

Greater Sydney, Place & Infrastructure |
Department of Planning, Industry and
Environment
12 Darcy Street,
Parramatta, NSW 2150

30 April 2021
Ref No: D04202332

Attention: Jillian Hopkins

Dear Sir/Madam,

Re: Submission on Explanation of Intended Effects (Design and Place SEPP)

Thank you for the opportunity to comment on the Explanation of Intended Effects (EIE) for the proposed *Design and Place State Environmental Planning Policy* (DPSEPP).

The EIE outlines the proposed content of the forthcoming draft DPSEPP, which intends on providing greater flexibility for achieving good design outcomes, by reducing prescriptive measures and incorporating central principles for design and place. The proposed new framework will fold the *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development* (SEPP 65) and *BASIX (Building Sustainability Index)* into the new DPSEPP, introduce a new Urban Design Guide specifying criteria for precinct planning and large scale development, and a suite of new and revised design controls for consideration at the rezoning and development assessment (DA) phase.

As a general comment, Council reiterates its support for a State-wide mechanism to achieving good design and sustainability outcomes, noting that the review is timely with both policy frameworks having been in operation for a substantial period of time. An update and addition to SEPP 65 is warranted to provide comprehensive guidelines and development controls to reflect development trends, such as for taller residential buildings. Similarly, updated sustainability measures are crucial given the critical challenges associated with climate change and the need to reduce emissions to support the NSW Government's target of zero emissions by 2050.

While the content and implications of the DPSEPP can only be thoroughly considered when it is released for public feedback later this year, we trust the following comments and suggestions will be of assistance in developing and refining the draft SEPP, particularly in terms of its applicability to inner city contexts such as Randwick City.

Design and Place Making

State-Wide Approach to Good Design

To date, SEPP 65 and the accompanying Apartment Design Guide (ADG) has had considerable success in Randwick City, making a significant impact on the quality of the built environment, and creating awareness amongst design practitioners and assessors alike for the imperative need for high quality design. The SEPP has been instrumental in improving the design and amenity of apartments across our City and much of this can be attributed to regular input and advice from the Design Excellence Panel on proposals, as well as feedback on other forms of development that fall outside the parameters of the Policy.

