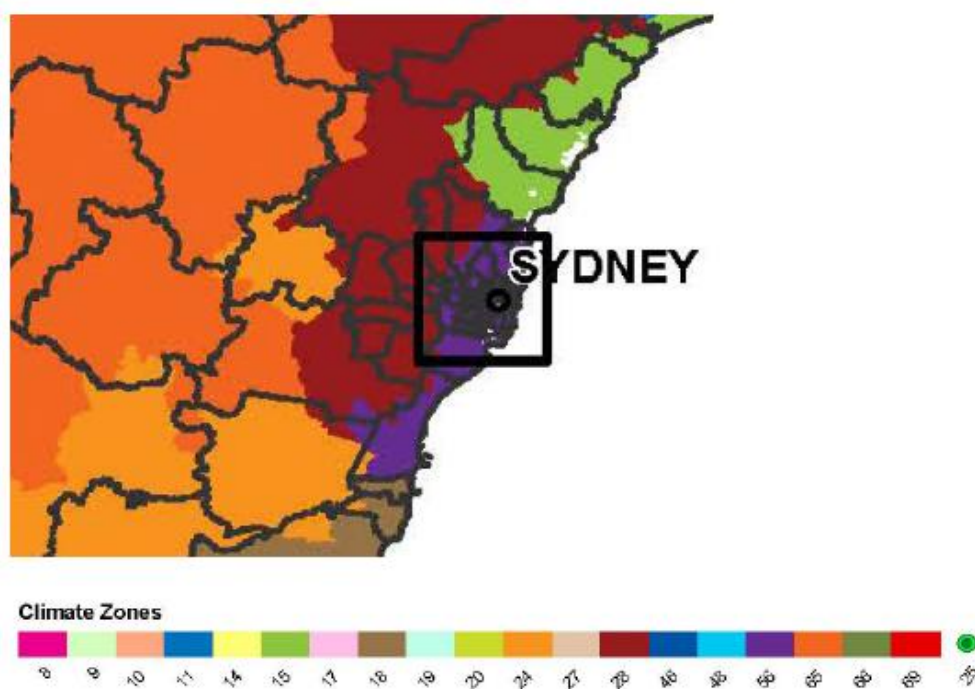


Figure 2. [Proposed climate zones](#).

The new BASIX climate zones align with the climate zones defined in NatHERS. They appear better aligned with climatic conditions than the previous 'Energy Target Zones' shown above.

Targets for zones 24, 28, 56 and 65 are listed in Figure 2 (reproduced from the [BASIX Proposed Higher Standards](#) document).

NatHERS climate zone	Detached and semi-detached		Low rise	Mid rise	High rise	High rise
	Floor area (≤ 110m ²)	Floor area (>110m ²)	(3 storey multi units)	(4 – 5 storey multi units)	(6-20 storey multi units)	(21 storey multi units and higher)
24	60	63	60	55	55	58
28	66	70	62	57	60	62
56	68	72	67	63	62	63
65	60	62	60	55	53	56

Figure2. Excerpt from [BASIX Proposed Higher Standards](#)

It is not clear in the consultation documents exactly how these numbers were set, however it appears that:

- A key part of the process has been the Cost Benefit Analysis (ACIL Allen 2021), which found that at the proposed target settings, higher construction costs for homes meeting the higher BASIX standards will, on average, be offset by energy bill savings over 12 years. There is some variation for across different locations and building types, with some examples included in the ACIL Allen (2021) report.
- The new targets account for the fact that the NSW electricity grid is becoming 'greener' with more energy from renewables. Therefore DPIE is proposing to update the greenhouse emissions factor associated with electricity consumption, which will help all buildings meet the higher targets.

- The Government expects higher targets to encourage:
 - Lower emission hot water systems (e.g. electric heat pump rather than gas)
 - Electric cooking appliances rather than gas
 - More efficient air conditioning systems and/or solar PV systems.

Recommendations:

- Increase the BASIX energy targets in-line with proposal
- Commit to reviewing BASIX targets every few years to ensure they remain up to date
- Implement alignment of BASIX with NatHERS climate zones in-line with proposal
- That further analysis is conducted to provide a better picture of the implications for Western Sydney – noting the significant and growing variations in climate across that area.

