

28 April 2021

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

Dear Sir/Madam,

**Design and Place State Environmental Planning Policy (Submission)**

Thank you for the opportunity to make a submission on the Explanation of Intended Effect (EIE) for a proposed Design and Place State Environmental Planning Policy.

We generally support the exhibited EIE and accompanying documentation including the proposed consolidation of SEPP 65 – Design Quality of Residential Apartment Development and SEPP (BASIX: Building Sustainability Index) 2005 and preparation of the Urban Design Guide and Design Review Guide, and amended Apartment Design Guide.

The exhibition of the SEPP and associated documents is a significant change to the planning system with wide reaching implications and therefore we request that the Department adopt a policy that for any future exhibition of this nature a minimum of 8 weeks be provided.

It is important that the current overarching approach to the standardisation of development controls across the state includes flexibility to provide a room for innovative solutions and at the same time allow for a variety of housing stock. In developing the revised SEPP, a ‘One size fit for all’ approach should be reconsidered. A preferred approach to just providing minimum standards for the size of apartment buildings would be to include an additional control/standard that also requires a percentage of apartments within the same building to be of floor areas above the required minimum standard. Such percentage should then be decided by each individual Council based on their needs as identified in their Local Housing Strategies.

We do have some concerns in regard to the application of the proposed SEPP and the interpretation of the proposed design principles and these are outlined in the table below.

Section	Comments	Page
<b>State Environmental Planning Policy: Design and Place</b>		
Executive Summary	Additional details including a consideration of how the SEPP will assist Design Excellence Panels and other planning panels could be provided.	5
2.3 Design Principles	Comments on principles: Principle 1 <ul style="list-style-type: none"> <li>• Natural systems and biodiversity should also be considered.</li> <li>• The design of infrastructure should also be considered</li> </ul> Principle 2 <ul style="list-style-type: none"> <li>• Public spaces should also support overall liveability of development and be considered part of assessment.</li> <li>• Clear guideline needs to be provided in regards to new dwellings/developments being located in close proximity to public space. Our preference is that close is defined as within 400metres.</li> </ul>	16-20

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	<ul style="list-style-type: none"> <li>• Public spaces should reflect the existing and projected community and not be a 'desk top' design process.</li> <li>• Public spaces should include a co design process that includes high input from existing community (where applicable).</li> </ul> <p>Principle 3</p> <ul style="list-style-type: none"> <li>• How would the baseline density targets be developed?</li> <li>• It is recommended that density targets be developed with consideration of the region including different areas of the Sydney metropolitan area.</li> <li>• Parking rates should only be reduced where adequate alternative transport options are available; otherwise access could become problematic.</li> <li>• How will locations for maximum parking/lowering minimum rates be identified?</li> </ul> <p>Principle 4</p> <ul style="list-style-type: none"> <li>• The aims of the principle should be considered with the updates to the BASIX toolkit.</li> <li>• More specific consideration regarding biodiversity should be detailed in Principle 4.</li> </ul> <p>Principle 5</p> <ul style="list-style-type: none"> <li>• The EIE is not clear on how resilience to shocks and stresses will be addressed and assessed through design.</li> <li>• It is requested that a toolkit be developed to assist in the assessment of resilience</li> </ul>	
2.4 Application of the SEPP	<ul style="list-style-type: none"> <li>• The integration and hierarchy of the SEPP in relation to existing SEPPs across the state should be clear and detailed. In particular, the Growth Centres SEPP and the Codes SEPP.</li> <li>• A clear explanation of how the SEPP will work with existing LEPs and planning controls in terms of implementing/assessing design considerations is required.</li> </ul>	21-23
2.4.1 Development Scales	<ul style="list-style-type: none"> <li>• The design scales would result in a dramatic increase in referrals to design review panels which may slow assessment times. Modelling and testing based on current Council DA numbers and design review panel referrals needs to be undertaken to test if there would be a significant increase in referrals and if so, would this result in any delays for assessment impacting applicants, Councils and District Planning Panels.</li> <li>• Consideration needs to be given to the impact of the cost of the referral to a DRP and related fees and their impact on housing affordability.</li> <li>• Clarification is requested as to whether or not the SEPP and design review would apply to subdivisions that are part of a masterplan and stages of subdivisions that are subject to previous Part 3A approvals.</li> <li>• Further clarification is requested as to what constitutes "all other development", which would require assessment under the SEPP and referrals for design excellence. We would be concerned with inclusion of small scale development such as dual occupancies and multi dwelling development requiring assessment and referral to a design review panel, and the subsequent impact on assessment timeframes.</li> </ul>	21

