

Phone Enquiries: (02) 4934 9790
Simina Simaki
Senior Urban Designer

26 April 2021

NSW Department of Planning,
Industry and Environment
NSW Planning Portal

Dear Sir/Madam

RE: DESIGN AND PLACE SEPP EIE

Thank you for the opportunity to comment on your proposed Design and Place SEPP EIE. Maitland Council supports efforts by the Department of Planning to promote good design in NSW through the principle-based controls proposed in the Design and Place SEPP.

Please find Maitland Council's full responses to the EIE attached using the Submission Guide format provided.

If you wish to discuss these comments please contact Simina Simaki, Senior Urban Designer, Strategic Planning on 02 4934 9790.

Yours sincerely,



Matt Prendergast
Group Manager Planning and Environment

Public Exhibition for the Explanation of Intended Effect New State Environmental Planning Policy (Design and Place)

Your Name

Your Organisation **Maitland City Council**

Postcode 2320

Phone

Email

Stakeholder group Industry Council Aboriginal Community Community State Agency

Age demographic 18-25 26-45 46-65 65+

Your feedback

How to make a formal submission

We welcome your feedback on the Explanation of Intended Effect for a New Design and Place State Environmental Planning Policy. **Submissions close on 31 March 2021.**

Feedback is sought on all parts of the document. Please consider if the proposal:

- Reflects contemporary understanding and practices
- Clearly articulates the intentions of the policy
- Should consider other opportunities.

Explanation of intended effect (EIE)

PART 1

Introduction

Maitland Council supports the move to a principle-based SEPP. We are looking forward to reviewing how these principles translate into development controls and design standards that can be interpreted legally. It will be important that Council officers can uniformly interpret the principles, controls and standards and effectively use them to negotiate development outcomes.

Council is concerned that the Design and Place SEPP is attempting to achieve too much under one instrument. Appending numerous controls to the SEPP may weaken their effect.

Section 2.2.1: Connecting with Country: Further clarification is sought on techniques for meaningful consultation across different development scales and development types. Will consultation be required for industrial developments, pocket parks, tree removals, changes of use etc?

Recommendations:

- *Provide guidance in the way meaningful outcomes can be achieved across scales and development types.*
- *Provide way to measure whether the outcome or the engagement process have been meaningful rather than tokenistic.*

PART 2

Proposed new State Environmental Planning Policy (Design and Place)

In order to ensure meaningful consultation, a significant investment of time will be required by the Aboriginal community and Aboriginal Elders.

Recommendation: Provisions should be made in the SEPP or elsewhere to engage and pay the Aboriginal community for their input, the same way the industry engages and pays for all other expert input.

Section 2.3: Principle 1: Use of the word 'beauty' is supported, however the assessment of 'beauty' could be difficult, considering it is a term that is personal and can be dictated by the dominant culture.

Recommendation: Additional training to be provided to Council staff so that the assessment of 'beauty' is consistent.

Section 2.3: Principle 2: New dwellings are intended to be located in close proximity to public space.

Recommendations:

- *'Public space' is changed to 'open space' or 'recreational space', to signify a place of leisure, rather than, say, a street which is also a public space.*
- *'Close proximity' is defined so that it is enforceable. The definition should take into account that urban infill development sites are often small and outside of a 10 minute walk to open space.*

Section 2.4.1 Development Scales: Council supports the proposal to change development requirements based on development scale.

Clarification is sought as to how the SEPP will apply to 'all other development'. What controls will be applicable, if any, and if only the objectives apply, clarification is sought as to how these will be implemented by DA officers, who rely heavily on their robustness. We must be able to communicate requirements to developers with ease and be ready to refuse development that fails to satisfy these requirements. This could be addressed in the capacity building workshops.

Recommendation: The language within the SEPP and the guides should be strong enough to give concrete grounds for the approval or refusal of projects.

