

SUBMISSION ON DESIGN AND PLACE SEPP EXPLANATION OF INTENDED EFFECTS (released February 2021)

FOREWORD

Willoughby City Council (WCC) welcomes the release of the Explanation of Intended Effects (EIE) for public comments and notes it is the first step in delivering the *Design and Place SEPP*.

The proposed *Design and Place SEPP* is expected to offer a significant opportunity to consolidate a number of related State documents into a single resource and provide strong support for local strategic planning undertaken by Council in recent years which has had an equally firm focus on design excellence, character and place.

Hugh Phemister

Director Planning and Infrastructure

April 2021

GENERAL OBSERVATIONS

The principles of the new SEPP as outlined below are generally supported:

1. Design places with beauty and character that people feel proud to belong to
2. Design inviting public spaces to support engaged communities
3. Design productive and connected places to enable thriving communities
4. Design sustainable and greener places for the wellbeing of people and the environment
5. Design resilient and diverse places for enduring communities.

These principles reflect Council's recent strategic work and proposed planning directions. However, it is noted that significant questions remain unanswered in the EIE regarding the details of the proposed changes which we look forward to being consulted on in due course.

The proposed *Design and Place SEPP* offers a significant opportunity to consolidate a number of related documents into a single resource. It is considered that the review and integration of these policies and instruments is timely and necessary to facilitate a clear process and direction for the delivery of quality development and future resilience within NSW.

It is noted that the SEPP proposes to introduce three development scales - precincts, significant development and other development - and applies different considerations at each scale including cultural and built heritage, connectivity, local living, emissions, affordable housing and tree canopy.

While the different scales proposed for assessing development are supported, there needs to be sufficient clarity in the proposed SEPP regarding how these are defined. It is also noted that any proposed exemptions (as proposed in the EIE) to these scales need to be justified and clearly identified.

It is noted that the development scale proposed for significant development sites in metropolitan areas is greater than 1500m², which is likely to apply to a wide range of development in areas such as Willoughby. It is also noted the State Significant development category will also be included under the *Design and Place SEPP* significant development considerations.

The EIE reintroduces the concept of Precinct Structure Plans, which in principle could be supported but it will be important to understand what status these will be given. In particular, it is understood that these Plans could be included as part of Council's DCP, similar to locality-based chapters that currently exist in

the Willoughby DCP 2012. As such any Precinct Structure Plans should be able to be incorporated into Council's DCP to avoid potential confusion and duplication.

It is understood that the relationship between the existing *Codes SEPP* and the new *Design and Place SEPP* is yet to be determined. The EIE notes that while the types of development currently permitted through the *Codes SEPP* will remain unchanged, the application of complying development requirements will be aligned with the principles of the *Design and Place SEPP*. It would be useful to understand what factors and criteria are to be considered in the review of complying development requirements, but it is understood the review aims to enable this type of development to contribute to a greener, well-designed built environment.

Some important potential benefits of the proposed SEPP are welcomed including:

- Greater recognition of place-based design in NSW and design as a statutory consideration.
- The principles and proposed design and place considerations to guide the SEPP.
- Taking design beyond apartment buildings to the precinct scale
- Placing consideration of *Country* at the heart of design processes.
- A revised Apartment Design Guide (ADG) yet to be developed.
- The clear commitment to delivering on sustainability, with a zero net carbon approach being taken throughout all the aspects of the policy
- Long overdue improvements to BASIX.

The EIE states that no amendments to the EP&A Act are proposed at this stage, but amendments to the EP&A Regulation to enable implementation of the new *Design and Place SEPP*, including requirements relating to DCPs, design skills and verification statements, will be determined and refined during development of the new *SEPP*.

The timeline for the delivery of this consolidated suite of documents is ambitious, and in some regards does not reflect the delivery timeline associated with existing aligned policy and guideline documents. It is noted that the delivery of the *Design Excellence Guidelines (for Competitions)* remains a draft after several years of review by the Government Architect of NSW.

