

28 April 2021

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

Dear Sir / Madam,

**Explanation of Intended Effect (Draft Design and Place SEPP)–
Canterbury Bankstown Council Submission**

Thank you for the opportunity to comment on the Explanation of Intended Effect in relation to the Draft Design and Place SEPP.

The attached submission raises the following issues in relation to the Draft SEPP:

Relationship with other Planning Instruments and Policies (EIE–Part 5)

- Issue 1: Do not set baseline residential density targets in the R1 to R4 zones.
- Issue 2: Improve the planning rules for boarding houses.
- Issue 3: Modernise the design guidance for seniors housing.
- Issue 4: Modernise the definitions.

Application of the Draft SEPP (EIE–Part 2)

- Issue 5: Allow consent authorities to apply the Draft SEPP to precincts of different scales.

Design Considerations (EIE–Part 3)

- Issue 6: Apply the mandatory design considerations to planning proposals.
- Issue 7: Review the proposed walking catchments for new housing.
- Issue 8: Ensure street designs comply with Council's minimum carriageway widths.
- Issue 9: Review the environmental design considerations.
- Issue 10: Broaden the aspects of design to determine attractive built forms.
- Issue 11: Clarify if the tree canopy target applies to sites that currently contain no trees.

Proposed Amendments to the Apartment Design Guide (EIE–Appendix A)

- Issue 12: Provide prescriptive controls rather than merit controls.
- Issue 13: Limit the application of the mixed use design criteria to centres.
- Issue 14: Do not reduce minimum parking rates on the basis of parking oversupply.
- Issue 15: Review the natural ventilation requirements.



- Issue 16: Require at least 20% of new dwellings in apartments to achieve the Silver Standard and a further 20% of new dwellings to achieve the Gold Standard.
- Issue 17: Provide detailed guidance to address acoustic privacy.
- Issue 18: Include design criteria in relation to services and utilities.
- Issue 19: Amend other design criteria to improve the design and function of apartments.

Planning Pathways (EIE–Parts 3 and 6)

- Issue 20: Streamline the verification process.
- Issue 21: Allow Council to determine the design review thresholds.
- Issue 22: Avoid duplicating the consultation requirements of Community Participation Plans.

Proposed New Urban Design Guide (EIE–Appendix B)

- Issue 23: Amend the Urban Design Guide to consider other criteria that improve the delivery of place-based design approaches.

If you have any enquiries, please contact Council officer Mauricio Tapia on 9707 9923.

Yours sincerely

Mitchell Noble
Manager Spatial Planning



Submission to the Explanation of Intended Effect for a Design and Place SEPP

April 2021





Canterbury Bankstown Council's Submission to the Explanation of Intended Effect for a Design and Place SEPP

This submission raises the following issues for the Department of Planning, Industry and Environment to consider when preparing the Draft Design and Place SEPP and supporting Guides:

Relationship with other Planning Instruments and Policies (EIE–Part 5)

Issue 1: Do not set baseline residential density targets in the R1 to R4 zones.

Issue 2: Improve the planning rules for boarding houses.

Issue 3: Modernise the design guidance for seniors housing.

Issue 4: Modernise the definitions.

Application of the Draft SEPP (EIE–Part 2)

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Issue 10: Broaden the aspects of design to determine attractive built forms.

Issue 11: Clarify if the tree canopy target applies to sites that currently contain no trees.

Proposed Amendments to the Apartment Design Guide (EIE–Appendix A)

Issue 12: Provide prescriptive controls rather than merit controls.

Issue 13: Limit the application of the mixed use design criteria to centres.

Issue 14: Do not reduce minimum parking rates on the basis of parking oversupply.

Issue 15: Review the natural ventilation requirements.

Issue 16: Require at least 20% of new dwellings in apartments to achieve the Silver Standard and a further 20% of new dwellings to achieve the Gold Standard.

Issue 17: Provide detailed guidance to address acoustic privacy.

Issue 18: Include design criteria in relation to services and utilities.

Issue 19: Amend other design criteria to improve the design and function of apartments.

Planning Pathways (EIE–Parts 3 and 6)

Issue 20: Streamline the verification process.

Issue 21: Allow Council to determine the design review thresholds.

Issue 22: Avoid duplicating the consultation requirements of Community Participation Plans.



Proposed New Urban Design Guide (EIE–Appendix B)

Issue 23: Amend the Urban Design Guide to consider other criteria that improve the delivery of place–based design approaches.

