

*Our Reference: CM 10297*

Department of Planning, Industry & Environment

28 April 2021

To whom it may concern,

**RE: WOLLONDILLY SHIRE COUNCIL SUBMISSION - DRAFT DESIGN AND PLACE SEPP**

I would like to thank you for the opportunity to provide feedback on the proposed new Design and Place SEPP. We recognise and support the concept of good urban design and commend the policies' intentions to simplify and expand legislation around this topic. We believe that introduction of assessment for urban design, if implemented well, will lead to positive outcomes for the state and will improve the quality of the built environment.

Attached to this letter is our staff submission. I note that given the limited exhibition period for the policy, we have not had the opportunity to report these comments to Council. We intend to report this submission to the next available Council meeting and any additional comments provided by elected members will be forwarded through to you in the form of a final and endorsed Council submission.

It is noted that details surrounding applicability of the SEPP, changes to local and state legislation to ensure compatibility and other matters have not yet been determined or detailed. It is also understood that the SEPP may propose walking catchments, reduced parking rates and the like for a number of development types and thresholds. This may not work in a peri-urban or rural context such as Wollondilly's unless there is a concurrent increase in public transport, which is severely lacking in the Shire.

We hope that the comments provided in our submission will help guide future preparation of the SEPP and accompanying documents, and we look forward to providing further comment during the second exhibition period later this year. Our support for this SEPP will be largely dependent on the detail, and of course the implications too Council. In this regard, we welcome any opportunity for early communication with Council.

For any further information regarding this matter please contact Carolyn Whitten from Council's Strategic Planning Team on (02) 4677 9551 or email at [carolyn.whitten@wollondilly.nsw.gov.au](mailto:carolyn.whitten@wollondilly.nsw.gov.au).

Yours faithfully



Stephen Gardiner  
**Manager Sustainable Growth**

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## **Wollondilly Shire Council Submission**

### **Draft Design and Place SEPP**

#### **Introduction**

We thank DPIE for providing Council with the opportunity to give feedback on the proposed Design and Place SEPP. The initiatives and principles underpinning the new SEPP are strongly supported, and are in line with key areas of advocacy. Intentions to raise benchmarks and improve design outcomes through the planning assessment process are also supported. The introduction of assessment for urban design, if implemented well, will lead to positive outcomes for the state and will improve the quality of the built environment. Our concern at this stage is the unknown implications and detail, and we would welcome DPIEs early engagement to work through the detail with us.

Council will provide further detailed comments at the time of the final exhibition of the SEPP, once a number of issues outlined below have been clarified.

#### **Summary**

It is believed that the following points summarise Council's main concerns with the SEPP EIE:

- There will need to be adequate support, such as guidelines, information sessions and the like, provided to Council staff to assist with implementing this policy;
- Council will likely experience resourcing challenges because we do not have an urban designer, architect or other specialist staff who can assist with the assessment of planning proposals against the SEPP;
- There is a lack of certainty around the future applicability of the SEPP which will need to be clarified before the draft SEPP is placed on exhibition;
- The SEPP does not clearly outline the extent that environmental and biodiversity considerations will factor in to future assessment;
- There is a need for integration of the SEPP with local and state documents.

#### **Detailed Comments**

##### **SUPPORT FOR IMPLEMENTATION**

Due to the SEPP being principle based, its success will rely on good implementation at several levels and stages of the planning process. In order to achieve this, the provision of good guidance and appropriate support for Council's will be necessary.

The creation of practical tools such as quick reference "how to guides" tailored to suit the different stakeholder needs of planning and design practitioners, industry professionals and community members will help with the transition period and will promote efficient assessment. The development of a calculation tool discussed in the dedicated Council workshops is also supported.

Robust guidance and tools to assist with implementation of the SEPP will be especially pertinent given that it may be hard to determine what constitutes 'good urban design' in some contexts due to subjectivity and difference in opinion.

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Additional assessment as a result of the new SEPP will likely cause resourcing challenges for Councils, who will need to appropriately upskill staff or employ specialist staff. There will also likely be an increase in assessment timeframes for planning proposals and development applications, which could put further pressure on already tight timeframes.

Suggestion 1: Councillors will need to be engaged as well, as they are a part of the process and need to understand how this may impact on the decisions they make.

Suggestion 2: Please ensure that there is support for Council's in implementing this SEPP, whether that be through new guidelines, financial support or other assistance from DPIE or GA's office.