It is understood that the *Design and Place SEPP* once made will need to be considered in relevant State Significant Development and local development applications as well as planning proposals and review of environmental factors (REFs).

It is appreciated significant public and private sector support is imperative in facilitating the review and delivery process. Council wishes to remain engaged with DPIE and the Government Architect NSW as this SEPP is developed and we look forward to continuing to contribute to the testing and finalisation of the policy reforms.

RESPONSE TO SPECIFIC ASPECTS OF THE REVIEW

1. The proposed aims and principles including sustainability aspects (Part 2)

The proposed principles and place-based approach is also supported, but the way principles will influence planning proposals and development applications will need to be carefully considered. If principles replace specific rules it will be difficult to execute at the local and regional level. The key will be to get the correct balance between principles and development standards.

The *Connecting with Country* framework developed by the Government Architect is supported, however more detail and guidance will be required in the proposed *Design and Place SEPP* to implement the framework and influence design and development at the local level. It is understood that the framework includes potential incorporation of indigenous stories, traditional place names as well as incorporation of native vegetation and waterways in the design of places.

More direction would be useful in the incorporation of these principles in the *Connecting with Country* planning framework and the reflection of these in the draft SEPP. It also needs to be recognised that in order to implement the framework within all levels of planning, there will need a greater level of support to be given to resource Aboriginal Land Councils and other indigenous groups to provide input and advice.

Further detailed comments are outlined below on the principles and implementation of the place-based approach.

Delivery of quality design through a place based approach

Whilst the aims anticipated in the SEPP appear sound, aim no.5 “*enable the delivery of quality design, integrated outcomes and innovation for people and places in NSW*” (p12), there appears to be little recognition of the substantial burden ‘delivery’ places on local government. More emphasis needs to be given to implementation by both local and state government of the place-based, integrated approach espoused in this document. Local and State governments are not well equipped to do this.

To be effective in implementing many aspects of a future SEPP, resources and influence are required to bring internal/external players together to implement quality, integrated, place-based outcomes. It would be useful to see more consideration and guidance in this document about resources to implement its integrated, place-based approach.

Designing for diversity

The EIE should have provided more advice on designing to support diversity (cultural, economic and social) and equality of access to/through public spaces, such as along streets and footpaths. There are a number of design guidelines to address disability needs, but these are not referenced in this EIE. Maintaining and enhancing diversity and equality of access are considered to be core resilience objectives, as they help strengthen social cohesion, reduce conflict and support the needs of more vulnerable members of the community. These are design challenges and need to be given greater attention.

Open space and other aspects of green infrastructure

There needs to be reference in the document to the value of publicly accessible, private open space, which can be quite extensive in some places, (golf courses and major development precincts). This category of land is an important asset for the community and the proposed SEPP should include

reference to and guidelines for councils when negotiating place-based design outcomes on publicly accessible private land (including missing links) potentially as part of VPA negotiations.

The principle *Design sustainable and greener places* places emphasis on the value of green infrastructure and this is strongly supported. However, there appears to be little recognition of the importance of urban biodiversity. More emphasis should be placed on the value of urban biodiversity such as in the green infrastructure “benefits” section (p29).

It is concerning that the ‘*intended effect*’ for green infrastructure (p19) is “*retain existing green infrastructure (**where possible**), particularly habitat and significant vegetation; and maintain and enhance the quality of our watercourses*”. This requirement should be strengthened. The EIE suggests that, in most cases, if it is not “*possible*” then green infrastructure can be removed. Similarly, the “*proposed consideration*” (table 1, p 29, part 7) just proposes replacing one existing tree with 2 or 3 new ones. There should be a very strong statement about the need for proponents (developers) to demonstrate how they are going to retain, conserve and enhance/extend green infrastructure and that removal is a last resort.