Clarification sought on what is meant by a 'spatial assembly'. Would it apply, for example, to smaller subdivisions? Greenfield land that we rezone as urban release areas is often in fragmented ownership. This results in a number of smaller subdivision applications of 15-80 lots. We would like to be able to apply the SEPP to these small areas within a precinct.

Recommendation: Please define 'spatial assembly', preferably in a way that allows the SEPP to be applied to smaller subdivisions.

Principle 3. Design productive and connected places: This principle seems to deal more with appropriate density than with production.

Recommendation: Consider renaming this principle to reflect the importance of density, eg 'Design appropriately dense and connected places'.

Section 3.1.1: *Recommendation: This section should include a requirement for a qualified design professional (heritage consultant) for sites within a Conservation Area or sites impacting on a heritage listed site.*

Section 3.1.2: *Recommendation: This section should make reference to heritage assessment.*

Section 3.1.3 Design evaluation and review: Council supports the proposed changes and clarifications to the design review process.

Clarification is sought on whether the SEPP will override LEP design review and design excellence clauses. Maitland Council currently does not have a design review clause. Will we need to introduce a clause to work with the new DRG, or will the SEPP introduce a requirement for design review?

Clarification is sought on how design review panels will work in regional areas – will each LGA have their own panel, or will panels be shared (eg Maitland, Port Stephens and Cessnock LGAs will share a panel)?

Section 3.2.1: *Recommendation: This section should include requirements for Heritage Assessment and a Statement of Heritage Impact (SHI) for locations within a Conservation Area or related to a listed site.*

Section 3.2.2, Table 1, item 1 is supported, particularly the inclusion of the word "conserved" as it will help us address demolition proposals. However, we note that

there will be considerable work required for Maitland to develop corresponding strategies. Our DCP will have to be referenced while strategies are developed for all our Conservation Areas.

Recommendation: This section could also include reference to heritage interpretation.

PART 4

Proposed amendments to existing State Environmental Planning Policies

PART 5

Relationship with other planning instruments and policies

The intended objectives of the Design and Place SEPP, once finalised, will be primarily met through the development assessment process so consideration of how that will work with the application of other planning instruments in the development assessment process is necessary.

PART 6

Planning pathways

Recommendation: Further guidance of how Councils can apply the principles through the planning proposal/Gateway process will be useful. It is understood this will be provided in the form of updated Planning Circulars and Ministerial Directions in the finalisation of the SEPP, post exhibition.

APPENDIX A

Proposed Amendments to the Apartment Design Guide and SEPP 65

Council is supportive of the new structure for the ADG.

A2.2: Council is supportive of an increase to deep soil zone and a change to the way communal open space is measured, to take into account unit mix and occupancy.

Council is supportive of encouraging mixed use ground floors, noting that ground floor retail will not be mandated as it is not always appropriate.

Recommendation: The ADG should also consider encouraging mixed uses (particularly commercial uses) on first floors or on all podium floors in areas of high density.

Council is supportive of proposed guidance around through site links and pathways.

Recommendation: guidance should address safety of links at night, including adequate lighting and overlooking. The design of links should also be addressed so that they clearly present as public walkways and are not closed off in the future.

A2.3: *Recommendation: Controls that seek to improve the acoustic amenity of apartments should take site considerations into account. For example, the podium, site vegetation or site features can be used to shield apartments from noise sources, which would be preferable to increasing the acoustic performance of windows as it allows apartments to be naturally ventilated.*

Maximising units that are within 15 degrees of north may have unintended consequences on the site and streetscape. This control may discourage buildings addressing the street and encourage overshadowing of streets.

Recommendation: Limit single aspect east- and west-facing apartments rather than mandate that a minimum number should be within 15 degrees of north.

APPENDIX B

Proposed New Public Spaces and Urban Design Guide

Council is supportive of a UDG that includes a mix of controls and guidance, similar to the ADG.

B1.2: How will the UDG be delivering a more equitable distribution of housing types and tenures?

Recommendation: Suggest DPIE consider incentives to encourage housing diversity within each precinct. The medium density design guide could also be given statutory weight through the SEPP, similar to the ADG and the UDG.