## **EXPERTISE FOR ASSESSMENT**

Some Councils, including Wollondilly, do not have an Urban Designer and/or Architect to assist with the assessment of applications against the new SEPP. As such, Council may need a referral or concurrence mechanism to ensure they undertake a thorough and appropriate assessment.

This mechanism may take the form of a Design Review Panel or a team at the state government level that under-resourced Councils can refer DAs and planning proposals to.

For the former option, Council does not currently have access to a Design Review Panel, and would need to either introduce a new panel or join an adjacent Council's panel. This is especially pertinent considering that future growth in the Shire will increase the number of large developments which could be applicable under the new SEPP. This option will have financial implications to Council.

Suggestion 3: Clarify which DA and planning proposal plans will require an architect to prepare them, so we can understand our future assessment requirements as a Registered Planning Authority (RPA).

Suggestion 4: Investigate setting up a referral or concurrence mechanism that under-resourced Councils can utilise for expert advice. This will ensure good urban design is not concentrated in Greater Sydney and that a uniform experience is achieved across NSW.

## **CONNECTING TO COUNTRY FRAMEWORK**

One of the aims of the proposed SEPP is to integrate design-led, place-based approaches that include embedding consideration of country. In particular by embedding the NSW Government Architects draft Connecting with Country Framework.

The principle of considering country in the design of the built environment is supported. However the draft Connecting with Country Framework is a high level document and it is not readily apparent how it should be applied as part of the proposed SEPP for development proposals on the ground.

There are also skill and resourcing challenges for Councils to respectfully and appropriately consider Country. Council does not have expertise such as an Aboriginal specialist architect planner, a qualified archaeologist or an aboriginal liaison/engagement officer and this may be an issue in engaging with and providing sensitive and appropriate comments as part of assessment against these requirements in the SEPP.

As such, it is expected that relevant training and up-skilling will be required for planning and design professionals. This could include cultural awareness training and approaches to appropriately engaging with Traditional Custodians for precinct scale projects.

It is also unclear which documents in both the DA and planning proposal process would need to satisfy the Connecting to Country requirements in the SEPP. Will it be a new document as defined in the future guidelines, or will existing documents need to include an assessment?

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Suggestion 5: Please provide clarification as to how the connecting with country considerations will be implemented at the assessment stage.

Suggestion 6: The framework should contain provisions that allow for the assessment and protection of cultural landscapes.

Suggestion 7: Consider setting up a referral channel within the state government where Councils can refer applications for expert advice from qualified archaeologists and Aboriginal specialist architect planners.

## **APPLICATION: GENERAL**

The EIE is not entirely clear on the future application of the SEPP. This means that it is difficult to fully discern how wide the SEPP will apply and the implications of its introduction.

The final SEPP should define “urban land” for clarity. Does this definition exclude land within the Metropolitan Rural Area (MRA) as per the Greater Sydney Region Plan?

The SEPP should also clearly specify the different triggers and requirements for each scale of development, including everything from a single dwelling to precinct scale.

Suggestion 8: It is recommended that application of the SEPP be clarified before the next consultation period so we can provide more detailed comments.

## **APPLICATION: RURAL LAND**

While the EIE suggests that rural zoned land will be excluded from the proposed SEPP, it is understood that the Department is interested in receiving feedback on whether the proposed SEPP should apply to rural land.

It is considered that there is merit in the SEPP applying to relevant proposed development within rural areas, particularly to provide further protection and consideration of sensitive land, for example due to its scenic quality, economic value or biodiversity value.

Separate thresholds would need to be established that reflect the unique values and challenges of rural zones. A one size fits all approach towards urban and rural lands would be inappropriate due to the diversity in land size and context that exists for rural land throughout the state. Care should especially be taken to understand what the application of the SEPP and particularly the UDG will mean in both rural and metropolitan contexts. Will for example, the UDG apply for rural development such as sheds, or would it apply only to developments of a residential and/or commercial nature?

It is also noted that there exists a disconnect between this work and broader Government work being carried out by the NSW Agricultural Commissioner, the Greater Sydney Commission and other agencies in relation to the protection, enhancement and support for agriculture on the urban fringe of Sydney. This will need to be properly understood and addressed if rural lands are included in the SEPP.