This EIE therefore needs to express a much stronger principle to conserve/protect the existing valuable trees and vegetation, not just retain them “where possible” which is regarded as weak. In addition, the new guidance section (p 33) should include guidance on contemporary, best practice approaches to measuring and valuing green infrastructure, such as through the *Greener Spaces Design Guide*.

It is encouraging to see so much emphasis on the need to plan for, design and implement infrastructure to enhance fine grain movement. It is suggested this should also include explicit reference to the need to identify “missing links” in existing urban areas, to improve connections, such as through use of easements, land purchase, shared-use of public infrastructure corridors (eg canals, rail lines) or good design during the redevelopment of existing sites. Encouraging the need for more through-site links is supported, but this needs to emphasise that these can be over public and private land.

It is encouraging to see a proposal to set new targets to “*retain and increase the provision and diversity of public space across NSW*”. How this is achieved is a key issue and will be very challenging to achieve in existing urban environments.

The *Greener Places Design Guide* (p17,18) made a bold attempt to quantify open space needs and the SEPP should reinforce this at every opportunity. The SEPP should include public space targets, particularly for middle and inner ring metropolitan LGAs/suburbs, which often have an unacceptably small provision of open space per capita.

Urban heat

Maintaining indoor and outdoor thermal comfort will become increasingly important in areas vulnerable to increasing urban heat. The document places a lot of emphasis on designing for indoor thermal comfort including cross ventilation, best practise insulation, which is supported, but there appears to be little or no reference to the need to design places to maintain and significantly improve outdoor thermal comfort, particularly in quite dense urban areas with lots of hard surfaces.

The challenge of improving outdoor thermal comfort will need more explicit attention in the draft SEPP, with reference to private open space, publicly-accessible private open space, public domain/public open space, and active transport corridors and highly pedestrianised areas. WSROC is developing a “cool

suburbs” program <https://edgeenvironment.com/from-urban-heat-to-cool-suburbs-a-project-in-progress-in-western-sydney/> which could be a useful foundation for this dimension.

Transport- parking and active transport

As described in Principle 3 (‘Develop productive and connected places to enable thriving communities’) on page 18 of the EIE, it is stated that the *Design and Place SEPP* will “provide needs-based car parking assessment methods by identifying locations for maximum parking rates, lowering minimum rates, and specifying where adaptive travel plans are to be prepared”. Overall Council supports this approach.

Further detail is provided in Table 1 (‘Proposed design and place considerations’) on page 30 which describes the desire to “balance transport mode share, reduce demand for driving and car parking provision by guiding where car parking should be tempered by public transport availability, car share, adaptive travel planning or managed parking stations, or traded as a commodity”. Council would also recommend that active transport networks, bicycle parking and end-of-trip facilities (EOTF) be mentioned in this section as another factor that can be used to manage demand.

Council also notes that there is significant changes proposed in relation to bicycle parking and mobility storage (1 secure space per bedroom) and electric vehicle (EV) charging stations and car spaces (target to be determined) with requirement that developments are to be EV-ready, providing sufficient power to the meter board to enable vehicle charging at every car space, and delivering power supply to each car space for future conversion and adoption. These changes are supported in principle.

It is also encouraging to see more emphasis on facilitating better opportunities for walking and cycling. A statement up front is needed (maybe in the “aims” section) about how important it is for this SEPP to advocate for and help bring about a ‘culture of walking and cycling’ in a car-centric/dependent city like Sydney. Even in an inner north suburb like Willoughby, with many excellent public transport connections and an emerging cycling network, 44% of people drive to work and only 10% walk or cycle to work. 39% use public transport (and these people are also pedestrians on their way to/from the bus/train).

TfNSW has recently published an important document called the *Road User Space Allocation Policy* which introduces the concept of a hierarchy of access to road space and it puts pedestrians and cyclists at the top of the hierarchy. It would be useful to reference the need for compliance with this policy and reflect it in the proposed SEPP. It is noted that the aim of the Policy includes the following requirement:

“When allocating road user space based on the network vision and road functions, consider all road users in order of: walking (including equitable access for people of all abilities); cycling (including larger legal micro-mobility devices); public transport; freight and deliveries; and point to point transport ahead of general traffic and on-street parking for private motorised vehicles.”