Council will provide further comment with the exhibition of the Draft SEPP and supporting Guides.

Abbreviations

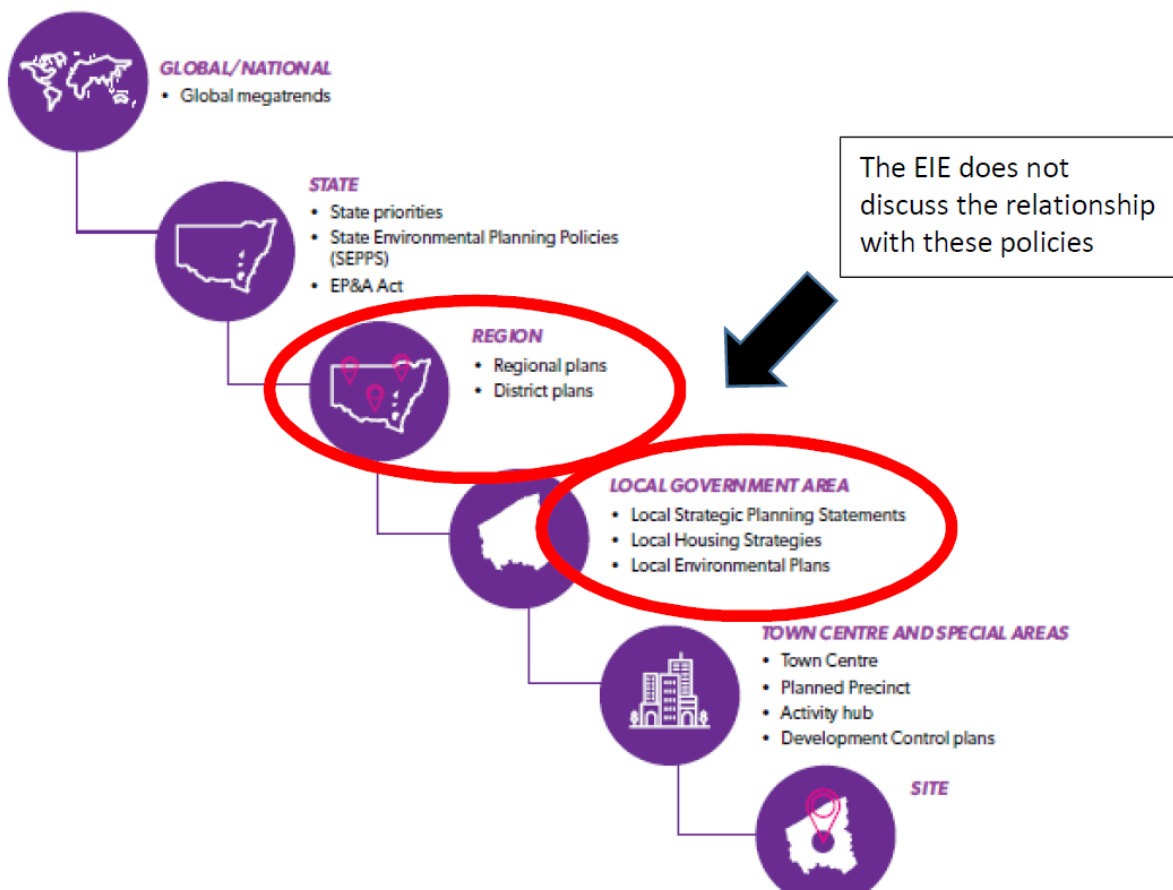
Connective City 2036	Local Strategic Planning Statement
Council	Canterbury Bankstown Council
the Department	Department of Planning, Industry and Environment
Draft SEPP	Draft Design and Place SEPP
Housing Strategy	Canterbury Bankstown Housing Strategy



Relationship with other Planning Instruments and Policies (EIE–Part 5)

Issue 1: Do not set baseline residential density targets in the R1 to R4 zones.

The Explanation of Intended Effects (page 38) highlights the relationship with SEPPs, LEPs and DCPs. The issue is there is no discussion about the relationship with the Greater Sydney Region Plan, District Plans, Local Strategic Planning Strategies, Local Housing Strategies and Local Character Statements.



Ref: Local Housing Strategy Guideline (Department of Planning, Industry and Environment, 2018)

Since 2018, Council invested significant resources and engaged widely to prepare its new planning framework as required by State legislation. The new planning framework provides a pathway to manage growth and change across the Canterbury Bankstown Local Government Area, and includes the Local Strategic Planning Statement '*Connective City 2036*' and the supporting Housing Strategy and Employment Lands Strategy.