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3.2.1 Application requirements	<ul style="list-style-type: none"> <li>The proposed application documentation requirements are supported.</li> </ul>	27
3.2.2 Mandatory matters for consideration	<ul style="list-style-type: none"> <li>Clarity is required on where design and place consideration standards/controls would be located - The SEPP or ADG.</li> <li>It is recommended that a toolkit be provided to assist in the application of principles as personal interpretation of principles and design and place considerations without adequate guidelines will lead to inconsistent application and interpretation and potentially slow the assessment process</li> <li>“Where there are no targets or schemes, the applicant may propose a viable amount of affordable housing for the site, and must provide that amount.” How would the applicant come to the conclusion if Council have no targets or schemes in place? Where there are no schemes in place how would this be managed?</li> </ul>	31-32
3.3.2 Guidance to be revised	<ul style="list-style-type: none"> <li>The review of the RMS Guide for Traffic Generating Development is long overdue.</li> <li>The weight of design guidance and guidelines should be detailed in the SEPP and whether or not these documents will be enforceable.</li> </ul>	33
5.2.2 SEPP (Exempt and Complying Development Codes) 2008	<ul style="list-style-type: none"> <li>Alignment of the principles of the Design and Places SEPP with the Codes SEPP is recommended and crucial if good design outcomes are to be achieved and not compromised.</li> </ul>	39
6.1 Development under the EP&A Act	<ul style="list-style-type: none"> <li>Guidelines should be provided on the level of engagement with traditional owners at development application lodgement stage.</li> <li>Would obtaining advice from the Land Council be undertaken as a referral by Council once a development application is lodged or will this be undertaken prior to lodgement by the applicant ? This needs to be more clearly detailed.</li> <li>If Council has already consulted with the traditional owners and jointly prepared an interpretation strategy, would this take precedence and can it be used instead of one off engagement for each application?</li> <li>Concern is raised that the volume of development requiring engagement with local Aboriginal Land Councils may be beyond the resources of the Land Council. It is instead recommended that proposals over \$3m document their engagement with the authorised representative of the local Aboriginal people and acknowledge Country in the place of the development and detail how the development responds to them and also to other vulnerable target groups on affordable housing needs.</li> </ul>	41
6.4 transitional provisions	<ul style="list-style-type: none"> <li>The savings and transitional provision should only apply to applications submitted after its commencement.</li> </ul>	42
<b>Apartment Design Guide</b>		
A.1 Introduction	<ul style="list-style-type: none"> <li>As raised in Councils submission to the Housing Diversity SEPP, the addition of new definitions to the standard instrument LEP (build to rent housing, student housing and co-living housing) is considered to unnecessarily complicate the housing approval process, especially where the constitution of the development is generally a residential flat</li> </ul>	A5

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	building with an alternative constitution of apartment mix i.e. all studios for student living.	
A2.2 Urban Design and Site Planning	<ul style="list-style-type: none"> <li>There is a potential erosion of open space requirements when combining deep soil and communal open space. The amalgamation of communal open space and landscape area needs to be tested to ensure it results in better outcomes for residential development.</li> </ul>	A11
Unbundling	<p>The proposed unbundling concept for car parking requires further consideration.</p> <ul style="list-style-type: none"> <li>The unbundling of parking to units should not be applied to the entire building and limited to approximately 25% of spaces in a development.</li> <li>Accessible units need to be tied to accessible parking spaces in perpetuity to ensure accessibility is maintained.</li> <li>Where spaces can be purchased separately there should be a limit on how many spaces a person or company can own. Management of this concept needs to ensure ongoing long term management, especially where separate sale of car spaces is possible.</li> </ul> <p>Situations could arise where owners purchase excessive numbers of car parking spaces to rent each separately for external car parking, but other unit owners cannot obtain access to purchase spaces due to spaces being on sold privately.</p>	A13
Car Parking	<ul style="list-style-type: none"> <li>Oversupply of parking needs to be confirmed by Council's or led by Councils, rather than being led by the applicant.</li> <li>Car share space incentives are supported.</li> <li>Car parking rates should be locally relevant, with reduced parking only supported in areas only relying on bus services is not appropriate, and would have low uptake in outer metro areas. Distance to major transport nodes should be considered (train/metro or tram stations) if bus services are to be relied upon to reduce parking and service frequency should be a key consideration, similar to the Seniors Living SEPP.</li> </ul>	A13
Building Separation	<ul style="list-style-type: none"> <li>The application of additional tower controls for building separation and floor plates is supported.</li> </ul>	A14
Mixed use development and Street Activation	<ul style="list-style-type: none"> <li>Mixed use development in the R3 and R4 zones has the potential to erode the residential and business zones and therefore consideration should be given to the local context and distance of R3 zones from local centres. For example, it could result in an excess stock of underused shop fronts that are not occupied in both commercial and residential settings.</li> <li>Application of this control should be modelled across a variety of local government areas to understand at full development what the amount of floor space would be provided and whether this would detract from local centres.</li> <li>As an alternative, consideration could be given to requiring adaptable ground floor units that would be capable of change of use to home offices or businesses at the ground floor.</li> <li>Consideration should also be given to ensuring the area of any ground floor of a building occupied by building services,</li> </ul>	A15