Overall, the proposed environmental and other performance changes in the ADG are generally supported, with the exception being the strong concerns about mandating 40% non-residential uses on ground floor in the R3 and R4 zones. It is considered that prior to finalisation the proposed changes need to be thoroughly tested with examples on different sites to examine feasibility and planning and sustainability benefits of the proposals.

2. Design processes and definitions for qualified professionals (Part 3)

Qualified professionals

To ensure places and spaces are designed by suitably qualified design professionals, Council notes the *Design and Place SEPP* proposes that:

- a registered architect (qualified designer, same definition as presently used) will be required for all buildings with three or more storeys, and in the case of multi-residential buildings, four dwellings
- a registered landscape architect (qualified designer, new definition) will be required for all open space greater than 1000 m²
- a qualified designer, i.e. urban designer, architect with master planning skills or landscape architect, will be required for master planning of all precincts and significant development (qualified designer, new definition).

It is noted that the proposed *Design and Place SEPP* will require that developments that are three or more storeys, open space over 1000 m², and precincts and significant development, are designed by suitably qualified design professionals, particularly where design has a high impact on the environment or community due to its scale or future population.

It is noted that the *Design and Place SEPP* proposes to align the existing requirements for qualified designers with the *NSW Design and Building Practitioners Act 2020*. It is also noted that the mechanism for other design professionals to be registered and deemed qualified designers will be determined during development of the *Design and Place SEPP*.

The application of the term 'urban design' may deflect responsibility for evaluation by planners. This may add time and cost requiring additional 'regulatory' skill sets within approval authorities/LGAs. Traditionally the discipline of Urban Design is a role of facilitation, development of vision and the means of delivering a vision.

There is concern that the urban designer role may be subverted to that of interpretation and regulation in supporting the delivery of the guiding principles of the *Design and Place SEPP*. In this regard it is imperative that Local Government, in particular, is given clear direction on roles and responsibilities in the evaluation and regulating process.

It is considered appropriate that adequate training is provided for officers who will be applying the SEPP as a regulating instrument/document. It is noted that the thresholds for design evaluation and review will be developed (p 26) during the development of the SEPP, however Council notes that it has recently adopted the *Willoughby Design Excellence Policy (dated 9 December 2019)* and *Willoughby Design Excellence Guidelines (dated 9 December 2019)*. Council would seek to maintain its existing Policy and Guidelines and would be concerned if the new SEPP provisions over-ride Council's existing policy and guidelines on Design Excellence.

The EIE document talks about the "suitably qualified design professionals" needed to implement this SEPP. It could be argued that design is only the first step in the process and a multi-disciplinary team of professionals is required to actually implement the designs, coordinated by a suitably qualified place

manager. It is a proposed design & place SEPP, but the emphasis in the document mostly seems to be on design.

3. Review of other SEPPs (Part 4)

EPI alignment

There are a number of environmental planning instruments (SEPPs) to be reviewed and revised for alignment within one to three years of the making of the *Design and Place SEPP*. LEPs and DCPs are also proposed to be reviewed to align with *Design and Place SEPP* as part of the next five-year review of these documents.

The EIE states that the proposed *Design and Place SEPP* will interface with multiple other SEPPs, including:

- *SEPP (Exempt and Complying Development Codes) 2008 (Codes SEPP)*
- *proposed Housing Diversity SEPP*, to be finalised
- *SEPP (Educational Establishments and Child Care Facilities) 2017 (Education SEPP)*
- *SEPP (Infrastructure) 2007 (Infrastructure SEPP)*.
- *SEPP (Affordable Rental Housing) 2009*
- *SEPP (Housing for Seniors and People with a Disability) 2004*.

