



File no: F15/1234-03

5 May 2021

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

Sent via email to designandplacesupp@planning.nsw.gov.au

Dear Sir/Madam

Blacktown Council's submission to the draft Design and Place State Environmental Planning Policy (SEPP) Explanation of Intended Effect (EIE)

We welcome the opportunity to provide feedback on the Design and Place SEPP EIE.

We support, in principle, the aims of the Design and Place SEPP to improve the design quality and performance of development across the State, however are concerned that a "one size fits all" policy may hinder Council's ability to tailor controls to reflect issues that are important to the local community.

We are supportive of consolidating State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (SEPP BASIX) into the Design and Place SEPP and welcome the identified range of design and place considerations to assist early integration of relevant factors into development assessment and precinct planning. In particular, we welcome the focus on quality design outcomes and the promotion of green infrastructure which encourages additional landscaping and opportunities for deep soil planting to allow for the planting of large canopy trees and shrubs.

We are however concerned with some of the aspects of the new SEPP, and raise concerns that the principle focussed system for planning and assessment requires a significant transformation for Councils who are required to administer and implement the requirements of the proposed new SEPP.

In summary, we highlight the following concerns:

- The Design and Place SEPP will require a refocus of Council resources to ensure that staff undertaking assessment are equipped to implement a principle-focussed planning policy and other relevant officers are registered. There is a concern that, should the draft SEPP and supporting documents come into effect as exhibited, there are likely to be significant cost implications for Councils because design and assessment staff may be required to be registered, the preparation of precinct plans will require specialised urban design professionals, and connecting with Country will

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require the engagement of Aboriginal communities in the assessment process. Consideration needs to be given to ensure that Councils are properly resourced, trained and funded to implement the requirements of the new SEPP so that its objectives can be achieved.

- We raise concerns with the 'one size fits all' approach of the SEPP in applying to local government areas across the State because of differing urban typologies, community needs and expectations. The introduction of the SEPP could ultimately override Council's own planning provisions.
- We do not support mandating a blanket approach which proposes limiting the provision of car parking in development to the lowest amount required by either the RTA Guide to Traffic Generating Development, Council's DCP or a site-specific travel plan provided by the applicant. The rate of development and size of Blacktown City means that access to a good public transport network is not available to all our residents and, as a result, they are highly car dependant. A frequently raised concern by our community is that new developments do not cater to the parking demand generated, exerting additional pressure on on-street car parking within street networks that have not been designed to accommodate increased car parking and which are increasingly under stress as a result of significant numbers of secondary dwelling approvals under the Affordable Rental Housing SEPP.
- Consideration needs to be given as to how the proposed Design and Place SEPP interfaces with other SEPPs, such as the Growth Centres SEPP, the Codes SEPP and the Affordable Rental Housing SEPP. There are already inconsistencies across the SEPPs which lead to poor design outcomes in some areas of our City. For a City such as Blacktown City where we deal with a number of planning policies, it is imperative for consistent planning outcomes that all the relevant SEPPs are well integrated and aligned.
- The Growth Centres SEPP must be updated as a priority to ensure that processes within both the SEPP and associated DCPs are consistent across LGAs and reflect best practice. The new SEPP must address in a meaningful way subdivision design, particularly the relationship between lot sizes and housing typologies, green cover and sustainability.
- We are generally supportive of the intent of the 5 Guiding Principles, however further detail needs to be provided around what constitutes alignment with the principles and whether there is a hierarchy by which the principles should be applied. The Guiding Principles in their current form are too broad and we consider that they should be re-ordered so that Principles 4 and 5, relating to sustainability, greener places and resilience, become Principles 1 and 2 (being of most importance).

- We support embedding the Connecting with Country framework into the planning framework, however its application needs to be carefully considered so that its administration and application in the development assessment and Planning Proposal process is not onerous for Council. It is unclear if the framework will result in increased costs associated with the design and delivery of projects. State Government support is required to ensure that both Councils and local Aboriginal groups can connect to provide meaningful engagement.
- We support the amendments that update BASIX, including expanding how it operates and future proofing to allow for alternative methods to achieve environmental performance targets. The specified National Australian Built Environment and Rating System (NABERS) targets for emissions and resource efficiency are supported and provide a pathway to net zero emissions by 2050.
- We generally support the updates to SEPP 65 and the associated Apartment Design Guide (ADG), however the vagueness of the new Urban Design Guide makes it difficult to provide specific comments. The new SEPP and associated guideline documents should emphasise the need to ensure that the liveability and long-term sustainability of developments and communities is considered a priority, rather than focussing solely on the physical appearance of buildings.

Attached are our detailed comments on the Design and Place SEPP EIE.

We request that the Department's review of the EIE and preparation of the new SEPP and associated guideline documents addresses the key concerns raised by us. As the draft SEPP was not released for comment, it has been difficult to make detailed comments on the provisions. It is important that Councils and communities are fully consulted on the drafted changes.

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.

Yours faithfully



Glennys James PSM
Director Planning and Development

Blacktown Council's submission on the proposed new Design and Place SEPP Explanation of Intended Effect

1. Consolidation and revision of existing policies

Council supports the consolidation and repeal of the existing SEPP 65, and the accompanying Apartment Design Guide (ADG), and SEPP BASIX into the Design and Place SEPP. The SEPP should be developed with extensive input from Councils and industry to ensure that there is alignment with LEPs and other SEPPs.

2. Implementation of the Design and Place SEPP

Blacktown City is rapidly growing. It has been impacted by a large amount of development primarily due to State Government strategic planning within the LGA and particularly within the North West Growth Area.

Additionally, the DPIE has already imposed quite high expectations on Councils to decrease processing time for development assessment. Currently, Blacktown Council can receive up to 30 Development Applications/modifications a day on the Planning Portal.

The Design and Place SEPP will require a refocus of Council resources to ensure that staff undertaking assessment are equipped to implement a principle-focussed planning policy and other relevant officers are registered.