In 2020, Council adopted its new planning framework, and the Greater Sydney Commission has assured *Connective City 2036*, confirming it is consistent with State priorities. The Department is currently in the process of endorsing Council's Housing Strategy.

Council is currently master planning the local centres and surrounding residential zones in accordance with the South District Plan, *Connective City 2036* and Housing Strategy. The South District Plan (Action 18) requires a place-based planning approach to inform the proposed built form controls, in consultation with the community.

The issue is, at this late stage in the process, the Draft SEPP (page 30) proposes to set baseline residential density targets in the R1 to R4 zones. This proposal is inconsistent with the place-based planning approach and does not consider local context. It would erode the substantial body of strategic planning work this Council and others have put into the new planning framework. Furthermore, the implications of not meeting the targets is unclear and creates uncertainty for the integrity of Council's zoning controls.

Experience with the Department's *Draft Sydenham to Bankstown Urban Renewal Corridor Strategy* highlights the difficulty in setting baseline residential density targets.

Recommended Actions

- Outline the relationship with the Greater Sydney Region Plan, District Plans, Local Strategic Planning Strategies, Local Housing Strategies and Local Character Statements.
- Do not set baseline residential density targets in the R1 to R4 zones.
- Council to continue to determine appropriate densities in the R1 to R4 zones in accordance with *Connective City 2036*, Housing Strategy and community consultation.



Issue 2: Improve the planning rules for boarding houses.

As a starting point, Council supports the proposal (pages 39 and A30) to apply the Apartment Design Guide to tenure models including student accommodation, co-living and build-to-rent.

However, the Draft SEPP does not address other concerns that Council has raised in relation to boarding houses under the Affordable Rental Housing SEPP, namely:

- The request to remove the FSR bonus. Council's concern is the current system enables boarding houses to receive the FSR bonus regardless of any evidence that these building stocks are reaching the relevant demographics at an affordable cost. Based on Council's experience, the FSR bonus generally exceeds the height, site cover and density limits under the SEPP and Council's planning rules. This has resulted in development that does not comply with the SEPP 65 principles, does not provide good amenity to dwellings, and is out of character with established areas.
- The request to apply SEPP 65. Council's concern is the current system does not set any design requirements to ensure:
 - There is a high standard of building design quality.
 - There is a high standard of room designs and amenity for the future occupants.
 - There is adequate solar access to the boarding rooms and neighbouring properties.
 - There are adequate room sizes. In particular, the room size controls should recognise rooms of 16m² or more as 2-lodger rooms, and rooms between 12m²–16m² as single-lodger rooms.
There are cases where rooms are shown as over 16m² but showing only a single bed (i.e. single lodger only) in order to try and avoid having a boarding house manager.
 - There are requirements for the ongoing management and maintenance of boarding houses.

While the Explanation of Intended Effect proposes to apply the Apartment Design Guide to student accommodation, co-living and build-to-rent, there is no proposal to apply the Apartment Design Guide to boarding houses. The unintended consequence of this apparent inconsistency could be the creation of two classes of renters, where boarding houses may essentially serve as long term, substandard rental housing.



- The request to apply BASIX. The Land and Environment Court considered this question and confirmed our view that if rooms in a boarding house are capable of being used as a separate domicile, therefore meeting the definition of a ‘dwelling’, a BASIX certificate for the development will be required to accompany the development application (*SHMH Properties Australia Pty Ltd v City of Sydney Council* [2018]).
- The request to increase the off-street parking rates in the residential zones. The off-street parking rates should read:
 - (i) at least 1 parking space is provided for each boarding room on land within residential zones;
 - (ii) at least 0.5 parking space is provided for each boarding room on land within a zone other than residential zones; and
 - (iii) at least 1 parking space is provided for each person employed in connection with the development and who is resident on site.The parking rates should be discretionary development standards.

It is recommended that the Draft SEPP apply to boarding houses at the same time as the other tenure models to ensure:

- There is a high standard of building design quality.
- There is a high standard of room designs and amenity for the future occupants.
- There is adequate solar access to the boarding rooms and neighbouring properties.
- There are adequate room sizes.
- There are energy-efficiency targets applicable to boarding houses.
- There are requirements for the ongoing management and maintenance of boarding houses.