<h3>English</h3> <p>If you need help to understand this letter, please come to Council’s Customer Service Centre and ask for assistance in your language or you can contact the Telephone Interpreter Service (TIS) on 131 450 and ask them to contact Council on 1300 722 542.</p>	<h3>Greek</h3> <p>Αν χρειάζεστε βοήθεια για να καταλάβετε αυτή την επιστολή, παρακαλείστε να έρθετε στο Κέντρο Εξυπηρέτησης Πελατών της Δημαρχίας (Council Customer Service Centre) και να ζητήσετε βοήθεια στη γλώσσα σας ή τηλεφωνήστε στην Τηλεφωνική Υπηρεσία Διερμηνέων (Telephone Interpreter Service — TIS) τηλ. 131 450 και να ζητήσετε να επικοινωνήσουν με τη Δημαρχία τηλ. 1300 722 542.</p>	<h3>Italian</h3> <p>Se avete bisogno di aiuto per capire il contenuto di questa lettera, recatevi presso il Customer Service Centre del Municipio dove potrete chiedere di essere assistiti nella vostra lingua; oppure mettetevi in contatto con il Servizio Telefonico Interpreti (TIS) al 131 450 e chiedete loro di mettersi in contatto col Municipio al 1300 722 542.</p>
<h3>Croatian</h3> <p>Ako vam je potrebna pomoć da biste razumjeli ovo pismo, molimo dođite u Općinski služni centar za klijente (Council’s Customer Service Centre) i zatražite pomoć na svom jeziku, ili možete nazvati Telefonsku službu tumača (TIS) na 131 450 i zamoliti njih da nazovu Općinu na 1300 722 542.</p>	<h3>Spanish</h3> <p>A la persona que necesite ayuda para entender esta carta se le ruega venir al Centro de Servicios para Clientes [Customer Service Centre] de la Municipalidad y pedir asistencia en su propio idioma, o bien ponerse en contacto con el Servicio Telefónico de Intérpretes [“TIS”], número 131 450, para pedir que le comuniquen con la Municipalidad, cuyo teléfono es 1300 722 542.</p>	<h3>Vietnamese</h3> <p>Nếu quý vị không hiểu lá thư này và cần sự giúp đỡ, mời quý vị đến Trung Tâm Dịch Vụ Hướng Dẫn Khách Hàng của Hội Đồng Thành Phố (Council’s Customer Service Centre) để có người nói ngôn ngữ của quý vị giúp hay quý vị có thể liên lạc Dịch Vụ Thông Dịch qua Điện Thoại (TIS) ở số 131 450 và yêu cầu họ liên lạc với Hội Đồng Thành Phố (Council) ở số 1300 722 542.</p>
<h3>Polish</h3> <p>Jeśli potrzebujesz pomocy w zrozumieniu treści tego pisma, przyjdź do punktu obsługi klientów (Customer Service Centre) przy Radzie Miejskiej i poproś o pomoc w języku polskim, albo zadzwoń do Telefonicznego Biura Tłumaczy (Telephone Interpreter Service — TIS) pod numer 131 450 i poproś o skontaktowanie się z Radą Miejską (Council) pod numerem 1300 722 542.</p>	<h3>Indonesian</h3> <p>Jika Anda memerlukan bantuan untuk memahami surat ini, silakan datang ke Pusat Pelayanan Pelanggan (Customer Service Centre) Pemerintah Kotamadya (Council) dan mintalah untuk bantuan dalam bahasa Anda, atau Anda dapat menghubungi Jasa Juru Bahasa Telepon (Telephone Interpreter Service - TIS) pada nomor 131 450 dan meminta supaya mereka menghubungi Pemerintah Kotamadya pada nomor 1300 722 542.</p>	<h3>Turkish</h3> <p>Bu mektubu anlamak için yardima ihtiyaciniz varsa, lütfen Belediye’nin Müşteri Hizmetleri Merkezi’ne gelip kendi dilinizde yardım isteyiniz veya 131 450’den Telefonla Tercüme Servisi’ni (TIS) arayarak onlardan 1300 722 542 numaradan Belediye ile ilişkiye geçmelerini isteyiniz.</p>
<h3>Hungarian</h3> <p>Amennyiben a levél tartalmát nem érti és segítségre van szüksége, kérjük látogassa meg a Tanácsház Ügyfél Szolgálatát (Customer Service Centre), ahol magyar nyelven kaphat felvilágosítást, vagy hívja a Telefon Tolmás Szolgálatot (TIS) a 131 450 telefonszámon és kérje, hogy kapcsolják a Tanácsházat a 1300 722 542 telefonszámon.</p>	<h3>Czech</h3> <p>Jestliže potřebujete pomoc při porozumění tohoto dopisu, navštivte prosím naše Středisko služeb pro veřejnost (Council’s Customer Service Centre) a požádejte o poskytnutí pomoci ve vaší řeči anebo zavolejte Telefonní tlumočnickou službu (TIS) na tel. číslo 131 450 a požádejte je, aby oni zavolali Městský úřad Randwick na tel. číslo 1300 722 542.</p>	<h3>Arabic</h3> <p>إذا أردت مُساعدة لفهم هذه الرسالة، نرجوك الحضور إلى مركز خدمة عملاء المجلس واطلُب المُساعدة في لغتك، أو يُمكنك الاتصال بخدمة الترجمة الهاتفية (TIS) على هاتف رقم 131 450 واطلُب منهم الاتصال بالمجلس على رقم 1300 722 542.</p>
<h3>Chinese</h3> <p>如果你需要人幫助你了解這封信的內容，請來市政會顧客服務中心要求翻譯服務，或者與電話傳譯服務（TIS）聯繫，號碼是131 450。請他們幫助你打電話給市政會，號碼是1300 722 542。</p>	<h3>Russian</h3> <p>Если Вам требуется помощь, чтобы разобраться в этом письме, то, пожалуйста, обратитесь в Муниципальный Центр Обслуживания Клиентов и попросите оказать Вам помощь на Вашем языке или же Вы можете позвонить в Телефонную Службу Переводчиков (TIS) по номеру 131 450 и попросить их связаться с Муниципалитетом по номеру 1300 722 542.</p>	<h3>Serbian</h3> <p>Ako vam treba pomoć da razumete ovo pismo, molimo vas da dođete do Centra za usluge mušterijama pri Opštini (Customer Service Centre) i zamolite ih da vam pomognu na vašem jeziku, ili možete nazvati Telefonsku prevodilačku službu (TIS) na 131 450 i zamolite ih da vas povežu sa Opštinom na 1300 722 542.</p>