There is a concern that, should the draft SEPP and supporting documents come into effect as exhibited, there are likely to be significant time and cost implications for Council because design and assessment staff will need to be supported with training (potentially in a very short timeframe), may be required to be registered, and connecting with Country will require the engagement of Aboriginal communities in the assessment process.

Prior to the implementation of the SEPP, consideration needs to be given to ensure that Councils are properly resourced, trained and funded to implement the requirements of the new SEPP so that its objectives can be achieved.

3. Application of the new SEPP

The Design and Place SEPP proposes a design-centred assessment framework for development in NSW, which, while supported by various principles, is ultimately a subjective assessment.

While we are supportive of the various development scales proposed in the SEPP, we are concerned with how this will apply to LGAs of different scale, community expectations, typologies and built form limitations.

A 'one-size-fits-all' policy is perceived to hinder Council's ability to tailor controls to reflect issues that are important to the local community. Council seeks to protect local character, amenity and meet the local community's expectations.

There is concern that there are no key performance indicators for the new design outcomes proposed in the Design and Place SEPP. As such, as design is ultimately subjective, there is concern that in the absence of a key performance indicator that design outcomes will become inconsistent across the State, and even across the LGA.

Various controls are proposed in guidelines that will underpin the principles in the proposed SEPP. Consideration should be given to ensuring that the Guidelines reflect different factors such as urban typology, built form, streetscape and lot size, so that good design outcomes can be achieved for all areas across the State.

The application of the SEPP to urban land and the acknowledgement of different development scales is supported.

4. Administration associated with the new SEPP

The proposed new framework is complex and at this stage it is difficult to gauge what would be required to ensure that the relevant staff are appropriately trained and resourced. As the largest and fastest growing LGA in NSW, consideration also needs to be given to the number of applications received and the complexity of some of these applications, as compared to other LGAs.

The Design and Place SEPP will require a refocus of Council resources to ensure that staff undertaking assessment are equipped to implement a principle-focussed planning policy and other relevant officers are registered.

There is a concern that, should the draft SEPP and supporting documents come into effect as exhibited, there are likely to be significant cost implications for Councils because design and assessment staff may be required to be registered, the preparation of precinct plans will require specialised urban design professionals, and connecting with Country will require the engagement of Aboriginal communities in the assessment process.

Consideration needs to be given to ensure that Councils are properly resourced, trained and funded to implement the requirements of the new SEPP so that its objectives can be achieved.

5. Principles of the new SEPP

The Design and Place SEPP proposes 5 new principles that are to underpin the design outcomes for development within the State (and that will repeal and consolidate the 9 existing SEPP 65 principles into the new SEPP).

We are generally supportive of the principles, structure and aims of the new SEPP, however further detail is needed around what constitutes alignment with the principles and

whether there is a hierarchy by which the principles should be applied. The Guiding Principles in their current form are too broad and we consider that they should be re-ordered so that Principles 4 and 5, relating to sustainability, greener places and resilience, become Principles 1 and 2 (being of most importance).

1. ***Principle 1 – Design places with beauty and character***

- This principle is supported, however it is acknowledged that there are inherent challenges that arise due to the subjective nature of the design of development and the nature of the assessment and review process in the NSW planning system. We suggest that robust and practical guidance is provided on how alignment with this principle should be assessed in practice, with a range of examples reflective of the differing development scenarios encountered across NSW.

2. ***Principle 2 – Design inviting public spaces***

- This principle is supported. The Design and Place SEPP will need to provide guidance on how the provision of public open space across the State can be delivered and the relationship with existing development Contributions Plans. There needs to be assurances that new areas of open space which are not identified in a Contributions Plan do not place an additional funding constraint on Council. Current NSW Government policy hinders the provision of additional open space and must be reviewed to enable this principle to have any practical application.

3. ***Principle 3 – Develop productive and connected places***

- Policies to date that contain growth have created far more compact communities. Trying to introduce opportunities for diversity in such housing is supported but will be challenging unless the controls are changed. In conjunction with the preparation of the Design and Place SEPP. A review should also be undertaken of the SEPPs related to the Growth Areas, and in particular the North West Growth Area (NWGA). The NSW Government has based its infrastructure provision on forecast minimum densities, leading to a significant and growing lack of infrastructure where minimum densities are significantly exceeded, or infrastructure that is not meeting the needs of the community, placing greater pressure on open space and transport infrastructure, and ultimately reducing the liveability and long-term sustainability of these areas.
- The Design and Place SEPP should not prevent urban design ideals such as the superblock, which allow for a finer grain network within the greater block that encourages active transport, car free or car shared streets, and for the organic creation of public spaces at block intersections, enhancing the potential for green cover as well as social interaction.

- The Design and Place SEPP should elevate the importance of safe and direct cycle links for point to point trips. Such routes, designed safely, will encourage a mode shift from cars to active transport.
- The Design and Place SEPP needs to ensure that developments provide significantly more private open space, particularly in high density areas.

4. **Principle 4 – Design sustainable and greener places**

- The principle to support sustainability, increased green cover and liveability is supported.
- We support the reference to the importance of green infrastructure for the well-being of people and the environment, however it is recommended that the SEPP also refer to blue-green infrastructure. Blue-green infrastructure recognises the importance of our waterways and water sensitive urban design in providing a sustainable city that also provides for the well-being of people and the community.
- We ask the NSW Government to work with WSROC on implementation of the Urban Heat Planning Toolkit 2021. In particular, the adoption of an urban heat clause in the Standard Instrument LEP will provide a clear and consistent message that development must be sustainable and must be designed to lower energy consumption and provide greater thermal comfort. The Toolkit includes development controls to increase sustainability and resilience which should be considered in the review of the BASIX SEPP.