The interface with UDG, *Design and Place SEPP*, *Housing Diversity SEPP* and *Seniors, Affordable Housing* and other design SEPPs needs to be clearer in the proposed *Design and Place SEPP*. Integration of these SEPPs in the *Design and Place SEPP* could be supported to ensure consistent standards for the range of different housing types. This represents an opportunity to incorporate the full range of housing types into the *Design and Place SEPP*.

For example, a move away from exclusive Seniors ‘developments to more diversified development forms that cater for a greater range of household types and ages in a single or adjacent developments should be encouraged. This would be consistent with the aims of the new SEPP to include more integrated and diverse housing types to cater for a range of age groups

4. Review of the Apartment Design Guide (ADG) (Appendix A)

The ADG – revisions and flexibility

Proposed revisions to the ADG are supported including reducing the overall document length by:

- reducing the number of sections from 48 to 20
- reducing and simplifying the objectives while maintaining amenity, performance and quality outcomes

- removing Part 2 (guidance for local councils to develop planning controls) to a separate Urban Design Guide (UDG)
- removing Part 5 to a separate Design Review Guide (DRG) to define a more consistent and timely process for design review in NSW, including across a broader range of development types.

There are strong concerns however about mandating or even promoting mixed-use development in R3 and R4 zones. This requirement will potentially impact adversely on the vitality and commercial viability of local centres. It is understood that this requirement may become mandatory in R3 and R4 zones and could over-ride current LEP controls which is highly undesirable.

It is also noted it is proposed to provide greater flexibility in 4 of the 24 existing ADG design criteria, including:

- communal open spaces, to better reflect occupancy rather than site area
- car parking rates, to enable reduction in parking based on context (such as oversupply and availability of car share) and reduce excavation
- direct solar access, to increase the hours within which solar access can be delivered
- natural cross ventilation, to broaden its application across the whole building
- deep soil zones to be revised to reflect the amount currently being delivered by a combination of communal open space and deep soil.

Parking

The proposal to reduce car parking rates is in line with Council's approach for centres and areas well located in relation to public transport access.

Soft landscaping, deep soil zones and tree canopy

Any increase in the minimum deep soil zones as a % of site area (a fixed minimum % within the range being considered below) is a step in the right direction, but councils may wish to go further and should be allowed to aim for higher standards for increased tree cover and biodiversity objectives.

It is important that the changes proposed will not result in any negative impact and will increase the overall tree canopy coverage. Council's current *Willoughby DCP 2012* has the following controls in relation to soft landscape area for multi-dwelling and high density residential proposals:

1. *Soft landscaping must comprise the minimum of 35% of the site area.*
2. *Recreational open space (both private and communal) used by the occupants of the development must constitute the minimum of 50% of the natural/soft landscape requirements of this Plan.*

and intends to include landscape area controls in its future LEP.

At the strategic level, Council is committed to an increase in tree canopy in the LGA. This includes the *Willoughby City Council Local Strategic Planning Statement (LSPS)* target to increase tree canopy cover from a baseline being 36% in 2016 to a target 40% canopy in line with the *North District Plan* by 2036.

The EIE also indicates it is proposed to amend 3 of the 24 existing design criteria to "improve internal residential amenity and the productive value of apartments learnt from COVID-19", including:

- bedroom sizes, to accommodate working from home and family units
- private open space, to increase minimum depth

- storage to increase total provision.

These are measures that can be supported.

Building footprint and tower separation

The introduction of new design criteria and supporting guidance to improve design and place outcomes is proposed, including through new requirements for responding to local needs. Character and context are also worthy of support and it is gratifying that they reflect standards being imposed in Willoughby as a result of recent strategic work.

Changes to building footprint and separation controls for residential towers are proposed, with changes proposed including introduction of a new criterion for towers (including any part of buildings of nine or more storeys) of:

- maximum gross floor area (GFA) floorplate of 700 m².
- adjustment of existing design criteria and guidance to a maximum eight units per core per floor.