B2.4: *Recommendation: The “engagement with community” section should include engagement with the Aboriginal community.*

B3.3 Part 1 Understanding Place and Country *Recommendation: this section should include heritage significance.*

B3.3 Part 4 Form: The statement “designing with heritage in its place” is very open ended.

Recommendation: this statement should be reviewed so that its meaning is clear.

B3.4 Part 1 Understanding Place and Country / Understanding Context: *Recommendation: this section should make reference to heritage significance where applicable.*

B3.4 Part 2 Public Space Network: Council would prefer a holistic public space measure rather than the street-based control. A holistic public space measure can encourage a wider variety of open spaces and street types. Any public space that is to be dedicated to Council should be to Council’s standards, be robust and be easy to maintain.

Recommendation: implement a public space measure rather than a street-based control.

B3.4 Part 2 Distribution of Intensity and uses: *Recommendation: Suggest the guide does not specify what alternative uses are to be included in single use zones. This will allow Council to set fine-grain controls that respond to the character of each precinct. Alternatively, suggest some uses may be excluded, for example, in a predominantly residential zone, home occupation or tourism uses will not count towards the percentage of required non-residential uses.*

B3.4 Part 3 Grain: *Recommendation: Suggest lot dimensions are treated as minimums since, in some areas, lot constraints (topography, vegetation, easements etc) may impact on lot dimensions. Dwelling densities will help to ensure efficient use of land.*

Council welcomes guidance around street interfaces and wall heights, however controls should be left to the DCP to better reflect each area’s character.

Recommendation: Controls around street interfaces and wall heights should remain in the DCP, although informed by UDG guidance.

Better consideration of the public domain is required in the existing guidance ‘Development near Rail Corridors and Busy roads’ (2008). In particular, the section showing noise mitigation techniques encourages garages and blank facades to face the street, which is detrimental to the character and safety of the street. Emphasis should be placed on appropriate land uses at the interface with noise sources.

Recommendation: revise existing guidance around noise mitigation techniques so that they consider the character and safety of streets.

B3.4 Part 4 Form: *Recommendation: Front and rear setbacks should be left to the DCP so that the character of individual areas can be better reflected.*

The ratio of street wall to right of way is determined by the street character and its uses. Guidance is welcome on which range of ratios create each type of street character, however controls should be left up to the DCP.

Recommendation: street ratios should come in the form of guidance, to be implemented by the DCP where appropriate.

B3.4 Part 5 Environmental performance: *Recommendation: Please include a discussion about the benefits of precinct-wide systems (power generation, waste collection, WSUD etc) targeted at developers and end users. One of the biggest barriers to precinct power is a perception that the extra cost to the developer is not worthwhile.*

B3.5 Proposed design criteria: Council supports guidance on local character statements and where they are required or appropriate.

An average block size control may be difficult to calculate and may achieve mixed results – for example a precinct with tiny blocks in one area and very long blocks in another area.

Recommendations: Minimum and maximum block sizes could be used instead of average block size controls, with a list of scenarios where they can be exempt – for example when used for public recreation, for educational purposes, or in cases where the block gradient is steeper than 30% slope.

Recommendation: Consider additional controls such as:

- *minimum dimensions for backyards (similar to minimum balcony dimensions in the ADG),*
 - *maximum site coverage controls, or*
 - *minimum deep soil zone controls.*
-

APPENDIX C

Sustainability in Residential Buildings

Council would like to see greater sustainability targets embedded into design principles, that consider the whole of life cycle, circular economy, environmental performance, liveability and equity for the end use.

Recommendation: Consider the whole of life cycle, circular economy, environmental performance, liveability and equity for the end use in sustainability targets.

The readiness of new buildings for future technologies should also be considered. For example, new apartment buildings should be built with the capability to provide charging for electric vehicles, room for battery storage for solar energy and provisions for autonomous vehicle access and navigation.

Additional comments

Thank you for the opportunity to prepare this submission.