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	including waste, loading and parking access (excluding lobby and circulation areas) is less than 40% of the total site area.	
Solar Access	<ul style="list-style-type: none"> <li>• A simplified method to calculate solar access is supported.</li> <li>• Building design should protect occupants against heatwaves, including in the event of power outages. There are no health standards to ensure against heat stress in the Building Code of Australia. The ADG should ensure that indoor temperatures do not exceed international health standards. This should be achieved through performance-based measures, rather than set limits on glazing/frontages, as this may be dependent on context, size of the apartment etc. For example, building standards in France require that without the use of air conditioning, building design ensures that temperatures inside rooms don't exceed 28 degrees for more than 3 per cent of the year (equivalent to 260 hours).</li> <li>• Improving internal amenity and reducing heat stress and energy peaks will be very important for resilient developments in Campbelltown. It may be more appropriate to have performance-based criteria that take into account local climatic conditions to restrict heat stress. (one example of performance based criteria is the-new building regulations in France which require that building design ensures that internal room temperatures do not exceed 28 degrees for more than 3% of the year (equivalent to 260 hours) without air conditioning, and taking into account local climatic conditions).</li> </ul>	A17
Apartment Layout	<ul style="list-style-type: none"> <li>• The concept of the provision of a family unit would need to be a design control if the 20% requirement is to be met. There is a large push for smaller apartments to generate higher turnover for developers.</li> </ul>	A20
Private Open space	<ul style="list-style-type: none"> <li>• Concern is raised with studio depth, which should be increased to 2m to increase functionality.</li> </ul>	A20
Storage	<ul style="list-style-type: none"> <li>• There should be additional requirements regarding access and design of storage areas, as storage for larger items need space for manoeuvring.</li> </ul>	A21
External noise and pollution	<ul style="list-style-type: none"> <li>• External noise and pollution should consider rail corridors, flight paths and future flight paths (i.e. Western Sydney Airport)</li> </ul>	A21
A.2.4 Common spaces and vertical circulation	<ul style="list-style-type: none"> <li>• Concern is raised with the requirement to encourage all stairs to be used for daily circulation needs (including fire stairs) through guidance that demonstrates how to locate and design for natural light and easy access.</li> <li>• This may not be possible where buildings are over 25m in height due to stair pressurisation and should involve further consultation with ABCB regarding the intent of this advice, which appears contrary to the BCA which currently states fire stairs are not to be used for daily circulation.</li> </ul>	A22
Table A7	<ul style="list-style-type: none"> <li>• Changes to communal open space and changes to deep soil planting should not result in reductions in communal open space or deep soil planting.</li> <li>• Designated family play space within the communal open space area with facilities should be considered especially where there are no adequate local parks within 1km of a site. Parents with children cannot travel long distances to parks even a small distance away.</li> </ul>	A23

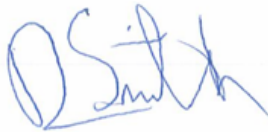
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Table A8	<ul style="list-style-type: none"> <li>• Concern is raised with the proposed energy change requirements as they are not detailed enough to provide comment.</li> <li>• Waste management in apartment buildings needs to include drive on waste collection and access and on street collection including frontages and stacking of waste bins on the street. Directions to liaise with local council requirements should also be included.</li> <li>• A minimum area for bulky waste storage is required based on apartment numbers is required to store items prior to Council clean ups.</li> </ul>	A25-26
<b>Urban Design Guide</b>		
Appendix B: Proposed new Urban design Guide	<ul style="list-style-type: none"> <li>• Concern is raised that a one size fits all approach is not relevant to all LGAs.</li> <li>• Individual Council engineering guidelines should take precedence over the SEPP in relation to street design.</li> <li>• The urban design guide needs to refer to and relate to the local character, heritage and development character.</li> <li>• The EP&amp;A Regulations 2000 and ministerial directions would need to be amended to facilitate the application of the UDG to a planning proposal.</li> <li>• Is it appropriate to apply the SEPP, UDG and ADG to planning proposals or limit this to the SEPP and UDG only?</li> <li>• Waste service to a precinct or significant site needs to be considered in the preliminary stages as an essential service for the site. Consideration of waste as an afterthought of developers at the DA stage is not sustainable and results in poor planning and design outcomes to accommodate these requirements at redesign stage.</li> </ul>	B3
<b>Design Review Guide</b>		
	<ul style="list-style-type: none"> <li>• Consistent terms should be provided for use by the panel and a draft framework for comments. However, this should not limit the scope of comments from the panel as general comments should also be provided from a design perspective, not merely compliance with the SEPP.</li> </ul>	A28
<b>BASIX</b>		

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Appendix C: Sustainability in Residential Buildings	<ul style="list-style-type: none"> <li>• Offsets to basic BASIX requirements is not supported as the minimum standards could be traded off in ways that are not sustainable in the long term.</li> <li>• BASIX should be integrated into broader design.</li> <li>• BASIX should be updated regularly to reflect changes in technology and community expectations.</li> <li>• Consideration of local flood strategies may need to be considered with stormwater for BASIX.</li> </ul>	C3

The DPIE and Government Architect are therefore requested to revise the proposed Design and Place SEPP and associated documents having regard to the abovementioned issues and concerns.

If you require and further information please contact Ellise Mangion from Council's City Development Division on (02) 46454520.

Yours sincerely,



**David Smith**  
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