Council strongly supports the elevation of ‘design and place making’ as an important component of Sydney metropolitan and regional planning. Good design is integral in enhancing character and sense of place and facilitating sustainability and liveability. A sound design policy framework with illustrative examples of expected outcomes is also crucial in achieving community buy in and confidence regarding the design of new development, and can assist in ameliorating concerns about visual and amenity impacts of development proposals.

Consolidation of Standards and Guidelines

The proposed SEPP will comprise a consolidated policy addressing design, placemaking and environmental sustainability considerations within the one document. While this is a noteworthy objective, concerns are raised that incorporating the ADG, BASIX, Urban Design Guide (UDG) and the Design Review Guide (DRG) into a standalone SEPP, may result in an complex, lengthy and unwieldy policy document that may be difficult to navigate and to manage updates and changes over time.

Concerns are also raised that the State Government’s Better Placed (BP) Guide covers very similar ground to the proposed new DPSEPP – potentially creating confusion and duplication in their application – i.e.: both documents address the design of the built environment in NSW.

It is essential that the DPSEPP provides clarity and simplicity in the guides without weakening the intent, while avoiding overlap between various policies and guidelines. Concise and easy to use policy guidelines and standards speed up efficiencies, ensure the accuracy of implementation and make policy understandable and accessible to all end users. To address these issues, it is suggested that:

- BASIX be updated and remain as a separate stand-alone policy; and
- The Better Place policy document be integrated into the DPSEPP as a measure to streamline the suite of design policy documents (a stated aim of the DP SEPP).

Connecting with Country Framework

Council is supportive of the principles of the Connecting with Country draft framework and Design with Country discussion paper, integrating local Aboriginal perspectives in built environment projects. Randwick City is home to a significant Indigenous population, and Council values the Aboriginal insights and contributions made to the planning of projects that has occurred over many years. This engagement is currently undertaken on a project-by-project consultative basis. Formalising the engagement process and clarifying a best practice approach, including the responsibilities of the various parties involved, and providing additional tools and guidelines to enhance and streamline the assessment of projects would be a welcomed measure for the design and development process.

Integration of the Local Character Statements Legislation

The EIE is largely silent on the relationship between the new Local Character Statement (LCS) framework and the proposed new DPSEPP. Local Character Statements, through their inclusion in the LEP (via a new LEP Clause and Overlay Map), have been elevated and formalised as a driver of strategic planning decision making and development assessment, and inform environmental, social and economic aspects of planning and design. For instance, in relation to DAs, the LCS framework requires proponents to demonstrate how a proposal would be consistent with the LCS, or if the development is lodged via the Codes SEPP that a Design Verification Certificate (DVC) has been submitted, which verifies the development contributes to the character of the local area.

It is noted that the EIE makes only a minor reference to LCS on page 27 regarding application documentation requirements for a Local Character Area map (Item 2) and Local Character Statement (Item 4). The ambiguity on how the proposed DPSEPP would integrate with the LCSs character principles and implementation mechanisms raises concern about the potential for duplication of design quality statements as a result.

Vision Statements

The application requirements set out on page 27 do not contain a requirement for succinct statement of the overall precinct or project 'vision'. A clearly stated vision becomes a touchstone for the development of the design – from broad concept to detail design – setting the design agenda and becoming a test that the design process stays 'on-track' and achieves the original over-riding aim of the project. To this end it is recommended that the DPSEPP incorporate a requirement for designers to include a vision statement as part of the DA documentation setting out the overriding intended outcomes for the project.