The Department should also prioritise the review of the Codes SEPP and the Affordable Rental Housing SEPP to ensure design considerations apply to other development permitted under the SEPPs, namely manor houses, dual occupancies and secondary dwellings. The issue is these SEPPs do not contain design criteria and are resulting in poor design outcomes.

Recommended Actions

- Remove the FSR bonus for boarding houses.
- Apply the Draft SEPP and the Apartment Design Guide to boarding houses at the same time as other tenure models including student accommodation, co-living and build-to-rent.



- Increase the off-street parking rates for boarding houses in the residential zones.
- Review the Codes SEPP and the Affordable Rental Housing SEPP within one year of the making of the Draft SEPP.

Issue 3: Modernise the design guidance for seniors housing.

The Seniors Housing SEPP contains outdated provisions that make the SEPP impractical to apply, in particular:

- The application of the SEPP to '*land zoned primarily for urban purposes*' which is not defined. The SEPP should clearly state it does not apply to the business development, business park and industrial zones, where the intended outcome is to discourage residential development.
- The reference to the *Urban Design Guidelines for Infill Development*, which have not been updated since 2004 and are incompatible with the Standard Instrument LEP.

Recommended Actions

- Do not permit seniors housing in the business development, business park and industrial zones, where the intended outcome is to discourage residential development.
- Modernise the urban design guidelines for seniors housing to be compatible with the Standard Instrument LEP.

Issue 4: Modernise the definitions.

The Explanation of Intended Effect (page 45) proposes to establish a new set of definitions which may depart from other SEPPs and the Standard Instrument LEP, resulting in inconsistencies in the NSW planning system. A key example is the different definitions to describe floor area when calculating floor space ratios.

The proposed review and consolidation of the SEPPs is an ideal opportunity to ensure the definitions are consistent with the Standard Instrument LEP.



The review should also modernise the Standard Instrument LEP definition of ‘shop top housing’ to enable one or more dwellings to locate above one or more storeys of non–residential uses. At present, the definition restricts the ground floor to retail and business premises. This is inconsistent with Design Criteria No. 5 (page A15), which proposes to allocate 40% of ground floor space for a broader range of non–residential uses.

Recommended Actions

- Ensure the SEPPs definitions are consistent with the Standard Instrument LEP definitions.
- Amend the ‘shop top housing’ definition to enable one or more dwellings to locate above one or more storeys of non–residential uses.



Application of the Draft SEPP (EIE–Part 2)

Issue 5: Allow consent authorities to apply the Draft SEPP to precincts of different scales.

In relation to precincts, the Explanation of Intended Effect (page 22) proposes to apply the Draft SEPP to:

- Planning proposals greater than 10ha or 1,000 people
- Subdivisions greater than 50 lots
- Areas identified for local strategic planning.

The issue is precincts of a lesser scale may also significantly impact on streetscapes and block formations. It is recommended that the Draft SEPP applies to precincts and planning proposals regardless of scale.

Clarification is also required on the following matters:

- Clarify whether the 1,000 people threshold includes residents, workers, visitors and students.
- Clarify whether ‘areas identified for local strategic planning’ include sites identified in Local Strategic Planning Statements or state significant proposals.
- Clarify the quality of information that is required to assess planning proposals pre–Gateway and post–Gateway, and to update the Department’s *Guide to Preparing Planning Proposals* accordingly.
- Clarify if the transitional provisions are to apply to pre–Gateway planning proposals or post–Gateway planning proposals.

Recommended Actions

- Apply the Draft SEPP to precincts and planning proposals regardless of scale.
- Clarify whether the method of calculating the 1,000 people threshold includes residents, workers, visitors and students.
- Define ‘areas identified for local strategic planning’.
- Update the Department’s *Guide to Preparing Planning Proposals* to indicate the quality of information that is required to assess planning proposals pre–Gateway and post–Gateway.



Design Considerations (EIE–Part 3)

Issue 6: Apply the mandatory design considerations to planning proposals.

The Explanation of Intended Effects (page 28) proposes to apply the mandatory design considerations for the purposes of section 4.15 of the Environmental Planning and Assessment Act 1979.

The issue is section 4.15 only applies to development applications. It is recommended that the mandatory design considerations also apply to planning proposals, similar to the operation of SEPP 65.

Recommended Action

- Apply the mandatory design considerations to planning proposals.

Issue 7: Review the proposed walking catchments for new housing.

Design Consideration No. 4 (page 28) proposes to locate new housing within walking distance of shops, open space and public transport.