A requirement of a minimum building separation distance for towers of 25+ storeys of 30 m between habitable rooms is proposed. Minimum building separation distance for 9–25 storeys proposed to remain at 24 m between habitable rooms as per existing ADG.

Measures proposed in relation to ground floor activation include:

- Require all ground floor apartments facing a street to have direct access to the street.
- increased amenity of common circulation
- bicycle and mobility-aid storage
- mediating internal and external noise.

Additional changes include:

- clarify ambiguity over ceiling heights for non-residential uses
- include build-to-rent apartment developments in the application of this policy
- reflect the new principle-based *Design and Place SEPP*, including replacing the nine Design Quality Principles, with the five principles of the proposed *Design and Place SEPP*.

The proposed building form and separation criteria are generally supported, subject to further testing of the changes that are proposed. Clarification of ground floor ceiling heights for all non-residential uses (habitable rooms only) in relation to the illustrative heights in 4C.1 and 4C.2 drawings and only one height in the 4C.1 table in the ADG is also supported.

Building orientation, cross ventilation, shading and glare

There is a proposed requirement to reduce east and west facing apartments in favour of north and south facing units. It is also noted proposed changes to extend the time period to which design criteria apply which aims to improve direct solar access to a greater number of units for improved liveability and health. It is also proposed to provide additional guidance on shading and glare control and increase the diversity of apartment sizes and layouts to include more apartments for families and other household types (eg 3 bedroom units).

It is proposed that 70% of proposed apartments are also going to be required to have cross ventilation incorporated into their design. The requirement for ceiling fans in habitable rooms is strongly supported, as is the proposal to increase the minimum dimension of private open space.

It is noted that it is intended to supplement the noise and vibration recommended guide for road noise, with the proposal to introduce new requirements for acoustic assessments for development on busy roads (as currently defined, i.e. greater than 20,000 vehicles per day) to supplement the Infrastructure SEPP which currently mandates these requirements only on roads with greater than 40,000 vehicles per day.

The concept of replacing the current communal open space site area metric (min. 25% of site area) with a unit mix/occupancy metric, subject to the delivery of specific requirements for communal space in apartment development, is supported, as are other proposals to improve daylight and ventilation, as well as the changes relating to lift requirements and building access and circulation.

Environmental performance

There are also a number of changes proposed to the ADG in relation to environmental performance including improving the environmental performance of apartment buildings and reducing their carbon footprint to reflect current best practices and incentivise the uptake of technology such as electric vehicles. Changes proposed include:

- Energy efficiency, including reducing energy use and carbon efficiency reforms.
- Energy efficiency, including targets for EV charging stations and car spaces.
- Heating and cooling infrastructure to be located in a centralised location on each level including the basement and roof.
- Water management, including minimum WELS standards and a strategy for on-site water re-use.
- Requirement for a building and landscape maintenance plan.
- Require development to reduce carbon footprint and contribute to net zero targets and the circular economy including:
 - pursuing green building ratings
 - selecting materials with low carbon and embodied energy.
- Provide new design guidance for waste facilities for residential and non-residential uses to be separated.

While the above requirements are supported in principle, this may be difficult to achieve in all developments and the diversity of existing and proposed lot sizes and orientations in the existing urban environment needs to be considered. Case studies will be important to demonstrate the practicality and viability of these changes before they are finalised.

Case studies to demonstrate best practice examples of different apartment building typologies, layouts, design elements, and environmental performance measures, and to provide support for how objectives and design criteria can be met flexibly before the draft SEPP is finalised for exhibition is strongly supported.

In relation to the reference on resilience (Section A7 – Table A2), there should be an additional theme included from the review of the 2015 Apartment Design Guide to cover this issue. In addition to the physical dimensions of resilience (such as building design, open space) it should focus on other resilience challenges, including addressing social isolation, encouraging social cohesion and supporting diversity.

