

Introduction

Thank you for the opportunity to respond to the draft Design and Place State Environmental Planning Policy (Design and Place SEPP), on exhibition until 28 April 2021.

Generally, Blue Mountains Council is supportive of the recognition of the value of quality design and place based planning. Council has long recognised the importance of cultural and built heritage, density and housing diversity, activation and local character/living. The local planning framework has historically contained purposeful provisions related to these elements in local environmental plans which were translated where possible into the standard instrument. In addition, Council has advocated for recognition of character through the planning framework for an extensive period.

To protect and enhance well-designed built environments, it is necessary that Council retains the agency to meaningfully engage in place-based planning that is responsive to local conditions, with certainty of protections. While the principles based approach of the Design and Place SEPP promises this, there is reticence regarding efficacy. These matters are outlined below.

1. Maintaining strong local strategic planning controls

Blue Mountains City 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).

It is acknowledged that the Design and Place SEPP seeks to support strong locally responsive planning approaches, moving away from the one-size-fits-all approach and associated dilution of core planning principles. However, the introduction of policy that unnecessarily duplicates existing strategic work is problematic.

Recommendation: Local conditions, needs and constraints remain the focus of place based planning and sustainability strategies

2. Integration with established strategic planning framework

The exhibition material identifies that the Design and Place SEPP will draw on existing and new guidance material, including the Draft Greener Places Design Guide, Urban Design for Regional NSW, Practitioner's Guide to Movement and Place and the Apartment Design Guide. However, it remains unclear how the Design and Place SEPP gives effect to or complements the strategic work already undertaken through Local Strategic Planning Statements (LSPS) and Local Housing Strategies (LHS) by many NSW Councils.

The creation of Council's LSPS and LHS responded to requirements and timeframes set by the State Government, and actions contained in the Western City District Plan and Greater Sydney Region Plan. This represents a significant body of work which carefully considers the future needs of our local communities, and includes actions to address issues such as sustainability.

Clarity and detail is required, particularly with regard to how the Design and Place SEPP interacts with the existing strategic planning framework/hierarchy.

Recommendation: The interrelationship between the Design and Place SEPP with other strategic work undertaken, as well as how it relates to the strategic planning hierarchy, and the existing strategic framework, be made more discernible

3. Certainty in drafting of the proposed SEPP

While it is acknowledged that the exhibition material itself is extensive, there is lack of technical detail provided with regard to draft Design and Place SEPP legislation. Increasingly, consultation regarding proposed NSW Government planning policy change is undertaken based on one set of idealised indicative outcomes, with the devil in the detail at draft legislation stage that often fundamentally differs from the consultation material.

Recommendation: Opportunity be provided to stakeholders to review the technical details of the proposed Design and Place SEPP provisions prior to draft legislation stage

4. Confirming role of the SEPP, design guide(s), and design review panels

There is potential to complicate and prolong the development assessment process with little tangible on the ground value, unless the role of the Design and Place SEPP and supporting guides and requirements are clearly articulated. Details are required regarding how the Design and Place SEPP will promote early engagement in the design review process to minimise amendments and reduce approval timeframes.

Recommendation: Clarification be provided regarding the role of the proposed suite of provisions

Recommendation: Confirm likely pathway for development assessment, including the relationship to local planning panels in conjunction with design review panels, and how this intersects with the need to meet assessment timeline/performance indicators

5. Confirming interaction with Codes SEPP

There is a clear gap between the stated intention of the Design and Place SEPP, which seeks to respond to the needs and aspirations of people/communities and adopt sustainable and resilient practices to minimise environmental impact and sustain it for future generations, and mechanisms available for this to occur in the planning system.

Since June 2020, the Department has progressively released proposed amendments and changes to State planning policy. Broadly, many of these reforms incrementally pull more and more development types into an exempt and/or complying development category through State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP), removing the ability for Council to effectively respond to local level needs through merit based development assessment, or even to set controls that respond to local context, let alone encourage community engagement.

While the exhibition material references that Codes SEPP and other environmental planning instruments are reviewed and revised for alignment within one to three years of making the Design and Place SEPP, Code assessment appears to progressively reduce rigour, not allowing for any subjective assessment, therefore any requirement for design statements or similar are tokenistic at best. To truly integrate and align good design and place considerations into planning policy, consistency of approach from the outset is required.

Recommendation: Clarification be provided regarding interaction with Code SEPP

Recommendation: Implement a pathway for the principles of Design and Place SEPP to be able to form the basis for a case for exemption from particular complying development in response to local context

Recommendation: Consistency of approach across planning policy regarding strong integration and alignment of design and sustainability

6. Improving BASIX provisions

Council is a City within a unique World Heritage Area, therefore there is an acute awareness for and commitment to the need to minimise human impacts on natural areas and waterways, as reflected in our development controls. In this regard, the intended improvements to sustainability assessment and performance through BASIX modernisation is generally supported.

Moreover, Council's endorsed LSPS contains an action to work with the NSW Department of Planning, Industry and Environment to advocate for improved energy efficiency standards within State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and, the potential for Councils to set local energy efficiency targets (Action 2.7 and Action 6.10).

Recommendation: That this is an opportunity to strengthen BASIX, or make provision for Councils to take the lead on responding to climate change and the need for greater sustainability outcomes in development

Conclusion and recommendation summary

The Design and Place SEPP speaks to the importance of local character, sustainability, resilience and context considerations being integral to good design. The value of good design is well understood at a local level, with the intention of the Design and Place SEPP aligning with Councils existing approach and advocacy to uphold place based planning.

Consideration of how other intersecting State policies support or undermine these ideals cannot be overstated.

Summary of recommendations:

- Local conditions, needs and constraints remain the focus of place based planning and sustainability strategies
- The interrelationship between the Design and Place SEPP with other strategic work undertaken, as well as how it relates to the strategic planning hierarchy, and the existing strategic framework, be made more discernible
- Opportunity be provided to stakeholders to review the technical details of the proposed Design and Place SEPP provisions prior to draft legislation stage
- Clarification be provided regarding the role of the proposed suite of provisions
- Confirm likely pathway for development assessment, including the relationship to local planning panels in conjunction with design review panels, and how this intersects with the need to meet assessment timeline/performance indicators
- Clarification be provided regarding interaction with Code SEPP
- Implement a pathway for the principles of Design and Place SEPP to be able to form the basis for a case for exemption from particular complying development in response to local context
- Consistency of approach across planning policy regarding strong integration and alignment of design and sustainability
- That this is an opportunity to strengthen BASIX, or make provision for Councils to take the lead on responding to climate change and the need for greater sustainability outcomes in development