The issue is the proposed 20 minute walking distance is inconsistent with current transport guidance. It is recommended that the method to calculate the walking distance is consistent with current practice i.e. 400 metres (5 minutes) and 800 metres (10 minutes), or a 'ped–shed' analysis is submitted to provide a more realistic view of urban walkability.

Recommended Actions

- Apply current practice or require a 'ped–shed' analysis to define walking catchments.
- Do not define walking catchments as a 20 minute walking distance.



Issue 8: Ensure street designs comply with Council's minimum carriageway widths.

Design Consideration No. 5 (page 29) proposes to ensure street designs meet a minimum street intersection density and maximum block lengths.

The issue is the design consideration does not refer to Council's engineering standards, which include minimum carriageway widths. It is recommended that the design consideration complies with Council's minimum carriageway widths, which cater for the movements of waste service trucks and emergency vehicles.

Clarification is also required on the following matters:

- Clarify whether off-street cycleways are preferred over on-street.
- Clarify how the maximum block lengths and mid-block considerations would apply to existing street networks.

Recommended Actions

- Ensure street designs comply with Council's minimum carriageway widths and other engineering standards.
- Clarify whether off-street cycleways are preferred over on-street.
- Clarify how the maximum block lengths and mid-block considerations would apply to existing street networks.

Issue 9: Review the environmental design considerations.

Design Consideration No. 6 (page 29) proposes to elevate consideration of large-scale detention in lieu of local detention within precincts. The issue is large-scale detention basins may push the management of flood issues from developers to Council or to upstream/downstream land owners.

Design Consideration No. 8 (page 29) proposes strategies to reduce or avoid vulnerability to risks. It is recommended that the design consideration require a Climate Change Resilience for Adaption Plan for future proposals.



Recommended Actions

- Ensure large-scale precinct detention do not push the management of flood issues upstream or downstream.
- Require applications to submit a Climate Change Resilience for Adaption Plan.

Issue 10: Broaden the aspects of design to determine attractive built forms.

Design Consideration No. 13 (page 31) proposes to set a number of specific aspects of design to support attractive built forms. It is recommended that the aspects also include fine grain features such as awnings, vertical features and clear definitions of the top, middle and bottom for medium to high density developments.

Recommended Action

- Broaden the aspects of design to include fine grain features such as awnings, vertical features and clear definitions of the top, middle and bottom for medium to high density developments.

Issue 11: Clarify if the tree canopy target applies to sites that currently contain no trees.

Design Consideration No. 18 (page 32) proposes to replace the removal of moderate and significant trees with at least two trees or the council replacement rate, whichever is higher. Clarification is required on the following matters:

- Clarify the definition of moderate and significant trees.
- Clarify whether the tree canopy target applies to sites that currently contain no trees, and whether proposals under this scenario are required to plant new trees.

Recommended Actions

- Define moderate and significant trees.
- Clarify if the tree canopy target applies to sites that currently contain no trees.



Proposed Amendments to the Apartment Design Guide (EIE–Appendix A)

Issue 12: Provide prescriptive controls rather than merit controls.

The Explanation of Intended Effect (page A2) proposes a principle–based planning system to encourage innovative and creative designs.

The issue is the Environmental Planning and Assessment Regulation 2000 (Division 11) sets time frames to determine development applications. It is important that the Apartment Design Guide continues to contain prescriptive controls:

- To provide certainty in the development assessment process.
- To demonstrate to all parties including the Land and Environment Court, how to best achieve the principles and design considerations in the Draft SEPP.

Recommended Action

- Ensure the Apartment Design Guide contains prescriptive controls to provide certainty in the development assessment process.

Issue 13: Limit the application of the mixed use design criteria to centres.

In relation to mixed use development in the R3/R4 zones and centres, Design Criteria No. 5 (page A15) proposes to allocate 40% of ground floor space for non–residential uses.

The issue is the application of the mixed use design criteria to all locations would not produce the best results. The experience of Brisbane City Council, which had a similar control produced empty retail spaces, and the controls were amended shortly afterwards. It is recommended that the application of the mixed use design control is limited to certain locations within business zoned centres, namely key intersection corners or Council endorsed Active Street Frontages Maps.

The design criteria should also recommend acoustic privacy treatments to minimise the amenity impact on residents within mixed use development.



Recommended Actions

- Limit the application of the mixed use design criteria to certain locations within business zoned centres, namely key intersection corners or Council endorsed Active Street Frontages Maps.
- Recommend acoustic privacy treatments to minimise the amenity impact on residents within mixed use development in Zone R4 and centres.