5. Proposed Urban Design Guide (Appendix B)

A comprehensive Urban Design Guide (UDG)

A UDG is strongly supported and should be an integral part of the proposed *Design and Place SEPP*. The proposed *UDG* appears to cover key resilience and sustainability issues quite well, from both a physical and social perspective. The proposal to finalise the *Housing Diversity SEPP* to consolidate provision for different housing types including medium density housing (the “missing middle”), affordable housing, seniors housing and student housing is supported. The aim over time to combine provisions for all housing types, including apartments, into a single design guide is also strongly supported.

By way of comment, a move away from the model of providing separate housing for seniors and the disabled and encouraging more integrated housing types where possible that cater for a range of households and housing types should be explored.

Precinct planning is supported in principle but can be more difficult to implement in established urban areas. It is strongly recommended that precinct plans be incorporated into Council DCPs to give the requirements local planning status.

Overall the proposed aim of the *UDG* to complement the revised *ADG* is supported, however there must be principles and standards that are clear and practical to implement and that can be considered as complementary to aims and context of local planning frameworks, including Local Strategic Planning Statements (LSPSs) and LEPs and DCPs.

It is also considered important to consolidate guidelines as much as possible in order to simplify the amount of guidelines to be considered in the preparation and assessment of development and planning proposals. For example, it would be useful to consolidate the *Connecting with Country* and *Greener Places Design Guide* into the *Urban Design Guide* and *ADG*. This would reduce the complexity when a range of different guidelines that need to be considered.

It is noted that an option for the open space benchmark being considered is to require a minimum of 25 per cent of urban-capable land dedicated to streets. Another option being considered sets a benchmark as a holistic public space measure, requiring a minimum of 40 per cent of urban-capable land dedicated to public space (streets, open spaces, and community facilities).

In either option, additional considerations for public spaces would apply, such as the equitable distribution of public space as outlined in the *Design and Place SEPP*, and the open space performance indicators listed in the *Greener Places Design Guide*. It is also noted that a range of other design metrics are proposed, such as total public space area, average block size and maximum single block size.

As in the *ADG* changes, Council questions the proposed design criteria in the *UDG* to limit the amount of single use residential zones within new precincts to less than 50 per cent, and the minimum non-residential ground floor space required (40%) in R3 and R4 zones and centres. These blanket provisions are not considered appropriate for the great range and diversity of urban areas that exist and may undermine the objectives of the commercial zones.

In addition, it is considered that to include the proposed requirement for the minimum proportion of non-residential uses in medium and high density zones has the potential to undermine the viability and vitality of local and regional centres. It is noted that in Willoughby (like a majority of existing urban areas) that a majority of R3 and R4 zones are in close proximity to urban centres (i.e. generally 5-10 minutes' walk) and are already therefore well located in relation to a range of commercial and community uses.

Other comments include as follows: -

B.1.4 Responding to contemporary strains – it is suggested replace the term “strains” in the heading with “shocks and stresses”.

Part 2 – structure – public space framework page B10 – there is a need to introduce and/or make explicit reference to the movement hierarchy (as per comments above re: SEPP – walking and cycling)

Part 3 – page B8 – B.3.3 Part 3 Grain – urban repair – add the concept of securing missing links wherever possible (over both public and private land) to improve through site/block links, enhance circulation and encourage activation/safer by design (through more ‘eyes on the street’).

6. Review of BASIX (Appendix C)

Flexibility in BASIX

In order to promote consistency across the State, councils are currently not able to set their own higher or lower BASIX targets. It is noted that this provision will continue to apply and is proposed to be transferred to the *Design and Place SEPP*. However, it is understood mechanisms to allow councils and applicants some flexibility in this area will be explored during development of the *Design and Place SEPP*. More detail is requested on the proposed mechanisms for flexibility, including the merit assessment option proposed to be available for applicants.

As a general principle, higher BASIX targets and controls are strongly supported. The option of more flexible approaches, with a particular emphasis on improvements in passive thermal design rather than expensive technological design solutions, is supported provided there is an overall strengthening in the BASIX performance-based controls.