5. **Principle 5 – Design resilient and diverse places**

- This principle is supported. A shift in thinking is required to consider how housing is delivered across NSW to increase the diversity in the typology of housing and affordability, while at the same time ensuring that these places are resilient. Development in the North West Growth Area and in other greenfield areas provides opportunities for smaller lot sizes, however currently the typology is generally limited to single dwelling houses. Smaller lot sizes generally provide for a more efficient use of land, and compared to single dwellings on larger blocks provides more affordable housing options. There however needs to be consideration of how these new areas can be more resilient, particularly in Western Sydney where urban heat and extreme weather can have an impact on the liveability of these areas.

6. **Connecting with Country**

We support embedding the Connecting with Country framework into the planning framework, however its application needs to be carefully considered so that its administration and application in the development assessment and Planning Proposal process is not onerous for Council. It is unclear if the framework will result in increased

costs associated in the design and delivery of projects. State Government support is required to ensure that both Councils and local Aboriginal groups can connect to provide meaningful engagement.

With respect to its implementation, we provide the following comments:

- It is critical that the SEPP introduces a clear and rigorous framework that covers all development scales, including Planning Proposals. Without a rigorous guideline with mandatory steps, many of the Connecting with Country priorities may not be realised. This framework should cover all stages from project design brief and Development Application requirements to design review and approval with clear guidelines.
- We will need guidance on how it is intended that Aboriginal wisdom be integrated into the referral process for developments at various different scales – precinct planning, Development Applications, etc – and how this will be administered (would such advice be subject to a design panel opinion or similar to integrated development?). Consideration will also need to be given as to how it integrates with the considerations under the EP&A Act.
- There needs to be clear written direction on what consultation with Country will entail and who will actually represent Country in any LGA, given the various groups' involvement. Also, who will directly be the contact in ensuring Country has been appropriately addressed?
- There needs to be clarity as to whether this level of engagement will come at an additional cost to Council – will these groups expect payment to participate and actively engage? Who then bears this additional cost and is the expectation that there will be a regulated fee that can be charged to the applicant. This may not be a significant issue for most LGAs, but for Blacktown City it could be a significant cost burden to Council if this issue is not clarified, because of the volume of DAs we deal with.
- There needs to be acknowledgement of existing suitably qualified staff who have years of experience that can continue to undertake this role.

7. Design panels/design experts

The proposed Design and Place SEPP will require that good design process is undertaken for planning and development proposals, and that the design processes, as well as the design outcomes, are assessed. The following comments are made:

- It is acknowledged that requiring architects and landscape architects to be registered is an attempt to improve design outcomes. However, applying such restrictions to public authorities designing and assessing applications is onerous and few practitioners in local government maintain their registration. Mandating the use of registered designers to undertake park design, precinct planning and

masterplans will have significant cost implications for Blacktown City and will result in further strain on Council's limited resources to undertake projects and deliver precinct plans and masterplans. If registration of Council staff is proposed to be mandatory, then the delivery of this should be supported by State Government funding that Council can access to ensure that Council staff are appropriately skilled and can be registered so that they can continue to undertake the work required. Failure to do this will result in additional cost implications for Council and a reluctance to deliver new masterplans.

8. Mandatory matters for consideration

There are 19 proposed design and place considerations under the Design and Place SEPP. It is proposed the initiatives and guidance outlined in this EIE are mandatory matters for consideration for the purposes of s.4.15 of the EP&A Act and will be required to be considered as part of the development assessment process.

With respect to the specific matters for consideration, the following general comments are provided:

1. **Cultural and built heritage**

Areas of cultural and built importance are celebrated, conserved and protected including heritage items or areas of risk.

- Supported, however the challenge will be its implementation, particularly in existing urban environments.

2. **Public spaces**

Equitable distribution of accessible, well designed public space has been provided on land fit for purpose with no net loss of public space.

- Supported in principle, however it is unclear how this principle will be implemented, particularly in the North West Growth Area which is under a different SEPP. Additional detail needs to be provided, particularly in respect to the following questions:
 - What does no net loss actually mean?
 - Is new open space for the entire community or just those within the development? Who pays for the initial outlay and ongoing maintenance of the open space and improvements?
 - How will the impacts on Contributions Plans be resolved?
 - Will IPART be required to recognise public open space provision and embellishment as a cost to Council that must be included in Contributions Plans to be paid for by developers.

3. **Connectivity**

Connectivity has been provided - this includes landscape corridors, recreational walking and cycling networks and networks of public space.

- Supported but needs to be embedded as a principle in SEPPs and LEPs so that land for this purpose is identified and not developed.
- Ownership and maintenance of the corridors must be clearly established and the cost/financing implications resolved (i.e. who pays for the delivery of these corridors – does council identify them within the Contributions Plans or do they form a component of the overall development and are delivered by the developer? Also, if these connections form part of an overall development and are retained in private ownership, what will be the mechanism to ensure that they are maintained over time and how will this be enforced?

4. **Local living**

All housing in urban areas of new precincts are within 20 minutes walk of local shops and 5 minutes walk of local public open space.

- Supported, however may not be achievable in Blacktown City or Greater Western Sydney. Precinct planning currently being undertaken by the Department in the North West Growth Area needs to address and consider the principles of local living
- The principles of local living must be integrated with the principles for sustainability and resilience in street design and tree canopy coverage. In Western Sydney, people are unlikely to walk for 20 minutes on high temperature days unless shade is provided. A 20 minute walk may be appropriate in inner city areas with adequate shading and rest points, however in Western Sydney a 20 minute walk may not be achievable unless there is adequate tree canopy, seating and pocket parks to ensure adequate rest points and shading. Current NSW Government planning controls in the NWGA do not permit this principle to be delivered in practice.

5. **Street design**

Streets are designed so that they provide for safe, accessible and comfortable walking and cycling routes.

- Supported but with some reservations. In existing urban areas and centres the capacity to add new streets and through block links is limited unless urban renewal is part of a masterplan process and the roads are paid for by developers.
- Implementation will require the support of relevant NSW Government agencies.

6. **Water management**

Precincts contribute to water security, urban cooling and local irrigation by providing water systems that maximise water re-use and encourage natural methods for stormwater control and runoff.

