

26 March 2021

NSW Department of Planning, Industry and Environment

Government Architect NSW
4 Parramatta Square,
12 Darcy Street, Parramatta NSW 2150

By online submission

<https://www.planningportal.nsw.gov.au/design-and-place-sepp>

To Whom It May Concern,

City of Canada Bay submission to the Design and Place SEPP Explanation of Intended Effects

The City of Canada Bay Council (CCBC) commends the NSW Government on the release of the proposed Design and Place SEPP (the SEPP) to improve the outcome of place in supporting the wellbeing of people, community and Country.

This submission contains CCBC's response to the Explanation of Intended Effect, seeks clarification on certain sections of the proposal and raises issues for further consideration.

It is requested that the NSW Government responds the issues raised prior to drafting of the SEPP instrument and that the draft instrument be made available for public feedback prior to gazettal.

If you have any questions in relation to this submission, please contact Tina Kao, Coordinator Strategic Planning on 02 9911 6555 or by email to tina.kao@canadabay.nsw.gov.au.

Yours sincerely,



Monica Cologna
Director, Community and Environmental Planning

1. PRINCIPLES OF THE DESIGN AND PLACE SEPP

The proposed Design and Place SEPP (proposed SEPP) intends to apply a principles-based approach to guide design assessment of development proposals of all kinds and scales. It proposes to move away from the 'one size fits all' approach, and towards a more 'local context specific' approach.

1.1 Interpretation of principles

CCBC is supportive of the intent set out in the five principles of the proposed SEPP. However, the application of principles can be highly subjective.

- A principles-based approach to assessment is likely to burden local government processes.

Principles must ensure that assessing officers, consent authorities and panels are not exposed to individual site-by-site negotiation, resulting in prolonged assessment timeframes that are incompatible with the targets set by the NSW Government.

Unless there is an appropriate level of detail as to the intent of the principles, they are likely to be the subject of interpretation in the event of a challenge to the decision of a consent authority.

Principles must therefore be clear and be complemented by transparent metrics to guide development. These metrics must be included in the Apartment Design Guide.

- Principle 1 of the proposed SEPP applies largely to Precinct development proposals, as shown in Table 1. However, it goes further to require development proposals to 'meet the seven objectives of good design, as defined by *Better Place*'.

It is requested that the proposed SEPP integrates those 7 objectives so as to provide them with statutory weight and minimise the need to refer to multiple documents.

1.2 Increasing public space in NSW

Principle 2 of the proposed SEPP is to '*Design inviting public spaces to support engaged communities*', in order to '*retain or increase...public space across NSW, including the protection of existing public space assets*'.

- The '*provision of public space across NSW*' requires a whole of government approach and is only achievable with a clear policy.

There is limited scope under the current planning legislation to deliver the open space needs of new communities in established inner ring suburbs. The costs of land makes land acquisition prohibitive for local government and recent Practice Notes limit the ability to negotiate value capture for public benefits.

CCBC's experience has proven new public space can only be achieved where early identification and acquisition/delivery strategy is announced at the onset of rezoning or when a new proposal is put forward by proponent or government.

A separate NSW Government strategy and action plan should be developed to guide the creation and delivery of public spaces for Precincts and State Significant projects.

- Council is strongly supportive of the objective to protect existing public space assets. Proposals adjoining parks and civic spaces have an obligation to ensure that the amenity and functionality of these important places is not compromised by poorly designed development.

2. DESIGN PROCESS

2.1 Qualitative assessment of urban design and design quality

CCBC operates a Design Review Panel which meets monthly. The Panel provides advice to both CCBC and Strathfield Municipal Council.

Principle 1 and 2 of the SEPP require consideration of beauty, character and the provision of open space within neighbourhoods and precincts

The consideration of broader urban design objectives extends the current scope of local Design Review Panels and will require a bespoke qualitative assessment of each application given the unique context of each site.

- It is requested that this principle be accompanied by clear guidelines in the Apartment Design Guide to ensure that expectations relating to 'context, character, heritage, culture and Country' area implemented as expected.

3. MANDATORY MATTERS FOR CONSIDERATION

Under the proposed SEPP definitions, almost all proponent-initiated planning proposals in CCBC fall under the category of 'Precinct' and/or 'Significant Development'. This includes Council-led planning proposals.

3.1 Residential density targets for development in R1 to R4 zones

Consideration 10 of Mandatory Matters requires 'precincts', or those identified as 'significant development', within *R1 to R4 zones to achieve residential density targets*.