Principles Based Approach

While the aim of the new framework in fostering well-designed built environments is applauded, the proposed DPSEPP has the potential to add another layer of complexity to the NSW planning system. The adoption of a 'principles-based approach', rather than clear prescriptive and quantifiable development guidelines, would require a significant cultural shift and raises questions on how it would align with the existing statutory framework for development assessment.

Of particular note are the five 'design principles' to assess the merits of a given proposal which are generally vaguely stated. For instance, the first two principles (*'design places of beauty and character that people feel proud to belong to'* and *'design public spaces to support engaged communities'*) are similar in intent and could be combined into a single principal (i.e.: both address the qualities of public places and the relationship of people to places).

Planning reform should seek to simplify, streamline and enhance confidence in the planning system by creating greater certainty and predictability around assessment and decision making. The evolution of the ADG over the last 20 years has shown how important clearly stated and quantifiable design controls are, in terms of creating certainty about the minimum standards that need to be delivered.

Concerns are raised that the proposed principles-based approach, as opposed to a prescriptive approach, would create greater uncertainty, and come at a cost to clarity, timeliness, and predictability of outcomes in the decision-making process. The proposed new SEPP needs to be practical, easy to implement and deliver greater certainty, and not result in the submission of vague compliance reports. Overarching principles can and should be stated, however, clear, easily understood and quantifiable/measurable development controls must also be provided that set clear rules that all parties understand and can follow and can be assessed.

Land Use Applicability

Under the current framework, the ADG applies to residential flat buildings and mixed use buildings that are 3 storeys or more. None-the less in the context of Randwick City, relevant pre development applications, affordable housing developments and large scale developments that otherwise fall outside the scope of the SEPP 65 definition for residential flat buildings have consistently been referred to the DRP for expert input. Moreover, in leu of other design standards being in place, the principles and controls contained in the ADG such as building-to-building separation, solar access, cross ventilation controls are applied as a standard to applications for boarding houses and the like.

It is strongly recommended that the scope of the draft SEPP be broadened to encompass other forms of development which would remove ambiguity in the policy application. The urban environment comprises a wide range of building typologies which would also benefit from a robust design process. For instance, boarding houses which are separately defined under the Standard Instrument, often take the form of a residential flat building and in some instances are converted to residential uses over time.

On this basis, it is contended that DPSEPP should be further transformed to provide a design excellence framework for all major residential development types including but not limited to, Seniors Living developments, boarding houses, serviced apartments and student accommodation. This could be achieved by espousing a common set of principles that are integral to good design, complemented with a series of codes for a variety of residential, commercial and institutional development categories.