6.2 Improved BASIX targets for thermal performance

WSROC strongly supports improvements to thermal performance targets under BASIX. Updates to these targets are well overdue, and recent research by Waverly City Council has demonstrated the inadequacy of current targets for maintaining thermal performance in future climates. Given Western Sydney experiences far more extremes than Sydney's beach-side suburbs, we suggest that updates are even more important in the western half of Sydney.

As with energy efficiency, the proposed thermal performance standards vary depending on the NatHERS climate zone and the building type. Therefore there are different targets set to apply across Western Sydney. These are in the form of revised heating and cooling caps.

In terms of performance, DPIE states:

The higher BASIX thermal performance standards will be at least 7 stars, based on the star-rating scale defined by the Nationwide House Energy Rating Scheme. This is consistent with what the Federal government proposes for the National Construction Code for 2022. Currently, homes that comply with BASIX have been achieving 5.5 to 6 NatHERS stars on average.

However, WSROC is concerned that the higher standards would **not apply** to 'small' apartment buildings of up to five storeys (as per the Cost Benefit Analysis proposal). This could exclude a significant number of dwellings, particularly in higher-density areas where the UHI effect is greatest.

WSROC welcomes DPE's intention that higher standards be met with improved passive design, for example more insulation, improved windows, good air flow, shading and sunlight to cool and heat homes naturally. We note there remains an assumption that most homes will rely on an air-conditioner to maintain thermal comfort.

WSROC congratulates DPE's decision not to proceed with the proposal of thermal performance trade-offs as outlined in the Explanation of Intended Effects (EIE). Thermal performance standards are critical health and safety measures that should not be compromised. Allowing trade-offs to a

dwelling's thermal performance in favour of air-conditioning would have dire consequences for public health and energy network resilience.

Changes to BASIX thermal performance standards appear to include an update to climate data, however they do not account for future climate change.

BASIX thermal performance standards are developed using NatHERS to estimate heating and cooling loads. The NatHERS model is based on past meteorological records and has been updated to cover weather data up to the year 2015. It does not include future climate projections.

This does not align with the broader planning objectives of building resilient communities. It is recommended that future revisions consider future climate scenarios in the assessment of new dwellings.

Finally, thermal performance targets remain focused on thermal comfort (with air-conditioning), there is no inclusion of a thermal safety or thermal autonomy standard that would ensure occupant safety in a no-energy scenario. WSROC would like to see DPE go further to reduce hazard risk and protect the health and safety of Western Sydney residents. A thermal autonomy standard would deliver greater resilience to Sydney's number one hazard (heatwave) and deliver greater outcomes for NSW's Net Zero plan.

Recommendations:

- Implement proposed increases to thermal comfort targets. These targets will need to be reviewed every few years
- Implement proposed updates climate data used for energy and thermal comfort assessments, and ensure data is updated regularly
- Maintain policy of no trade-offs to thermal performance in new dwellings
- Investigate the use of future climate scenarios in the design of new homes to build long-term resilience
- Investigate inclusion of a thermal autonomy (safety) standard that will allow dwellings to protect occupant safety in no-energy scenarios and heatwave events
- Conduct further analysis to understand how Western Sydney homes would meet the new targets, and to what extent homes that comply with the new targets would protect their occupants from extreme heat.

6.3 BASIX water targets will not be changing

There are no changes proposed to the water targets in BASIX. From an urban heat perspective, this means:

- BASIX will still encourage low water use landscaping and minimal irrigation, even though irrigated landscapes help lessen the impacts of urban heat.

- BASIX will still offer limited incentive to consider alternative water supplies. In multi-unit development, it is typically easy to meet the water targets with no alternative water supply other than mains water. This limits residents' options to use water for cooling.

Recommendations:

- Revise the water module in BASIX, so that it is no longer purely focused on water efficiency but also designed to encourage more rainwater harvesting, sustainable landscape irrigation and other water use for keeping cool.

6.4 Allow Local Government flexibility to set higher targets

WSROC is disappointed to see that the updated BASIX continues to prevent local government from introducing its own targets and place-specific responses for BASIX. Flexibility is important to allow councils to respond to local risks and the aspirations of their community to set high BASIX standards for their community. For Western Sydney councils this is particularly important to be able to address areas that are at high risk of urban heat.

Recommendation:

- The NSW Government enable a process whereby councils can apply higher BASIX standards with the concurrence of their community.

6.5 Ensure compliance is appropriately funded

There have been recent local and international high-profile examples of buildings, structures and infrastructure that have highlighted where statutory controls have not been implemented or enforced leading in some cases to loss of life, injury, and cost.