Suggestion 9: the SEPP should apply for rurally zoned land where any rezoning is proposed

Suggestion 10: further clarification as to the application of the SEPP in a rural contexts is necessary

Suggestion 11: If it is decided that the SEPP will not apply for rurally zoned land, an alternative approach for achieving better design principles on rural land must be outlined

Suggestion 12: The SEPP should be equitable in its application so that all residential development types need to comply with BASIX requirements regardless of the land use zone.

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## **APPLICATION: CDC AND EXEMPT DEVELOPMENT**

If possible, clarification should be provided as to when and how the SEPP will apply for exempt and complying development. Prior to the SEPP applying to CDCs, there is potential for people to utilise this pathway to avoid development being considered against the SEPP through the DA process.

Suggestion 13: Clarify when the SEPP will apply for exempt and complying development

## **APPLICATION: GROWTH AREAS AND PRECINCTS**

Suggestion 14: It is recommended that DPIE give careful consideration to the application of additional thresholds for design review processes in the final SEPP. If the intended definition of significant development applies to “a site greater than 4,000m<sup>2</sup> or 500 people”, this could mean that it applies to staged sub-division development applications which may not find value in a design review process. DPIE also need to be clear whether this will apply to land at rezoning stage, again at neighbourhood planning stage and again at DA stage and how this might work.

Suggestion 15: The Design and Place SEPP should apply to non-standard land use zones such as those defined within the *State Environmental Planning Policy (Western Sydney Aerotropolis) 2020* and *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*.

## **ENVIRONMENTAL CONSIDERATIONS**

The preparation of the SEPP is viewed as positive from an environmental perspective.

However, it is believed that the SEPP is not clear to what extent environmental management, protection, enhancement and maintenance will be considered in future assessment of development against the SEPP. If matters such as, biodiversity, tree canopy, waterway quality and habitat corridors are intended for inclusion under this SEPP, there are several shortfalls in how it will apply to these areas over the course of the development process and how it will interact with other environmental based SEPPs. This matter should be explored and engaged with relevant environmental services stakeholders in the development of the SEPP.

The SEPP EIE appears to be primarily focused on metropolitan environments. The SEPP should also investigate environmental outcomes and requirements for urban areas within regional and rural LGA's such as opportunities to connect the green and blue grid to broader networks to interface with urban and rural areas, WSUD measures, connections to waterways etc.

Suggestion 16: Biodiversity considerations through green infrastructure principles are inadequate and should be better integrated into the SEPP to ensure that the objectives can be achieved.

Suggestion 17: The SEPP should seek to implement Aim 1 (2.2. Aims of the New SEPP - 1.b) based on Ecological Sustainable Development principles.

Suggestion 18: There needs to be greater detail regarding how the SEPP will achieve stated outcomes relating to biodiversity and environment.

Suggestion 19: Ensure the SEPP and accompanying documents are based on the finalised Greener Places Design Guide, rather than the draft

Suggestion 20: The reference to suitably qualified design professionals in section 3.1.1 (Design Skills) should be amended to include the following additional requirement: “An ecological consultant

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registered with the NSW Ecological Consultants Association will be required as part of the master planning for any precinct/masterplan for a site containing vegetation that is identified by a suitably qualified person as an ecological community”

Suggestion 21: impermeable area targets should be set for subdivisions and precincts based on current applicable research studies to provide a framework that would assist in achieving an integrated layout with multiple positive benefits. It is noted that this could also be captured and achieved through DCP controls.

Suggestion 22: The protection of biodiversity, including habitat corridors need to be a consideration for this SEPP, in rural and non-rural land (particularly greenfield) sites alike.

## **PRINCIPLES OF THE NEW SEPP**

The principles outlined in the SEPP are supported and will deliver better planning and urban design outcomes throughout the state.

Suggestion 23: Principle 4 - The words “and other vegetation” should be included after “tree canopies”

## **MANDATORY MATTERS FOR CONSIDERATION (Section 3.2.2)**

The intended outcomes of the five design principles is supported, however the proposed design and place considerations in Table 1 do not appear to adequately implement these principles across each type of development, i.e. *precinct*, *significant* and *all other development*. It is believed that all of proposed considerations should apply at every scale of development in some way, however this would need to be carefully tailored to suit the different nuances of each development type.

It is believed that proposed walking catchments and reduced parking rates may not work in a peri-urban or rural context such as Wollondilly’s unless there is a concurrent increase in public transport to shift people away from cars.