Greater flexibility in methods of applying BASIX is supported in principle, however greater understanding is needed as to how the new system will operate and whether it will potentially make the whole process more complex or potentially weaken the current standards.

More information is requested on the passive house standard referred to (C4). A greater emphasis in the BASIX controls to encourage the take-up of passive design features in building design, rather than potentially expensive technological provisions is supported.

There is concern that under the current BASIX provisions obvious thermal comfort options are not being taken up in standard residential designs, such as eaves, roof colour and building materials. Recognising ceiling fans and the importance of cross ventilation is a good initiative for apartment buildings and Council strongly supports these initiatives and other thermal comfort initiatives being extended to other building types including dwellings.

It is noted that the reforms are examining what other impacts of residential development could be assessed at a building-lot scale. These include:

- embodied energy – the energy consumed in producing the materials for the construction of the home
- green infrastructure – this includes lawns, tree cover and gardens that can cool the site, reduce the energy required for cooling, and retain stormwater
- stormwater run-off – the volume of stormwater that leaves the site, which is impacted by the use of rainwater tanks and green infrastructure.

It is understood that there will be different options for assessing each of these elements. This includes using existing tools or metrics or developing new assessment tools. The inclusion of these additional elements in the BASIX tool is supported and further comment will be provided once further information is available on the proposed tools and metrics.

Reviewing BASIX regularly is supported, but making changes twice each year seems excessive and may be difficult for users to keep track of (minimum once per year or once every 2 years is proposed) Council supports the potential alignment or incorporation of BASIX into the NatHERS framework or the National Construction Code (NCC) in 2022. Council would support BASIX ultimately be replaced with the national standard being the NCC.

Extending the BASIX certificate lapsing date to 6 months is supported, as it considers the current period of 3 months is too short. There is also a need for greater correlation being achieved between description types used on the BASIX certificate and the LEP Standard Instrument.

It is noted that there is also consideration being given to recognising the following tools under BASIX, which assess both thermal comfort and energy performance:

- the Green Star Homes Standard currently being developed by the Green Building Council of Australia (GBCA), which may be available in 2021
- the ‘Whole-of-Home’ tools to be accredited by the NatHERS Administrator, which are proposed to be available in 2022.

7. Other comments

Relationship to local planning context

It is noted that local character and context considerations are integral to good design. The *Design and Place SEPP* will apply a principle-based approach to ensure that design outcomes properly consider local character. Council considers that the SEPP should complement and not replace existing local character guidelines and planning instruments, including Local Strategic Planning Statements, Local Environment Plans and Development Control Plans.

Implementation issues

As mentioned earlier, appropriate support to be available to councils to implement the SEPP reforms is considered critical to the success of the reforms. It is understood that an implementation plan is in development to support state and council assessment planners and other professionals to apply the *Design and Place SEPP*. Support such as this is considered essential and Council notes will include guidance, assessment tools and capacity building for development assessment teams. Council will be keen to review in more detail the supporting material that will be provided during the public exhibition of the SEPP.

Council understands that the SEPP reforms are aiming for more consistent and integrated design approach across development types. As noted previously, there is concern about the potential planning and financial impacts (and therefore viability of development) for the proposed revised ADG controls as they apply to developments in built-up R3 Medium Density and R4 High Density Development zone areas which already have relatively high densities and are located in close proximity to existing centres.

8. Conclusion

The proposed *Design and Place SEPP* as outlined in the EIE is generally supported as a significant opportunity to consolidate a number of related documents into a single resource. It is considered that the review and integration of these policies and instruments is timely and necessary to facilitate a clear process and direction for the delivery of quality development and future resilience within NSW.

Elements of the new SEPP as outlined including a place based approach with an emphasis on quality design, open space, other green infrastructure, mitigating urban heat and providing for active transport all reflect the focus and direction of Council's own strategic work in recent years and are therefore to be encouraged in future State Policy.

The future draft SEPP is keenly awaited so that the final position on detail put forward in the EIE can be further examined.