Issue 14: Do not reduce minimum parking rates on the basis of parking oversupply.

Design Criteria No. 8 (page A15) proposes to set parking rates and to define the circumstances where apartments may reduce the minimum parking rate (e.g. measurable distance from a railway station or areas with a parking oversupply).

The issue is the proposal to reduce minimum parking rates should not apply to areas with a parking oversupply as it would be problematic to identify these areas. For example, any methodology for establishing oversupply should not include public off-street and on-street parking as these spaces are provided for shoppers and visitors, and are not provided to support apartments.

Recommended Action

- Limit the circumstances where apartments may reduce the minimum parking rate to accessible locations within a certain walking distance to railway stations.
- Do not reduce minimum parking rates on the basis of parking oversupply.

Issue 15: Review the natural ventilation requirements.

Design Criteria No. 2 (page A19) proposes to reduce reliance on mechanical ventilation. The requirement should therefore not mandate ceiling fans as this is a form of mechanical ventilation. The design criteria should also review:

- The current control in relation to window sizes as this requirement is problematic to calculate.
- Guidance on whether windows in a light well or similar are appropriate for ventilation calculations. The reliance on windows in a light well does not provide appropriate



amenity as often these windows are subject to acoustic, wind and visual privacy impacts.

Recommended Actions

- Do not mandate ceiling fans.
- Review the requirements in relation to window sizes and light wells.

Issue 16: Require at least 20% of new dwellings in apartments to achieve the Silver Standard and a further 20% of new dwellings to achieve the Gold Standard.

Design Criteria No. 3 (page A19) proposes to increase the percentage of units that would be required to meet Livable Housing standards if NSW Government research supports higher standards.

In 2019, Council consulted the community, industry, social housing providers, aged care providers and state agencies to discuss options on how Council may proceed to address future demand for livable housing. In summary, most respondents supported the application of the Livable Housing Design Guidelines. In 2020, Council decided to move from the Adaptable Housing Australian Standard to the Livable Housing Design Guidelines as follows:

Housing types	Proposed planning rules
Secondary dwellings and houses	Require all new secondary dwellings and houses to achieve the Silver Standard.
Dual occupancies and semi-detached dwellings	Require one dwelling in new dual occupancies and semi-detached dwellings to achieve the Gold Standard and the second dwelling to achieve the Silver Standard.
Multi dwelling housing and attached dwellings	Require at least 20% of new dwellings to achieve the Silver Standard and further 20% of new dwellings to achieve the Gold Standard.
Apartments and shop top housing	Require at least 20% of new dwellings to achieve the Silver Standard and further 20% of new dwellings to achieve the Gold Standard. It is noted that shop top housing will not deliver dwellings at the ground floor as this would contradict the LEP definition. Shop top housing however generally provides lift access to residential floors of development.



Boarding houses	Require at least 20% of boarding rooms in new boarding houses to achieve the Silver Standard.
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In applying the planning rules such as the requirement for step-free pathways in front yards, flexibility would be given to difficult sites. It is not proposed to apply the planning rules to steeply sloping sites or to modifications to existing dwellings.

The issue is the Draft SEPP may continue with the current controls under SEPP 65, which apply lower targets compared to Council's livable housing targets. It is recommended that development achieve the Draft SEPP or Council's livable housing targets, whichever is higher.

Recommended Actions

- Require development to achieve the Draft SEPP or Council's livable housing targets, whichever is higher.
- The NSW Government should establish a search engine for dwellings certified as livable housing, and providing this information at the point of rent or sale.

Issue 17: Provide detailed guidance to address acoustic privacy.

Design Criteria No. 7 (page A20) and Design Criteria No. 9 (page A21) propose to guide the design of balconies and winter gardens to improve acoustic privacy. Design Criteria No. 10 (page A21) proposes to require acoustically separable areas within dwellings.

In relation to balconies, the issue is there is a need to define 'winter gardens' and to confirm whether 'winter gardens' are included in the calculation of floor space ratios. This will help to provide a consistent state-wide approach to addressing this issue.

In relation to internal acoustic privacy, there is a lack of formal requirements beyond the Building Code of Australia, which have proven to be insufficient when providing acoustic privacy to neighbours in recent developments. A guideline would be beneficial in providing a best practice for the NSW industry (similar to the <https://aac.org.au/Guidelines-&-Downloads>).