This highlights the importance of ensuring that BASIX governance, including compliance assessment, certification and implementation, is appropriately resourced.

We further note that different standards have also been proposed across the Nationwide House Energy Rating Scheme (NatHERS) climate zones, increasing the number of targets to 114 compared to the current 20 targets. This introduces an additional level of complexity for both the applicant and council assessors. Additional training will be required to ensure implementation of these changes is clear to all stakeholders.

Recommendations:

- BASIX compliance be funded to ensure the integrity of the program and that efficiency standards are realised
- The NSW Government provide additional education and training on the review of standards and expected update to the BASIX tool to a range of stakeholders including council officers.

6.6 Transparency of methodology

The proposed update has changed the methodology of the BASIX tool as well as updated emission factors. However, there remains a lack of transparency around the new methodology.

In addition, we note that the proposed BASIX standards apply differently depending on dwelling classification. Again, no justification has been provided why standards vary within the same dwelling type and this raises issues of equity for NSW residents.

Recommendations:

- The NSW Government be transparent in future updates to the BASIX methodology
- Greenhouse gas reduction targets be consistent across all dwelling types.

6.7 Gas

The draft Design and Place SEPP is excluding, as far as practicable, the use of on-site gas for cooking, heating and hot water, for subdivision development. WSROC argues that on-site gas should be limited across all residential development and should not be referenced within the BASIX tool.

Electrifying development, fostering the use of the most efficient technologies available and sourcing electricity from renewable sources is needed to reach net zero. Installing new on-site gas is counter to the NSW Government's net zero goal and becomes a costly retrofit in apartments.

Recommendation:

- Exclude on-site gas for cooking, heating and hot water.

7. Draft Local Government Design Review Panel Manual

Section 2.6 Panel member induction and training	Potential amendment	Comments
<p>Panel members should complete an induction and training before the first session of a design review panel. As a minimum, training should cover:</p> <ul style="list-style-type: none"> • Understanding conflicts of interest and codes of conduct • Confidentiality • The NSW protocols for good design review • How to use the DP SEPP design • Principles to frame a discussion and provide advice • The local planning context • Confirmation of the panel members • Availability for all sessions. 	<p>Panel members should complete an induction and training before the first session of a design review panel. As a minimum, training should cover:</p> <ul style="list-style-type: none"> • Understanding conflicts of interest and codes of conduct • Confidentiality • The NSW protocols for good design review • How to use the DP SEPP design • Principles to frame a discussion and provide advice • The local planning context • Local council waste service • Confirmation of the panel members • Availability for all sessions. 	<p>It is recommended that the Manual be amended to provide recognition on the importance of understanding the relevant local council waste service for panel members.</p> <p>To assist in securing optimum planning and waste management outcomes for residential apartment buildings, it is essential that panel members have a strong understanding of the local waste service including waste collection vehicles (sizes) and how waste is collected.</p> <p>It is our experience that the consideration of waste and resource recovery are not highly valued in the design and planning stage of developments and are often overlooked in the early design stages.</p> <p>Failure to provide due consideration and correct advice regarding local councils waste service responsibilities and requirements can have significant impacts on the design of the development that are often costly and timely for both the applicant and local council.</p> <p>These costs are often then passed on to the wider community, who are left with not only the financial burden but adverse amenity and safety impacts.</p> <p>While local councils have the responsibility to provide residential waste services under the <i>Local Government Act 1993</i>, it is important to also note (and understand) that variations across local government boundaries vary significantly.</p> <p>The proposed amendment would ensure that adequate training and information are provided to panel members so that they are best placed to provide design advice that also aligns with individual council waste servicing requirements.</p>

Failing to adequately design and construct waste storage and collection facilities in apartment buildings can have significant impact on amenity, safety of the building footprint and the neighbouring vicinity and streetscape. While design experts generally understand the ramifications of failing to address the needs of other essential service requirements such as fire safety, electricity, water and sewage, the outcomes of poor waste management servicing on safety and amenity are far less understood. The following images demonstrate the reality of poor design outcomes.



Figure 3: Inadequate waste storage due to bin bay not being built to requirements (overflow waste).



Figure 4: Bins awaiting collection from kerbside (no onsite collection) blocking roadway and access of parked car.



Figure 5. Inadequate provision of bulky waste storage and collection requirements.



Figure 6. Inadequate provision of waste storage for the developments' estimated waste generation.