- We support the recognition of integrated water management and the way improved water management contributes to wider liveability outcomes for the community.
- Implementation may be challenging in some areas, such as collection and irrigation in road reserves, and will require the support of relevant NSW Government agencies.

7. **Green infrastructure**

That precincts retain, where possible, and provide additional green infrastructure, including establishing an interconnected network of open space and retaining or enhancing existing tree canopy.

- Supported and recommend that these should be mandatory requirements and not “where possible” requirements. The replacement of any moderate/significant tree with at least 2 trees or payment of the Council replacement \$ rate, whichever is the higher, should be introduced under this matter for all stages of development and all 3 scales of development. This matter should also require the retention/implementation of diverse vegetation to support biodiversity, particularly in habitat corridors. This should be reflected in Government contributions policy.
- Consideration must also be given to this matter in greenfield areas and areas under the North West Growth Area SEPP. As outlined above, the NWGA SEPP needs to align with the proposed Design and Place SEPP. The current subdivision and density requirements of the NWGA SEPP make it impossible in practice to have any significant tree in either public or private space, particularly on 200 sqm residential lots. Even when planted, such trees are removed because of the impact on housing siting and the lack of adequate growing space on these smaller lots.

8. **Resilience**

An integrated approach to site specific risks has been taken and strategies implemented to reduce or avoid vulnerability to those risks, particularly bushfire, flooding and extreme heat.

- Supported. This aligns with Council’s adopted LSPS and existing State Policy such as Planning for Bushfire Protection.
- NSW Government planning controls, including the NWGA SEPP and Codes SEPP, must be reviewed as a matter of priority to align with the proposed Design and Place SEPP.

9. **Fine grain movement**

Proposed private walking and cycle links connect to designated public walking and cycling networks and provision is made for publicly accessible through site links through developments.

- Supported in principle, however this matter can only be meaningfully commented on once more detail has been provided.

10. **Density**

The massing (height and FSR) and zoning of precincts is capable of achieving the target gross residential densities in residential zones.

- Further detailed information is required as proposed densities may be contrary to local character guidelines developed by DPIE.
- The generic density concepts that show the indicative capacity of different building forms and sites must not be mandatory. Council should not be prevented from using appropriate density controls, as increases in density may result in significant changes to local character. This should not occur without widespread consultation and any density targets should be reviewed by local government before public exhibition occurs.
- We remain concerned that density targets in other SEPPs (NWGA SEPP for example) continually under-estimate the actual yields being delivered. Density requirements in the North West Growth Area are a minimum requirement. This has led to significantly higher than the planned for growth as estimated initially by the Department, leading to a significant shortfall in infrastructure provision and planning, which impacts negatively on the liveability of communities as well as the sustainability and resilience of our City.
- The planning and development controls that are contained in the Growth Area SEPP, and the Blacktown City Council Growth Centre Precincts, result in dwellings that occupy a large area of a lot, preventing retention of existing vegetation and trees and constraining the ability to landscape with replacement trees. Specifically, these controls primarily relate to minimum lot sizes, minimum residential densities and building setbacks.
- We continue to advocate that the NSW Government planning controls, including for the Growth Area SEPP and the Growth Centre Precincts DCP, be reviewed to align with the principles and objectives of the proposed Design and Place SEPP.

11. **Housing diversity**

The proposal responds to the local housing strategy and provides an equitable distribution of housing type and tenure to enable ageing in place.

- Supported. This aligns with Council's Housing Strategy and would empower Council to better shape development to meet the needs of the community.
- We suggest detailed guidance is provided on assessment criteria for this consideration.

12. **Transport and parking**

The proposal minimises the provision of car parking.

- Minimising the use of private vehicles is supported in principle, however in parts of Blacktown City that have experienced rapid growth, the delivery of adequate public transport infrastructure has not occurred. A commitment by the NSW Government to provide adequate and reliable public transport to service residents and workers in Blacktown City must be given in order for private car dependency to be minimised.
- As a priority, the NSW Government must bring forward the implementation of the Metro extension from Tallawong to St Marys, extend the duplication of the Richmond rail line north of Schofields, provide a grade-separated rail crossing at Riverstone, fund direct and efficient active transport infrastructure, and direct TfNSW to prioritise active and public transport over private vehicle travel.
- We strongly oppose mandating a blanket approach which proposes limiting the provision of car parking in development to the lowest amount required by either the RTA Guide to Traffic Generating Development, Council's DCP or a site-specific travel plan provided by the applicant. The historic lack of adequate public transport infrastructure across Western Sydney, coupled with the rate of development and size of Blacktown City, means that access to a good public transport network is not available to all our residents and as a result they are highly car dependant. A frequently raised concern by our community is that new developments do not cater to the parking demand generated, exerting additional pressure on on-street car parking within street networks that have not been designed to accommodate increased car parking or high density uses.

13. **Attractive form**

The development has, on balance, positive design qualities, and supports beautiful places (including contributing to the local character, where described).

- Supported. This aligns with Blacktown LEP 2015 which has provisions that encourage high quality design.

14. **Impacts on public space**

There is no encroachment on existing public open space, and adverse impact from adjoining built development, with no net loss of public space.

- Supported. This aligns with Council policy on the preservation of public open space as part of major redevelopment.

15. **Impacts on vibrant areas**

If in or near "vibrant areas" (including night time economy areas), the proposal demonstrates safeguards to ensure the future operation of this vibrancy.

- Supported. This consideration ensures that developments must consider the sustainability of night-time economy in centres and aligns with Council's LSPS.

16. **Activation**

There is non-residential activation on a minimum percentage of frontage of sites facing activity streets, with adequate lighting and passive surveillance.

- Supported. This consideration ensures that developments provide spaces for employment and related economic activity in centres.

17. **Emissions and resources efficiency**

The development meets or exceeds the relevant National Australian Built Environment Rating System (NABERS) set by the SEPP for offices, shopping centres, hotels and apartment buildings.

- Supported, however it fails to incorporate waste management as a consideration. It is critical that this is included as a consideration in the SEPP.