Suggestion 24: Investigate the possibility of applying consideration to all types of developments to differing degrees.

Suggestion 25: The only indicator correlating to Principle 3, *Design Productive and Connected Places* for all other development, relates to car parking rates. Additional fine grain movement and other initiatives to encourage greater connectivity and permeability is recommended.

Suggestion 26: Affordable housing and tree canopy should also be a precinct scale consideration to ensure an integrated approach to achieving these outcomes.

Suggestion 27: Cultural and built heritage, street design, water management, green infrastructure and resilience should be considered at the significant development scale.

Suggestion 28: All other developments should require consideration of water management. At present the only consideration at this scale of development relates to BASIX water targets. Other uses such as retail, commercial, industrial and education etc. would be missed in this requirement.

Suggestion 29: Transport and parking is predominately car parking focused and should include consideration of all forms of transport including motorcycle and bicycle parking and other indicators to support uptake in sustainable transport uses such as provision of electric vehicle charging facilities.

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Suggestion 30: the intended sustainability initiatives applicable to residential development is supported. However, there is a concern that the SEPP and specifically consideration 17, may not adequately cover energy efficient built form outcomes (e.g. conserving water, managing waste, harnessing solar energy, thermal comfort, building materials, etc.) for all types of development uses.

Suggestion 31: There will be a community expectation for Council to deliver local open space within 5 minutes of their home. This outcome cannot always be achieved in a peri-urban context and can be financially restrictive. Consideration of cost implications to Council should be explored in the development of this policy.

Suggestion 32: The proposed minimum density capacity of 15 dwellings per hectare may not be appropriate in all areas of Wollondilly. The SEPP should be flexible to recognise different urban typologies including centres, villages and other historic towns to account for nuances in regional and peri-urban areas. Consideration should be given to appropriate density ranges for areas in the Metropolitan Rural Area

Suggestion 33: 3.2.1 (3 Design Statement) should include specific requirements for stormwater and wastewater design based on Water Sensitive Urban Design and the NSW Government's Risk Based Framework

## **Matter 3 - Connectivity**

Suggestion 34: 3.2.2 (Consideration 3) that "landscape corridors" be amended to "landscape and/or habitat corridors"

## **Matter 6 - Water Management**

The reference to water re-use, urban cooling and integrated water management is strongly supported.

There is however strong concern over the absence of reference to the condition of waterways as well as water sensitive urban design principles.

Suggestion 35: the SEPP should list the impacts of both Precincts and Significant Development on the condition of waterways as a mandatory item of consideration.

## **Matter 7 – Green infrastructure**

The EIE lists a range of proposed procedures to "retain, were possible, and provide additional green infrastructure". This matter and the procedures are viewed as being too prescriptive and they don't specifically recognise the wider biodiversity features and values of green infrastructure.

Suggestion 36: Second point – that wording be amended to "Contributing to a green grid that is comprised of an interconnected network that is defined by open space, waterways and terrestrial and aquatic biodiversity values".

## **Matter 10 - Density**

Suggestion 37: The long-term adequacy of the stated minimum dwelling target of 15 dwellings per ha within the EIE in achieving a 40 percent canopy target should be investigated in the development of the SEPP.

## **Matter 18 – Tree Canopy**

Suggestion 38: this matter for consideration should apply to Precinct Structure Plans, Significant Development and All other Development categories rather than Significant Development and All other Development as proposed.

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Suggestion 39: clarification is needed over the application of the term ‘significant vegetation’ in this part of the EIE and that benefits associated with the retention of such vegetation be recognised by the SEPP. It needs to be clarified how the SEPP will work amongst existing legislation and the Cumberland Plain Conservation Plan.

## **AGEING POPULATION**

The SEPP doesn’t expressly promote local action to adapt “structures and services to the needs of ageing population: the built environment, transport, housing, social participation, respect and social inclusion, civic participation and employment, communication, and community support and health services” as per WHO’s Age-friendly cities and communities program. This is a concern, as between 2000 and 2030, the ABS projects that the number of people aged 65 years and over will increase by 139% and will comprise more than one fifth of the total population of 5.7 million people.

Suggestion 40: The draft SEPP and accompanying documents must consider an ageing population and the design requirements this will necessitate into the future.