The Standard Instrument for Local Environmental Plans expresses building height and floor space ratio development standards as maximums. This approach recognises that it is not possible to ensure that the maximum planning controls will be able to be achieved in every instance and that the environmental capacity of sites also influences the ability of development to achieve the applicable development standards.

For example, environmentally sensitive land, overshadowing, view loss and other site-specific design considerations will and do affect the detailed design of buildings at the development application stage.

- CCBC requests that any reference to achieving residential density targets be removed as a consideration in the proposed SEPP.

3.2 Cultural heritage

Consideration 1 of Mandatory Matters proposes to include *Aboriginal and non-Aboriginal heritage, celebrating cultural landscapes*. 'Cultural landscape' is yet to be defined in the Dictionary.

- It is requested that the proposed SEPP define 'cultural landscape'. The NSW government needs to provide guidance on *how* and *what* are to be considered in order to achieve 'celebrating, conserving and protecting cultural landscapes', beyond Heritage items.

3.3 Significant trees and tree canopy cover

Consideration 18 of Mandatory Matters proposes to replace any removed moderate or significant trees with at least two trees. In addition, it proposes that where there is a loss of tree canopy, proponents may use greening alternatives such as green roofs, green walls and softscapes.

- CCBC does not support removal of moderate and significant trees in Greater Sydney and there should be a primary objective to retain tree canopy in most instances.
- The requirement that tree canopy is simply *not be reduced* is insufficient. CCBC has committed to *increasing* its canopy cover and has a target of achieving 25% tree canopy coverage across the LGA. The SEPP must make it clear this requirement to achieve 25% canopy cover must be demonstrated on private property applications in addition to public authority's commitment to increase tree canopy on public land.
- CCBC does not support the proposed SEPP in providing landowners the opportunity to mitigate urban heat through measures such as green roofs. Green infrastructure must be accompanied by minimum tree canopy metrics. It is well understood that maintaining a thriving green roof is onerous and often result in dying plants, particularly where exposed to outdoor elements.

3.4 Local Character Statement

CCBC requests:

- That item 3.2.1(3) of the Explanation of Intended Effects be better articulated in the draft SEPP, in as to *how* applicants are required to respond to *Local Character Statements* prepared and adopted by Councils. Applicants are not required to develop their own 'local character' design statements.

4. PROPOSED AMENDMENTS TO APARTMENT DESIGN GUIDE AND SEPP NO.65

CCBC supports the NSW Government's intention to update the Apartment Design Guide (ADG).

4.1 Apartment Design Guide

CCBC supports:

- the proposal to limit floor plate sizes and the number of apartments per floor in apartment towers;
- the application of variable parking rates based on accessibility to public transport;
- the unbundling of car parking; and
- increased building separation for towers over a certain height.

CCBC requests:

The expectation that 40% of ground floor space in the R3 Medium Density zone being used for non-residential is not relevant to CCBC.

- The R3 Medium Density zone under the Canada Bay Local Environmental Plan 2013 primarily facilitates residential flat buildings in the form of townhouses and apartment buildings up to six storeys.

The expectation that commercial uses be permitted on the ground floor of buildings in the R3 Medium Density zone should therefore be removed.

CCBC seeks clarification on:

- How *Liveable Housing* is to be defined and its relationship to *Adaptable Housing* rates.

A definition should be provided for these outcomes and a minimum or maximum quantum for both types of housing should be included in the ADG (where relevant).

CCBC request the opportunity to provide feedback to ADG metrics once the NSW Government has developed this draft document, prior to the adoption of the draft SEPP.

5. PROPOSED AMENDMENTS TO BASIX SEPP

5.1 BASIX

CCBC along with a large number of Councils, has been seeking NSW Government agreement to increase BASIX targets over the past decade.

- CCBC supports the increase of BASIX targets and requests that there should be a mechanism for Councils to increase targets in low Carbon precincts.

- The BASIX tool needs to be update regularly to reflect advances in technology, the state of our environment and the expectations of the community. As a minimum, the BASIX tool should be reviewed and updated every 3 years with any targets benchmarked against national emissions reduction targets.
- The proposal intends to provide *alternative pathways* for proponents to innovate and achieve sustainability measures. In proposing this, there is a risk that projects will not achieve the same level of efficiency as developments undergoing the new BASIX assessment.

Therefore, CCBC does not support alternative pathways. However, CCBC will support all developments in meeting a minimum BASIX or NatHERS rating. Where a proponent wishes, they may utilise alternative pathways to exceed the baseline BASIX targets.

