



28 April 2021

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

Dear Sir/Madam

### **Explanation of Intended Effect for a new Design and Place SEPP**

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Thank you for the opportunity to comment on the Explanation of Intended Effect (EIE) for a new *Design and Place State Environmental Planning Policy (Design and Place SEPP)*.

Council acknowledges the importance of well-designed development to enhance the surrounding environment and support the well-being of people and the community. Following a review of the EIE, Council's concerns and feedback is outlined below (please note that the comments contained within this letter are technical officer-level comments only as the matter has not been reported to the elected Council).

#### **Design Excellence through local controls**

Council continues to lobby for the ability to plan locally, with local controls rather than one-size fits all State policies. Design excellence is a key priority of the Hornsby Local Strategic Planning Statement and Council has recently progressed amendments to the *Hornsby Local Environmental Plan 2013* to strengthen its Design Excellence provisions.

New State policies should not override Council's controls and preclude Council from applying higher than minimum standards. Council should be able to apply local development standards which respect the unique environmental characteristics of an area and are based on the needs and expectations of the community and future residents of new development.

Notwithstanding, Council's feedback on the proposed State policy and associated documents are as follows:

#### **1. Design and Place SEPP**

The concept of combining both SEPP 65 – Design Quality of Residential Apartment Development and SEPP BASIX is supported. This will encourage the consideration of sustainable design outcomes for new residential development. Further comment regarding the new Design and Place SEPP is provided below:

##### **a. Principle based approach**

The overarching principles of the Design and Place SEPP are generally supported to better integrate good design and place considerations into state policy. However, a principle-based approach still must be supported by prescriptive measures which can be used as a benchmark to ensure that the principles can be implemented meaningfully. When assessing development applications, planners rely on prescriptive controls to enforce planning criteria. The proposed matters of consideration need to include objective standards that can be applied when assessing development applications for residential buildings.

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

Council supports the inclusion of Principle 4 'Design sustainable and greener places for the wellbeing of people and the environment'. However, the SEPP should go further to support ecological planning and the refinement of green infrastructure planning and design.

Further, it is recommended that water be elevated to the Principle level in the Design and Place SEPP. In March 2020, Council adopted the Water Sensitive Hornsby Strategy which acknowledges the importance of having water central to design and place management. Elevation of water as a focus in the Design and Place SEPP will greatly enhance our ability to realise a transition to be a water sensitive city.

## **c. Mandatory matters for consideration**

The proposed matters for consideration headings that are set out in the EIE need to include more detail and prescriptive controls where necessary so that they can be enforced when assessing development applications. Although difficult to comment on due to the lack of detail, the following concerns are raised.

- **Point 1 – Cultural and built heritage**

Add natural heritage to “cultural and built heritage” because areas of biodiversity also need to be “celebrated, conserved and protected” and this needs to be considered as part of designing places with beauty and character.

- **Point 7 – Green infrastructure**

Remove “where possible” from “The precinct retains, where possible, and provides additional green infrastructure...”, so that the retention of existing green infrastructure (e.g. biodiversity) is included as a mandatory matter of consideration for new residential developments.

- **Point 10 - Density**

Density ranges should not be specified in a State policy which presents a one-size-fits all approach to precinct planning. Council's should be able to assign appropriate density controls which suit existing and desire future local character through a place-based approach with consultation with the local community. Further, requiring achievement of a density range implies that a minimum density would be a mandatory matter for consideration, undermining design excellence objectives and other principles of the SEPP.

- **Point 12 – Transport and parking**

The proposed car parking rates continue to be based on the RMS Guide to Traffic Generating Development (2002) which is a dated document that should be revised and reissued if it is to be relied upon for car parking standards.

The objective of a reduction in car parking rates for sites with good proximity to public transport is supported and is embodied in the Hornsby Development Control Plan with the inclusion of separate rates of car parking dependent on proximity to railway stations. However, the RMS rates are significantly lower than those required by Council and the application of the RMS parking rates in the absence of local parking studies will further increase pressure on off-street parking.

## **d. Car Parking**

Clause 30 of SEPP 65 specifies those non-discretionary standards that cannot be used as grounds for refusal which is proposed to be transitioned into the new Design Place and SEPP. One of these standards is car parking rates. Council does not support including car parking rates as a standard that cannot be used to refuse an application under the new Design and Place SEPP. Council should be able to refuse an application on the

grounds that it does not comply with local minimum car parking requirements and is not supported by a local parking study.

## **2. Revised Apartment Design Guideline**

### **a. Apartment size and mix**

There appear to be no changes proposed to apartment size requirements to acknowledge the need for larger apartment sizes that accommodate families, nor a requirement for a mix of 1, 2 or 3+ bedrooms.