Recommended Actions

- Define 'winter gardens'.
- Confirm whether 'winter gardens' are included in the calculation of floor space ratios.
- Prepare guidelines that require a higher standard of acoustic privacy treatment beyond the Building Code of Australia.

Issue 18: Include design criteria in relation to services and utilities.

Design Criteria No. 16 (page A31) proposes to set a minimum percentage of non-residential activation on street facades. The issue is the design criteria does not address the impact of services and utilities (e.g. substations, kiosks and fire hydrants) on street frontages.

The review is an ideal opportunity for the Department to consult with utility providers and to recommend a standard set of design criteria to screen services and utilities when viewed from the street.

Recommended Action

- Consult with utility providers and prepare a standard set of design criteria to screen services and utilities when viewed from the street.

Issue 19: Amend other design criteria to improve the design and function of apartments.

A review identifies the need to amend the following design criteria to improve the design and function of apartments:

Urban design and site planning

- Design Criteria No. 1 (page A14) proposes to require development to demonstrate a consideration of place and local character. The issue is the design criteria does not consider biodiversity to protect locally significant habitats, threatened species and ecological communities.



- Design Criteria No. 2 (page A14) proposes to maximise green cover. The design criteria should provide minimum deep soil dimensions for different locations, including roof and podium levels.
- Design Criteria No. 3 (page A14) proposes to limit 9+ storey buildings to 700m² per floor. The issue is this requirement may constrain the podium levels, which generally have larger floor plates. The design criteria should not apply to the podium levels.
- Design Criteria No. 4 (page A14) proposes minimum building separation distances for 25+ storey buildings. The design criteria should restrict north facing walls being designed as blank/non-habitable to increase solar access and liveability, unless the building is built to the boundary.
- Design Criteria No. 8 (page A15) proposes unbundling to recognise parking spaces as a tradeable commodity. The issue is unbundling should be considered as a tenure type separate to reducing the minimum parking rate.
- Design Criteria No. 9 (page A16) proposes to set bicycle parking rates. The issue is the proposed parking rates are high for local and neighbourhood centres and would result in larger basement sizes. The design criteria should apply parking rates that align with the location and size of centres.

Residential amenity

- Design Criteria No. 1 (page A19) proposes to simplify the method for calculating solar access. The issues are:
 - The need to amend the current requirement, which implies that if units receive 1m² of solar access for 15 minutes within a 1 hour period, this satisfies the requirement. In determining the amount of solar access that is reasonable, the design criteria should consider the NSW Land and Environment Court's solar access planning principle, which considers the amount of solar access being commensurate to the use of the space e.g. a smaller area of direct sunlight is allowable for a studio compared to a 3 bedroom unit.
 - The need to clarify whether limiting the number of east/west single-aspect units will improve solar access. It may result in a greater number of south single-aspect units.
- Design Criteria No. 1 (page A20) proposes to reduce glare. Clarification is required as to whether the proposal to not allow glass for the first metre from the floor would apply to full-length windows and sliding doors.



- Design Criteria No. 4 (page A20) does not propose to change apartment sizes. The issue is the design criteria is inconsistent with Design Criteria No. 5 (page A20) which proposes to increase bedroom sizes. This would result in smaller living spaces. The design criteria should increase the apartment size requirements to meet the additional bedroom/study demands. It would be beneficial to have minimum room sizes for studies, and to ensure that these spaces are not converted to bedrooms at any future date.
- Design Criteria No. 5 (page A20) proposes 20% of 2 or more bedroom units to be 'family units. The issue is the design criteria should include a minimum provision for 3 bedroom units to deliver housing diversity.

Environmental performance

- Design Criteria No. 5 (page A26) proposes to require a building and landscape maintenance plan. The plan should include the 30 and 50 year product lifecycles.

Recommended Actions

Urban design and site planning

- Consider biodiversity to protect locally significant habitats, threatened species and ecological communities.
- Provide minimum deep soil dimensions.
- Do not apply the maximum floor plates to the podium levels.
- Restrict north facing walls being designed as blank/non-habitable unless the building is built to the boundary.
- Consider unbundling as a tenure type separate to reducing the minimum parking rate.
- Apply bicycle parking rates that align with the location and size of centres in the centres hierarchy.

Residential amenity

- Amend the solar access requirement to consider the NSW Land and Environment Court's solar access planning principle.