18. **Tree canopy**

The proposal retains moderate and significant trees and significant vegetation where possible.

- Supported, however more guidance is required 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 the clearing of the majority of canopy cover and vegetation.
- Ensure that tree canopy is considered more at the precinct scale. In Blacktown City within the release areas the controls have been developed by the State Government and are resulting in new subdivisions totally devoid of trees and vegetation. Encouraging the planting of replacement trees and vegetation is also difficult because the smaller lot sizes and minimum density requirements result in buildings occupying most of the housing lot, with little area left for open space and deep soil planting.
- The Design Guideline should resolve issues created by other Government plans and policies, including new design guidance for better subdivision and housing typologies. This should also be embedded into the LEPs and SEPPs to ensure that this objective can be achieved. NSW Government planning controls must be reviewed as a matter of priority to align with the proposed Design and Place SEPP.
- Sufficient deep soil zones should be mandated on both public and private land to facilitate tree planting and to combat the urban heat island effect, such as by facilitating or mandating certain landscaping provisions or floor spaces under SILEP or the Design and Place SEPP.
- The quality of deep soil space should also be considered to avoid isolated bands of deep soil with limited accessibility, which offers limited opportunity for improved tree canopy.

- Density bands in the North West Growth Area need to be reviewed, especially in the R2 Low Density zones where single dwelling products on small lots result in building footprints taking up, in most cases, 90% of the lot.

19. **Affordable housing**

The proposal provides affordable housing targets in accordance with affordable housing targets or schemes.

- Supported. At this stage Blacktown Council has not yet developed an affordable housing policy or scheme, but plans to do so by early 2022.
- Housing affordability is a significant national issue. We suggest consideration is given to the development of a Federal or State-led funding mechanism to levy for and coordinate the provision of affordable housing.

9. Integration of the Design and Place SEPP

1. **Consistency with SEPPs**

- It is critical that any design advice in the Design and Place SEPP is carried through to other SEPPs, such as the Exempt and Complying Development Codes SEPP and the new Housing SEPP which all currently promote poor urban design and built form outcomes.
- The relationship of the SEPP to the NWGA SEPP must also be clarified.

2. **Codes SEPP**

- The relationship between the proposed SEPP and the Exempt and Complying Development Codes SEPP must be clarified if the new SEPP is to have a meaningful impact, particularly in the North West Growth Area.
- The current Housing Code leads to poor housing quality, choice and diversity, with substandard liveability and sustainability outcomes. The Housing Code should be amended to prevent single lot housing on sites better suited for row houses or semi-detached houses, to ensure efficient use of land, with greater areas left for private open space and green cover, including tree planting which is currently not possible on many lots. It will also improve housing diversity and supply, potentially improving affordability opportunities.
- The Design and Place SEPP must also cover non-residential uses as there is a current push to extend the applicability of Complying Development applicability in new non-residential development.
- An opportunity for increased urban greening exists within the infill space, with most low density development occurring as Complying Development under the Codes SEPP. This SEPP currently has little requirement for increasing trees or green space or specifying requirements for deep soil areas.

- The Housing Code provides a potential model which could be applied to all Complying Development, requiring a tree to be planted in the front and rear yard of each new home approved.

3. **Growth Centres SEPP**

The following comments are made in relation to the Growth Centres SEPP (also noting that the Minister for Planning and Public Spaces has recently announced that the finalisation of the remaining Precinct Plans in Blacktown City has been deferred to resolve issues in relation to flood evacuation capacity).

- The Growth Centres SEPP must be updated as a priority to ensure that processes within both the SEPP and associated DCPs are consistent across LGAs and reflect best practice. The new SEPP must address, in a meaningful way, subdivision design, particularly the relationship between lot sizes and housing typologies, green cover and sustainability.
- The Western Sydney Planning Partnership and WSROC have undertaken projects which could inform the development of the Design and Place SEPP, particularly for the Western Sydney Councils. We suggest that the NSW Government work with these organisations to capitalise on these significant projects (eg Western Sydney Street Design Guidelines, Urban Heat Planning Toolkit).
- In the NWGA a significant proportion of land has already been developed according to the Precinct Plans and Indicative Layout Plans that are enshrined in the Growth Centres SEPP and DCP. Development in the NWGA is regulated by the Growth Centres SEPP. In 2007, the Minister for the Environment signed the Growth Centres Order 2006 which conferred Biodiversity Certification on identified areas under the Growth Centres SEPP. Under the Order, land in the NWGA is either identified as “Certified” or “Non-certified”.
- Notwithstanding the Biodiversity Certification, the greatest challenge with any new development in the NWGA is a combination of implementing the Indicative Layout Plan (ILP) within the constraints of the existing landform and levels, the minimum lot size controls, and building and setback controls that have been established by the NSW Department of Planning, Industry and Environment.
- The ILP sets out the indicative road patterns required on development sites. The consequence of the ILP is that it often requires significant bulk earthworks to create level development sites. This leaves little to no opportunity to retain existing trees.
- The structure plans for the NWGA are currently being delivered at a rapid pace and there is already a large lost opportunity. Both the Growth Area SEPP and DCP must be reviewed in line with the development of the Design and Place SEPP and the exhibited precinct plans, and ones currently under consideration, should be reviewed and assessed against the proposed 19 mandatory design

and place considerations to ensure that the opportunity to achieve these important outcomes is not lost.

4. ***Proposed Housing Diversity SEPP***

- Whilst generally supporting the consolidation of SEPPs and clearer relationships between instruments, any proposed changes must be released concurrently with the exhibition version of the future Design and Place SEPP, including any required changes to the Regulations.

5. ***Savings provisions***

- When other SEPPs are being reviewed and revised for realignment within 1 to 3 years of implementation of the Design and Place SEPP, in the interim ensure guidance is provided to councils on transition/savings provisions for existing SEPPs where necessary/or where there is conflict.

6. ***Other guidance***

- All new guidance documents must be exhibited before, or together with, the future Design and Place SEPP to ensure Councils are informed as to how they will impact on their local government areas.

