

enquiries refer

**Sheryn Da-Re**

in reply please quote

**State Environmental Planning Policy (Design and Place)  
CM 21/37883**



28 April 2021

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

Dear Sir/Madam

**Re: Submission - Public Exhibition of the Explanation of Intended Effect - State Environmental Planning Policy (Design and Place)**

Thank you for the opportunity to provide feedback on the exhibited Explanation of Intended Effect (EIE) for the proposed new SEPP (Design and Place). This submission has been prepared by Ballina Shire Council officers and provides comment on technical aspects of the EIE.

Based upon the exhibited documents, the SEPP will provide much needed guidance around methods and standards supporting “good design” and design excellence, particularly within the public domain. The five guiding principles underpinning the SEPP are seen as a good foundation for place-based decision making appropriate to the Shire.

Council officers provide the following comments for your consideration when preparing the draft SEPP:

1. Application of the New SEPP –

Further clarity is needed around:

- i. The application of the SEPP to certain land zones or typologies including a definition of ‘urban land’ and applicability to infrastructure such as roads.
  - ii. Applicability to public realm works under both part 4 and part 5 of EP&A Act. There is opportunity to improve connection and compatibility between urban design and civil engineering standards in relation to streets/roads.
  - iii. Applicability of the SEPP to the “retrofitting” of existing places.
2. Support and Resourcing – The NSW State Government is currently generating a wide range of reforms and change, with the Design and Place SEPP being one such change. A substantial amount of staff resources will be needed to integrate and implement these reforms into local planning frameworks. Support will be required from the State Government for councils to successfully implement the significant volume of planning changes being presented.
3. Statutory Weight of Supporting Documentation – The EIE is unclear about the statutory weight of the supporting documentation such as Greener Places, Connecting with Country and Better Methods. A hierarchical diagram showing the relationships between these documents and their planning status would be beneficial.

#### 4. Mandatory Matters for Consideration –

- i. To make a judgement on the suitability of the “mandatory considerations”, further detailed targets are required.
- ii. When setting these targets, consideration should be given to using qualitative performance-based metrics as opposed to spatial standards. These allow for the basic principles and core objectives to be adapted to suit the development composition, context and place.
- iii. These metrics need to also consider regional and remote contexts and scales. For example, the “local living” consideration requires all housing in urban areas of new precincts to be within a 20 minute walk of a local shop. In regional places there are often inadequate population densities to support viable shops at such frequencies.

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 will be implemented in the assessment and approval process flowing through to construction would assist to identify where current planning documents and processes, particularly post approval, may need to be strengthened.

- iv. The mandatory matters for consideration need to have statutory weight and be specific and measurable so they can be easily integrated with other design requirements (in particular engineering requirements).
  - v. The targets relating to tree canopy should not only consider replacement of existing canopy (compensation) but also inclusion of targets relating to the provision of new canopy and shading of public areas and infrastructure such as cycleways and pathways in accordance with the spirit of the Premier’s Priorities for building a better environment.
  - vi. Targets relating to the provision of compensatory and new street tree planting within the public domain need to be specific, measurable and with statutory strength to be enforceable when tested against competing objectives (e.g. Electricity Supply Act). This will support their longevity.
5. Design and Place Considerations –The SEPP places emphasis on an extensive and thorough site analysis process to create a more holistic understanding of “place” beyond the site’s physicality. The SEPP could provide more detail on the purpose of the site analysis process and the key outcomes being sought by the undertaking of such detailed analysis.
6. Design Processes (Design Skills) – The SEPP requires that places and spaces are designed by suitably qualified professionals for certain types and size of projects. Many smaller regional councils may not have staff with the nominated minimum qualifications, or the capacity to outsource to others with such qualifications, to enable assessment or design review. Consideration should be given to supporting councils, across disciplines (including planning, engineering and open space divisions) to enable an enhanced understanding of urban design (including movement and place) principles.
7. Design Review Panel – Further clarification on the form and role of the Design Review Panel in a local government context is sought.
8. Implementation Beyond the Approval Process - Most of the mandatory matters for consideration under the SEPP and in supporting documents can be addressed by councils or a proponent as part of standard development application processes. Consideration could be given to how these requirements flow beyond the approval process to enable enforcement during the certification, construction and even post-construction stages.

9. Urban Design Guide –

- i. The refinement of the Apartment Design Guide and creation of a separate Urban Design Guide has the potential to benefit councils by providing targets for design elements not currently included within design standards. However, further information on the specific metrics is required in order to determine suitability in the context of Ballina Shire.
  - ii. Consideration should be given to how matters contained within the Urban Design Guide relate to the delivery of infrastructure via a Part 5 planning pathway, including the benefits associated with the design elements of the guide relative to costs, the capacity of different infrastructure providers and the expectations of different communities.
10. Design with Country – Production of a set of core Cultural Design Principles will assist with ensuring that consideration of Country is incorporated into design processes on smaller projects.
11. The opportunity to provide further comments following development of specific targets is essential to ensuring the best fit of the SEPP across a variety of places.

Thank you again for the opportunity to provide comment on the EIE. If you have any enquiries in regard to this matter please contact Sheryn Da-Re, Landscape Architect, on 1300 864 444.

Yours faithfully



Matthew Wood  
**Director**  
**Planning and Environmental Health Division**