### **b. Private Open Space**

There are no changes proposed to the required total area of private open space however there is a proposed increase of the minimum depth of private open space. Following from the recent COVID-19 restrictions, we realise the importance of having ample private open space as people have been required to spend more time at home than ever before. Accordingly, the sliding scale for the provision of open space in the revised Apartment Design Guideline (ADG) should be increased to require the minimum area to start from 10m<sup>2</sup> and minimum dimension to be 2.5m to provide for the amenity of future residents.

Alternatively, Council should not be precluded from setting local development standards higher than the minimum based on the needs and expectations of the community and future residents of new development.

### **c. Deep soil zones**

The proposed increased percentage of the site to contain a deep soil zone is supported. However, there also needs to be an increase in the minimum dimension for deep soil zones to accommodate planting within side setbacks where a minimum dimension of 4 metres is appropriate.

### **d. Waste**

The ADG should consider adequate waste storage area /removal and how apartment occupants are to dispose or store their bulky goods to prevent issues associated with strata and/or illegal dumping. Waste disposal needs to form an early part of the design process to ensure truck access for collection and remove the need for bin collection storage areas within the front setback. If it is not included upfront it will continue to be an afterthought with streetscape and amenity issues.

### **e. Architectural design**

The recognition of passive architectural design is a good step and the recognition that a reliance on mechanical ventilation has a detrimental impact on the environment is positive. Passive design should be incentivised where possible. The alternative assessment tool appears to allow this. This is especially relevant in some of the newer subdivisions in the north-west and south-west Sydney which don't appear to be very sustainable.

## **3. New Urban Design Guide – Design considerations**

The introduction of a new Urban Design Guide is supported as it will provide a planning framework to support planning for significant developments and precincts. However, the statutory weight of the Guide is unclear and concern is raised as to whether it may limit place-based planning and the ability of Council to tailor precinct planning for our local area.

It is suggested that Part 2 – Structure under section B.3.4 Design considerations (page B10) is amended to remove “where possible” from the following sentence, *“Landforms, water, and nature are fundamental elements in urban settlements that should be designed in, or around, and restored where possible.”* The protection of environmental and biodiversity features needs to be considered as a key part of the design process, not an optional consideration.

#### **4. SEPP BASIX**

##### **a. BASIX tool**

Council supports the revision of the BASIX tool, including the biannual tool updates (page 36) to allow for flexibility of the use of other tools to model residential building performance to deliver low-emission outcomes which align with NSW Government emission targets. However, modelling tools must be based on future climate projections, not historical climate data, due to significant impacts on thermal comfort expected in the medium-term future. Sustainability targets (Figure C1) should also be revised on a regular basis and the frequency of its revision must be made explicit. The revision of BASIX should involve consultation with local government and the home building industry, in particular to understand what existing assessment methods are commonly used in the industry.

##### **b. Home energy performance and green infrastructure**

Council supports the examination of other impacts on the natural environment that could be assessed at a building lot scale, i.e. embodied energy, green infrastructure and stormwater run-off. Additionally, green infrastructure could include green roofs/walls, indigenous plants and novel habitat features. The City of Melbourne's Green Factor Tool provides good guidance for implementing green infrastructure into building design.

However, concern is raised with allowing thermal comfort to be traded off by increasing energy performance (P. C7) as this is not considered to be climate resilient, i.e. our homes need to be thermally safe in the event of a blackout during a heatwave.

##### **c. Water usage**

Currently BASIX regulates some, but not all of the impacts of residential development on the environment. At a building-lot scale, the use of water should be better regulated for new residential developments and the integration of requirements for specific water fixtures and rainwater tanks should be considered to better conserve water and utilise stormwater runoff.

##### **d. BASIX Certificate**

It is noted that a more flexible approach to undertaking sustainable assessments for BASIX is to be encouraged under the Design and Place SEPP. Although this approach is generally supported, some concern is raised regarding how the use of alternative tools by accredited certifiers will be enforced (i.e will they be required to submit their accreditation through the updated BASIX tool or will compliance with BASIX requirements be assessed as part of the development application/ complying development certificate process?).

I trust these comments are beneficial to the Department in developing the draft Design and Place SEPP. However, it is difficult to provide feedback without specific detail and Council would appreciate the opportunity for further comment when a draft SEPP is released.

Should you have any further enquiries concerning this matter, please contact Katherine Vickery, Manager, Strategic Land use Planning on 9847 6744.

Yours faithfully



Katherine Vickery

Manager, Strategic Land Use Planning Branch