10. Planning pathways

1. ***State Significant Development and precincts***

- We support policies that ensure early engagement with local Aboriginal community members. However, it needs to be made clear how this system will work. How does a proponent of SSD development or precinct development show that they have consulted with the local Aboriginal community and what are the requirements for consultation and which Aboriginal communities in the City should be consulted? Guidelines and criteria for consultation with relevant Aboriginal communities should be set for State Significant projects with the requirement to include the report with lodgement.

2. ***State Significant infrastructure***

- The ideas in this section are unresolved. It is also appearing contradictory to suggested consultation with the Aboriginal community during public exhibition. Better *Connecting with Country* outcomes would be achieved if consultation occurred upfront during an early engagement process.
- This and other suggestions in this section need to be resolved prior to a draft Design and Place SEPP being exhibited.

3. ***Review of environmental factors***

- The application of the proposed SEPP to Council REFs under Part 5 of the Act may be problematic. Where an activity may be caught by the SEPP, it would be

up to Council to determine the extent of relevance and action required to comply. Consideration should be given to the limited resources of Councils to undertake a thorough design assessment of these applications.

4. **Planning Proposals**

- A document that provides consistency across the State for planning and design considerations within Planning Proposals is supported.
- Any changes to the Planning Proposal process must be reflected in DPIE guideline documents. These changes should be exhibited concurrently with the proposed Design and Place SEPP.
- Consideration should also be given to the Ministerial Directions on plan making to include reference to the Design and Place SEPP.

11. Revisions to SEPP 65 and the Apartment Design Guide (ADG)

This revision of the ADG sets out to support design and place in the NSW planning system with regard to residential design, first and foremost for apartment development.

The ADG is an effective planning tool because its development standards set an enforceable minimum requirement. The proposed changes to increase the flexibility of the ADG may create uncertainty for developers and reduce the ability of Council to ensure development actually achieves the required standards.

Key feedback:

- We are supportive of the broad revisions to SEPP 65 and encourage the new SEPP to emphasise liveability as the first principle of good design, rather than a focus on built form and layout considerations.
- We are supportive of the broad revisions to increase minimum deep soil zones and decoupling of required open space to allow for more flexibility in design, and capping of units per floor to ensure that the bulk and scale of development is reduced and that environmental outcomes in terms of open space and landscaping are improved.
- We stress the need to ensure that the application of flexibility and innovation in design criteria to SEPP 65 does not provide the opportunity for gross misuse by the development industry. Some certainty should be provided as to the intended outcomes and key performance indicators – for example with design criteria, car parking, open space provision etc.
- We suggest consideration is given to implement best practice in the revised ADG for the planning controls of other land use types and uses, so that best practice can be achieved across all development types.
- The importance of waste management needs to be elevated to a component that is addressed as part of site planning considerations.

- Controls need to be clear and not subjective and open to interpretation.

12. Urban design and site planning

1. **Infrastructure response**

Ensures that the integration of infrastructure is an initial design consideration.

- An Infrastructure Response Plan should be submitted with the Development Application. This should include how the development proposes to integrate heating and cooling, waste, energy (substation location), removal of furniture and access etc. This should also include consideration of Water Sensitive Urban Design (WSUD), and including, at subdivision stage, street design and implementation of the Western Sydney Street Design Guidelines and sustainability infrastructure e.g. electric vehicle charging stations, photo-voltaic panes, wind generators and energy conversion and storage infrastructure (batteries and adaptors).

2. **Response to place/contribution to place**

Require development to demonstrate a consideration of Country and positive contribution to place, local character and planning aspirations (as identified by the LSPS).

- Supported. The development should show how it contributes to the aspirations of the community it will serve, however it needs to be clear how this will be achieved.

3. **Built form/building form**

Review setbacks and separation to encourage more slender building forms that provide greater residential and ground floor amenity.

- Supported. Slender towers with adequate separation are a better design outcome.
- Consideration should also be given to increasing the provision of dual aspect apartments which generally have higher levels of liveability through better ventilation and access to daylight, thus reducing reliance on air conditioning for heating and cooling.

4. **Simplifying green infrastructure/landscaping and greening**

Requiring adequate provision of deep soil landscaped areas and communal open space requirements.

- Supported, however consider mandating minimum landscaping requirements in the SEPP to support urban greening, and mandate tree replacement as a

matter for consideration. Consideration must be given to the recommendations of the WSROC Urban Heat Planning Toolkit 2021.

- We do not support including a range as a landscaping requirement, as developers will always provide the minimum. A defined minimum must be included. The controls should also include a minimum width area for landscaped areas to facilitate true deep soil planting. In addition, no basements should be permitted below landscaped areas as it restricts deep soil areas.
- Streets should be wide enough to contain a deep soil zone to place a tree in the verge and to cater for passive street tree irrigation. This is important because it will provide shade, reducing the urban heat island effect as well as providing opportunities for passive irrigation.

5. ***Mixed use development and street activation***

Enabling a mix of uses through the provision of adequately scaled, adaptable ground floor spaces that can provide local services to residents and accommodate local business in R3 and R4 zones.

- Not supported. The R3 and R4 zones are residential zones which are not intended as mixed use zones. This requirement could result in over provision of commercial space in areas where commercial floorspace is usually not economically viable, resulting in vacant ground floor areas which impact on the safety, amenity and liveability of an area.
- We also consider that mandating this requirement may also result in development that does not align with the prevailing local character of these areas.

6. ***Car parking***

Ensure car parking rates are well matched to local needs and not oversupplied.