- Urban heat effect is yet to be included in the BASIX toolkit. It is requested that investigation into preventative measures and reduction of urban heat be included in the new BASIX structure. Similarly, BASIX need to provide settings for residential gas.
- Achieving BASIX target differs for buildings of varying heights. It is recommended that these heights be used to differentiate baseline targets: 6-12 storeys, 12-20 storeys and 20+ storeys.

6. PROPOSED URBAN DESIGN GUIDE

6.1 Urban design considerations for inclusion in the Guide

CCBC is supportive of the proposed new Urban Design Guide (UDG) that will include parts of the ADG as well as setting new criteria.

- The intent of the guidance in the proposed UDG must be meaningful and must provide adequate guidance and quantifiable outcomes for a Design Review Panel or the consent authority.

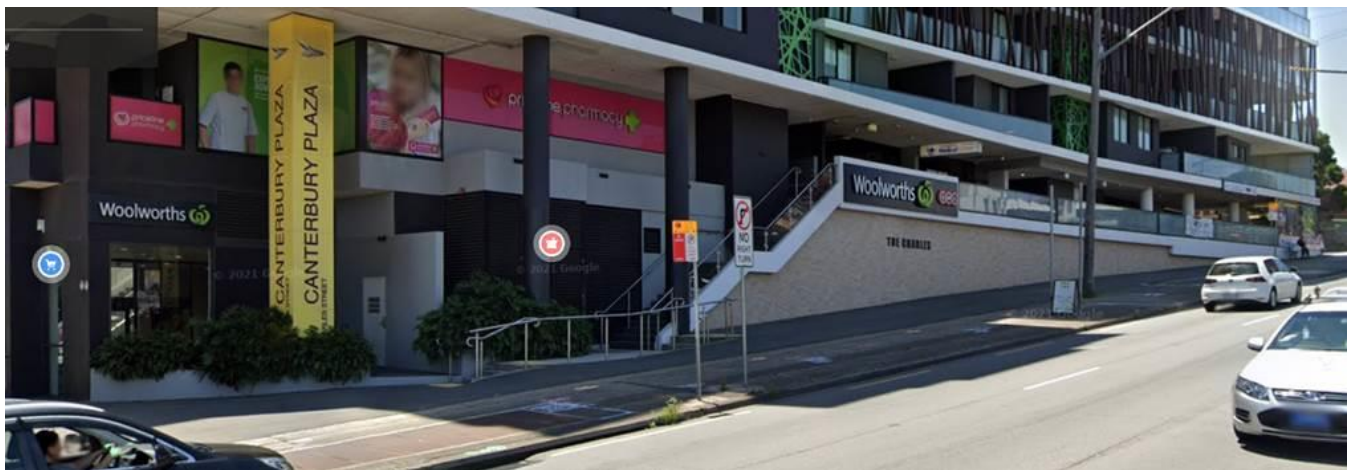
The points below provide considerations for inclusion in the new UDG:

- The interface between public-private domain is critical to urban design. There are many examples of buildings with inadequate setback to provide for trees and landscaping in metropolitan Sydney. The UDG must provide minimum setbacks and minimum landscaping between the front boundary line and the building line.
- Existing pedestrian path widths were originally constructed to accommodate low density residential areas, consisting of individual free-standing dwellings, and not suitable for large developments that are subsequently constructed. A minimum footpath width for large developments, and public domain setback are required whenever apartments are proposed.

- The protection of existing mature trees is critical in innovative design of new development. Trees provide environmental benefits and visual amenity.
- Wherever possible, electrical substation structures/boxes are to be sited behind boundary lines and not along the front boundary. Incorporation into buildings is preferred.
- Views to all sides of new building need to be considered, particularly where a building will be the terminating view of a street. The photo below shows the backside of a large building as the terminating view.



Pedestrians and motorists view the backside of this building which terminates the view along Pittwater Road.



Poor relationship with the public domain. Uncomfortable stair and afterthought handrails.



Poor detailing creates an unappealing presentation of the building to the pedestrian space.

6.2 Medium Density Housing

Consideration should be given to the relationship between the Urban Design Guide and medium density typologies permitted under the Housing Diversity Code.

6.3 Cumulative development resulting in overdevelopment

The UDG should include specific consideration to address how development is to be designed in a large precinct that will be subject to incremental change over time. This is particularly relevant for precincts with multiple landowners and would assist to address cumulative impacts such tower clustering and proximity, the cumulative impact of overshadowing, wind, view loss and the character of a place.

-- ends --