- Illustrate the implications of limiting the number of east/west single-aspect units on typical apartment floor plans.
- Clarify whether the proposal to not allow glass for the first metre from the floor would apply to full-length windows and sliding doors.
- Increase apartment sizes to align with the proposal to increase bedroom sizes.
- Establish minimum sizes for studies to enable people to work from home.
- Include a minimum provision for 3 bedroom units to deliver housing diversity.

Environmental performance

- Require building and landscape maintenance plans to include the 30 and 50 year product lifecycles.



Planning Pathways (EIE–Parts 3 and 6)

Issue 20: Streamline the verification process.

The Explanation of Intended Effects (page 25) proposes to ensure places and spaces are designed by suitably qualified design professionals.

To streamline the verification process, the Draft SEPP should require pro–forma statements to accompany planning proposals and development applications. Design professionals can fill in their details and sign the form, rather than having to create their own forms.

Recommended Action

- Introduce pro–forma statements to accompany planning proposals and development applications.

Issue 21: Allow Council to determine the design review thresholds.

The Explanation of Intended Effects (page 26) proposes a Design Review Guide to implement the design review process consistently at State and local levels.

The preference is for individual councils to determine the project types that would be subject to a design review (depending on local circumstances and urban conditions).

Recommended Action

- Ensure the Design Review Guide allows Council to determine the project types that would be subject to a design review.



Issue 22: Avoid duplicating the consultation requirements of Community Participation Plans.

The Explanation of Intended Effect proposes to encourage early engagement with local Aboriginal communities in relation to development applications (page 41) and planning proposals (page 42). The issues are:

- This requirement duplicates the purpose of Community Participation Plans.
- This requirement does not clarify which stakeholders would need to be consulted (i.e. Land Council and/or Aboriginal Housing Office) or whether a state agency may facilitate this requirement.
- The NSW Government would need to resource local Aboriginal communities to comment on development applications and planning proposals should this become a requirement.

The preference is to undertake consultation as stipulated in Community Participation Plans, or alternatively amend the Environmental Planning and Assessment Act 1979 to update the consultation requirements of Community Participation Plans.

Recommended Actions

- Ensure recommendations in relation to early engagement in the development assessment process do not duplicate the consultation requirements of Community Participation Plans by:
 - Undertaking consultation as stipulated in Community Participation Plans; or
 - Alternatively amending the Environmental Planning and Assessment Act 1979 to update the consultation requirements of Community Participation Plans.
- Resource local Aboriginal communities to comment on development applications and planning proposals should early engagement become a requirement in the assessment process.
- Confirm if a state agency will facilitate the consultation process with local Aboriginal communities.



Proposed New Urban Design Guide (EIE–Appendix B)

Issue 23: Amend the Urban Design Guide to consider other criteria that improve the delivery of place-based design approaches.

The Urban Design Guide (page B3) proposes to complement the Draft SEPP by facilitating the delivery of place-based design approaches to planning for precincts and significant developments.

The preparation of the Urban Design Guide should consider the following matters:

- B.2.2 (page B6)–Ensure the precinct based guidance and principles reinforce the need to plan around existing significant trees/landscape, open space and services prior to designing the built form.
- B.2.3 (page B6)–Consider the servicing of waste facilities at the early planning stage as it may impact on the ground floor height.
- B.3.4–Part 2 (page B10)–In relation to the public space framework, the minimum 25% of public space for precinct developments appears low in providing finer grain outcomes once streets are included.
- B.3.4–Part 2 (page B10)–In relation to the public space framework, requiring dedicated land removes the option for various ownership structures to support delivery and ongoing maintenance.
- B.3.4–Part 4 (page B11)–Ensure there is equitable access for all by considering and incorporating Designing for Dignity throughout the design process.
- B.3.5 (page B12)–Council’s minimum requirements for carriageway and footpath widths should prevail over the Urban Design Guide to inform the street network.
- B.3.5 (page B12)–Identify the need for infill buildings to be serviced by adequately sized laneways, where possible.

Recommended Actions

- Ensure the precinct based guidance and principles reinforce the need to plan around existing significant trees/landscape, open space and services prior to designing the built form.
- Consider the servicing of waste facilities at the early planning stage.
- Increase the minimum amount of public space for precinct developments.
- Review the options to support the delivery and ongoing maintenance of open space.



- Ensure there is equitable access for all by considering and incorporating Designing for Dignity throughout the design process.
- Ensure Council's minimum requirements for carriageway and footpath widths should prevail over the Urban Design Guide to inform the street network.
- Identify the need for infill buildings to be serviced by adequately sized laneways, where possible.