- Not supported unless there is a commitment by the State Government to provide reliable and adequate public transport. We do not support a blanket approach of reducing car parking across Greater Sydney. It is critical that any cap on car parking strategies is developed collaboratively with the relevant NSW Government departments and agencies as well as local government and that the current levels of access to public transport are considered.
- For a review of car parking rates to be successful, the NSW Government must commit to providing the Metro extension in Blacktown City and reliable, high frequency bus services to Western Sydney. We continue to advocate for Transport for NSW to commit to providing the extension to the Sydney Metro Northwest line, north from St Marys to Tallawong. This needs to be paired with direct and unimpeded active transport links that facilitate transport choice.
- With respect to the proposed adaptive travel plans, we are cautious of this approach because it opens up the opportunity for developers to challenge

imposed rates, even where the proposed outcome will not present a suitable transport solution. With significant unprecedented growth in Blacktown City, changing travel conditions, and urban intensification that often exceeds planned-for dwelling densities (particularly in the North West Growth Area), adaptive travel plans will make it difficult to account for growth in the city, and could be detrimental for travel conditions in future precincts and large-scale developments.

- We are supportive of increasing the provision of car share spaces, mandating electric charging in all new developments, and increasing bicycle parking. Developments should be future proofed for electric micro mobility modes like e-scooters and e-bikes.
- An updated Guide to Traffic Generating Development must be released for comment, preferably concurrently with the release of the draft SEPP.

7. *Bicycle parking/mobility storage*

New design criterion and guidance is proposed to align provisions with demand and encourage further uptake of active transport.

- Supported. Consideration should also be given to secure and covered bicycle/mobility storage within the public domain or common property at the front of development rather than in basements, and must include charging points. By making it convenient to access, people are more likely to use bicycles and other mobility devices.
- Consideration should also be given to providing storage and change facilities to service visitors and workers in the commercial component of shop top housing or other mixed use developments.

13. Residential amenity

1. *Improve natural and cross ventilation*

Improve the definition of what counts as natural cross ventilation and encourage better performance through floor plate configuration.

- Supported. This will ensure more apartments are naturally ventilated.
- The SEPP should also consider ways to reduce the prevalence of dual loaded corridor apartment buildings which lead to poor internal circulation spaces, lower environmental performance and apartments which suffer from reduced ventilation and daylight access.

2. *Encourage diversity of apartment types, size and layouts*

To accommodate households of all ages, abilities, sizes and needs and encourage configurations that support people working from home.

- Supported, however care must be taken to ensure that, by including a percentage minimum provision, an additional premium class of apartment is not created within buildings. This does nothing to address affordability or diversity as larger apartments will attract a premium price, making them unaffordable for most families.
- All 2 bedroom units should have a minimum bedroom area of 12 m² if the intention is to support working and/or study from home. Introducing a minimum percentage simply introduces an additional class of development, rather than addressing the issue of space – which is relevant to all apartment dwellers.
- Moveable walls could be designed within apartments that create spaces on demand. Likewise, non-structural internal walls that allow modification are supported.
- Consider mandating the minimum size and dimensions of rooms in apartments to ensure internal functionality and flow of space.

3. **Storage**

Provide adequate storage to support diverse households and their whole-of-life residential needs.

- Supported. More storage space will ensure parking spaces are used for their intended purpose.
- Increasing storage requirements outside the apartment should not result in a decrease in the available storage internally. Insufficient storage within apartments also reduces the internal amenity of units.

4. **External noise and pollution**

Provide acoustic separation for external noise sources.

- Supported. The conflict between natural ventilation and minimising noise transmission is not well resolved at present.

5. **Acoustic separation**

Provide acoustic separation for internal noise sources to respond to increased work from home needs and increased density in urban areas.

- Supported. Apartments should be designed to support people working home or studying.
- It is recommended that such spaces should be separated from a bedroom.

6. **Solar access/shading and glare control**

Revise guidance on sunlight and daylight access and control to ensure there is adequate flexibility.

- Supported. This will ensure that more apartments have access to daylight.

- In addition, consideration should be given to making double glazing mandatory in all apartment development to improve the environmental performance of the building.

7. **Liveable housing targets through universal design**

The requirement for a specified Liveable Housing Australia level and percentage will be increased if NSW government research supports higher standards.

- Supported.

8. **Building separation/building height**

Require greater separation for towers to improve ground plane and urban and public space amenity.

- Supported.

9. **Ventilation**

Improve internal ventilation of apartments to improve airflow and reduce demand for air conditioning.

- Supported. Requiring ceiling fans for habitable rooms with 2.7 m ceiling heights and increasing natural cross ventilation requirements to 70% of units across all storeys is an improvement on the current requirements.

14. Common space and vertical circulation

1. **Communal open space**

Decouple objectives and criteria for communal open space and landscaping and common rooms so these can be delivered flexibly to meet local needs and conditions.

- Not supported. A new approach to calculating communal open space cannot be supported without knowing what it will actually be.
- Shared common open spaces need to be of a size, depth and width so that they are useable for socialisation.
- A current issue with the existing target is that designs often use street frontages to create narrow bands of open space which are designated communal. There should be criteria on the minimum dimensions of this communal space to make it meaningful for recreation.

2. **Lift requirements**

Ensure lift provision delivers adequate vertical circulation for all residents.

- Supported, however it is unclear who will be responsible for assessing whether the lift report is adequate.

- With respect to the preparation of the lift report, it is unclear who will be preparing the report and whether they require certain qualifications. Clarity is required around what details are to be contained in the lift report.

15. Environmental performance

WSROC has recently released the Urban Heat Planning Toolkit 2021. The toolkit focuses on strategies that can be implemented in new development and redevelopment and includes various design measures to reduce the impacts of urban heat. We request that the NSW Government work closely with organisations such as WSROC to ensure that the strategies and recommendations are implemented, where appropriate.

1. **Environmental performance**

Improve environmental performance measures for apartment buildings to mitigate adverse impacts on residents.

- Increasing environmental performance measures are supported. Consideration should also be given to requiring new development to either provide or set-aside space for microgrid infrastructure, particularly if renewable energy is being generated by the building.

2. **Energy efficiency/electric vehicles**

Providing for electric vehicles including future proofing apartment buildings and setting targets for car spaces for electric vehicles.

- Supported. Apartment buildings must at a minimum provide sufficient capacity in their grid connections and wiring to provide for the future installation of electric charging at each private vehicle space within the development.