Additional Comments

- **Density Ranges:** Proposed 'design and place consideration (page 30) proposes that density ranges will be determined during development of the DP SEPP, based on a development's location and transport access, with a minimum density capacity of 15 dwellings per hectare. It is questioned as to the usefulness and practicality of setting of generic 'blanket' Density Range rules for R1, R2, R3 and R4 land use zones which are already mandated under the LEP and informed through comprehensive LSPS process. Randwick City has recently completed its LSPS and a detailed appraisal and strategic direction for housing contained in the Randwick Housing Strategy that achieves the DPIE housing targets for the next 10 years. The detailed analysis and the identification of appropriate precincts for uplift should override/supersede any generic density ranges in the DP SEPP.
- **Affordable Housing:** A prescribed Greater Sydney target for Affordable Housing of 5-10% is not always possible, as the scale of potential redevelopment may be limited (due to heritage considerations, strata buildings, or the high cost of existing properties) and therefore the viability of imposing such a cost upon the developer may not provide a viable outcome. For example our experience on the Kensington and Kingsford Town Centre study has shown that a phased implementation from 3% to 5% over several years provided a fair outcome – awarding the early implementation of the strategy and investment in the LGA. If Council has carried out independent testing/modelling of the viability threshold, this advice on the feasible percentage to apply should over-ride an Affordable Housing guideline in the DPSEPP.
- **Best Practice Design Standards:** Guidelines on the maximum overall building depth for residential buildings should be provided and made consistent with general good practice to provide consistency in the use of the ADG. A realistic approach needs to be taken, whilst also preventing 'periscope' slots for bedroom spaces set deep within the building mass. Also, clarification on the best practice approach to calculating the conversion rate from building footprint to GFA should be provided to provide consistency across the design industry. Standardisation across Councils and in planning and development applications will streamline assessment processes.
- **Landscaping and Greening:** Setting a minimum percentage of the site area for deep soil zones is generally supported in principle, however the specific site and locational context requires further consideration. For instance, a blanket landscaping requirement for urban centres may not be practical as deep soil on the ground floor plane is very difficult to achieve due to the site constraints and the built to boundary urban and built form. Equivalent size areas on landscaped roofs, terraces, balconies, green walls or 'hard' spaces such as public plazas or laneways or the like should be considered instead of deep soil provision in these cases. Council's approach for the Kensington and Kingsford town centres is case in point where, in recognition of deep soil site constraints within a town centre setting, landscaping equivalent to 100% of site area is to be provided on the site which can encompass green walls, roofs, terracing and balconies.

- **Application Requirements:** The DPSEPP would require applicants to demonstrate through application requirements that the SEPP principles and considerations have been met. It will also inform matters for consideration by the consent authority. These include a site analysis, design statement, and precinct structure plan (for precinct planning and significant development). It is recommended that the DPSEPP include requirements for planning proposals and DAs to submit 2D and 3D drawings, where larger proposals be required to provide a 3D built form model to assess the development within the overall city built form context.
- **Mixed Use Development and Street Activation:** The EIE proposes the allocation of 40% of ground floor space for non-residential uses in R3 and R4 residential zones (p A15, Item 5). Whilst this control may be appropriate for B4 Mixed Use zones, concerns are raised that these provisions may not be practicable for a typical R3 Medium Density walk-up apartment building. This building type is quite common in Randwick City and proposed control is unlikely to be practical to implement or achieve. It may provide an appropriate urban planning outcome – active frontages may not be desirable in all cases.

BASIX

- **BASIX Sustainability Trade-Offs:** The EIE proposes the introduction of sustainability ‘trade-offs’ (p C4, C.2.1.3) into the assessment process. It is suggested that thermal comfort performance requirements could, in certain circumstances, be ‘traded off’ (reduced) by installing more energy-efficient appliances or more solar PV. Concerns are raised that this may introduce a ‘loop hole’ and more confusion in the assessment process. For instance, how would the competing requirements for thermal comfort and for energy performance requirements be weighed up? Rather, an approach should be taken that prioritises guaranteed long-term initiatives/effects and straight forward passive approaches such as sun shading of north facing windows, ceiling fans, protecting west elevations, etc. over high-end technological solutions such as air conditioning that uses large amounts of energy, or high technology glass facade design, to address solar heat loads that could be more simply solved by an appropriate external shade devise (overhang).
- **BASIX Targets:** The EIE states that to promote consistency across the State, councils would not be able to set their own higher or lower BASIX targets to reflect localised conditions. This provision currently exists in the existing BASIX policy context and would be transferred across to the proposed new DPSEPP. Concerns are raised that this would limit the ability for councils to go beyond state requirements to achieve high level sustainability targets. In particular, it is at odds with the regional objectives for Metropolitan Sydney, specifically Strategy 33.1 which stipulates that initiatives for achieving net zero emissions by 2050 through the establishment of low carbon precincts in Planned Precincts, Growth Areas and Collaboration Area should be supported. Council considers that there should be a level of flexibility for such growth areas to be able to apply higher BASIX targets to developments to improve building efficiency and help achieve the low carbon precinct objective.

I trust this information is of assistance. Please contact Stella Agagiotis, Manager Strategic Planning on 90936954 or stella.agagiotis@randwick.nsw.gov.au if you require further information.



Kerry Kyriacou
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