3. **Building and landscape maintenance**

Require a building and landscape maintenance plan to document maintenance regimes.

- Supported, however concern is raised regarding the potential burden on Councils to ensure that landscaping has been maintained in accordance with the Landscape Management Plan post issue of the Occupation Certificate.

4. **Environmental performance of materials**

Require development to reduce carbon footprint and contribute to net zero targets.

- Supported, however enforcement may be difficult.
- This needs to be embedded as part of the development consent so that if changes are proposed to materials during the construction phase then a section 4.55 modification needs to be submitted and Council needs to undertake an assessment of the changes with respect to environmental performance. The relevant legislation (including Complying Development regulations and the

Codes SEPP) must be aligned with the Design and Place SEPP prior to gazettal, to ensure that the constructed product does not have a lower environmental performance or thermal comfort than that approved at the design stage.

5. **Waste management**

Provide new design guidance.

- Supported, but does not go far enough.
- Many Councils have struggled to resolve the issue of designing for waste storage and collection well. On-site waste management, including the design and storage of waste, needs to be considered at the early design phase and should be a key component of site consideration planning.
- Waste management should go beyond recycling to consider the handling of green waste, food waste and standards for collection facilities. A best practice standard for this in new release areas, masterplanned precincts and residential and mixed use developments should be developed and implemented through the ADG.

16. Non-discretionary development standards

Non-discretionary standards for residential flat buildings are intended to be transferred to the Design and Place SEPP. The list will be updated and expanded in accordance with those proposed as part of this revision of the ADG, to ensure that there are no conflicts with LEPs.

The following general comments are made regarding non-discretionary standards:

- With respect to mandating certain design requirements, such as footprints and building separation, what if the site is particularly constrained and the design outcome proposed cannot comply with these requirements (for example, solar access due to site and lot orientation), but the proposal is within the character of the area and will not create an unreasonable design and amenity outcome? Is there any flexibility permitted to ensure some sites are not sterilised for RFB uses if they cannot comply? This needs to be considered.

17. Urban Design Guide

The vagueness of the proposed Urban Design Guide (UDG) makes it difficult to provide any specific comments. In principle, we support the general direction that is intended for the Guide, however we will be able to provide more meaningful feedback once we have had the opportunity to review the document.

The relationship between the ADG and the Housing Diversity SEPP is supported, particularly if the new Design and Place SEPP provides better guidance on subdivision

design, appropriate housing typologies and housing choice. An Urban Design Guide that provides a consistent benchmark across the State is supported. It should be made explicitly clear that the Urban Design Guide applies in greenfield release areas, in addition to urban renewal sites.

The UDG must provide guidance that enables structural change to current practice. This means including creative ways to ensure cultural heritage and archaeology is integrated into development, thereby enhancing place. Likewise, greater guidance is needed for subdivision design and housing typologies that promote housing diversity.

18. Sustainability in Residential Buildings

We support both a rigorous review and update to the BASIX tool as well as an increase in the sustainability targets. We suggest the NSW Government work with organisations such as the Western Sydney Planning Partnership and WSROC to capitalise on significant work already completed, eg Western Sydney Street Design Guidelines and the Urban Heat Planning Toolkit. It is critical that existing NSW Government policies are aligned with the Design and Place SEPP, including the updated SEPP BASIX.

The following specific comments are made with respect to SEPP BASIX:

- The incremental NABERS targets by decade, providing a pathway to net zero emissions by 2050, are supported and commended.
- There needs to be assurances that the SEPP will not override Councils with more progressive WSUD approaches or policies. Consider incentive-based approaches for better sustainability outcomes for larger developments.
- The review of SEPP BASIX should support pathways to net zero emissions in residential buildings. Blacktown Council's *draft Zero emissions Blacktown strategy* includes increased BASIX targets, being the following:

Detached dwelling	BASIX Energy 90 and BASIX Water 50
Apartments	BASIX Energy 50 and BASIX Water 50 (<14 storeys) BASIX Energy 40 and BASIX Water 50 (15 - 29 storeys) BASIX Energy 35 and BASIX Water 50 (30 – 39 storeys) BASIX Energy 30 and BASIX Water 50 (40 + storeys).

- The BASIX SEPP should contain a provision that allows the tool to be updated regularly to include new environmental technologies.
- We support the recognition of integrated water management and the way improved water management contributes to wider liveability outcomes for the community.

- We support the objective to improve green infrastructure at the precinct scale. We request that there is consideration of sustainable water management in the establishment of planting in precinct scale development. In particular, this could be delivered through passively watered street trees. Multi-purpose green infrastructure needs to be integrated in both the public and private domain, including streetscapes that compliment a water sensitive design approach.
- BASIX settings for residential gas should be reviewed in line with Government's net zero emissions target.
- An additional performance target for thermal autonomy is needed to address overheating risk in present and future climate conditions in Western Sydney. We seek thermal safety, i.e. so conditions remain liveable without air conditioning (or when air conditioning is disabled).
- We reject the proposal to trade-off energy and thermal comfort targets because of the potential to compromise thermal safety, e.g. during blackouts. This also sets a dangerous precedent of creating 'second class citizens' who may be forced to trade off thermal comfort for economic reasons.

19. Additional Comments

The EIE specifically asks for feedback on the lead time required by stakeholders for the components of this SEPP, to inform the making of the identified transitional provisions.

There needs to be sufficient lead time for the introduction and operation of the SEPP to ensure that appropriate skills are in place to meet the assessment requirements under the SEPP.

The proposed new framework is complex and at this stage it is difficult to gauge what would be required to ensure that the relevant staff are appropriately trained and resourced. As the largest and fastest growing LGA in NSW, consideration also needs to be given to the number of applications received and the complexity of some of these applications, as compared to other LGAs.

Blacktown Council asks that, at a minimum, a 2 year transitional timeframe is provided to ensure training, recruitment and restructuring of teams to deliver these desired outcomes.