## **PLANNING PROPOSALS AND SUPPORT FOR STRATEGIC PLANNING**

It is understood that support will be provided to development assessment planners to assist with implementation and assessment against the new SEPP. Strategic planning teams at Councils should also receive guidance and tools, considering the SEPP will also apply to planning proposals.

Guidance and tools should clarify details such as what the process might entail, who the referral body would be, lead in time etc. Council should be given the opportunity to view and comment on this as part of the next round of consultation for the SEPP.

Suggestion 41: Prepare guidance and tools for Council strategic planning teams in assessment of the SEPP for planning proposals.

## **OPEN SPACE AND CONTRIBUTIONS PLANNING**

The proposed outcomes of higher quality open space (through a place-based approach) is largely welcomed.

The main implication from an infrastructure funding perspective is championing this shift of mindset among other governmental bodies; and providing increased detailed strategic planning. The preparation and update of Contribution Plans would need to consider the valuation of these higher quality open spaces when included in works schedules.

For instance, IPART currently assesses open space within Contribution Plans based on their nexus, costs, and apportionment; proceeding through the established ‘quantitative measure’ of the 2.8ha standard. Whilst the Design and Place SEPP contains mandatory matters for consideration, we would like this SEPP to increase the championing of a ‘qualitative’ approach for the rest of government to adapt to.

Suggestion 42: That the principles based approach of the SEPP be championed among other state government bodies.

## **ALIGNMENT WITH OTHER LOCAL AND STATE POLICIES**

The premise of aligning the new SEPP with other local and state legislation and documents is supported and understood. However, further details are needed regarding the proposal to amend LEPs, DCPs and LSPSs to understand how this will be undertaken and who will be responsible for amending each of these documents. If Council will be entirely responsible for updating all of these, there is likely to be financial implications. In particular, Council will need to be given plenty of notice



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to amend our LEP due to the cost and complexity of the planning proposal process and the consultation that will be involved.

Future updates to the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP) for alignment with the Design and Place SEPP is supported. However, Council requests consultation with the relevant growth teams in DPIE occurs to ensure that the nuances for each growth centre is captured. Council's Growth Team would also be interested to collaborate with DPIE on the development of such planning controls at that time.

The review of the Greenfield Housing Code and broader Exempt and Complying Development Codes SEPP is supported in principle.

With regard to appropriate transitional provisions once the draft SEPP is released for comment, Council will be in a better position to advise on this once it occurs.

Suggestion 43: Provide outline of how local documents will be updated to align with the new SEPP in the future.

Suggestion 44: Consultation with relevant growth centre teams in DPIE and Council to ensure appropriate alignment between the Growth Centres SEPP and this SEPP.

## **SITE COVERAGE ISSUES**

An issue within growth areas and residential areas with lots that are 450sqm or less is the size of dwellings compared to vegetated areas. There are often very large houses and small vegetated areas on the site, which makes it difficult for properties to meet sustainability and tree canopy targets. This adds to the urban heat island effect and could be aided by the introduction of stricter site coverage controls.

Wollondilly currently does not have floor space ratio controls, and introduction of this could also aid in mitigating these issues. Furthermore, inclusion of hard stand space in the site coverage calculation is something we are open to investigating to reach better outcomes with regard to sustainability and urban heat island effect.

Suggestion 45: Consider site coverage issues and how these issues could be addressed when preparing the draft documents

## **BASIX**

The proposal to amend BASIX requirements is supported in principle. As it currently stands, applicants are currently mostly opting for the minimum requirements of BASIX for their houses or development sites. Increases to these standards, within measure, will be beneficial for individuals and society as a whole. Technological advancements have meant that more sustainable dwellings and buildings have become more attainable and requirements should be updated to reflect this. It is recommended that a cost benefit analysis be undertaken to understand the point at which increased BASIX requirements provides the most benefit to homebuilders and other developers and that this level be pursued.

The proposal to shift BASIX towards a more flexible assessment based approach is also supported. It is currently very control based, which doesn't facilitate creative solutions and doesn't allow assessment planners flexibility in assessment on a site-by-site basis.

It is recommended that additional guidance material and training for planning assessment and industry professionals be developed to help understand the implications of new changes and new

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reporting requirements. Simple brochures/website communication material should also be developed to assist property owners through the process.

It is believed that urban heat island effect should be a consideration when updating the BASIX requirements. Possible requirements that could be introduced to minimise urban heat island effect include banning certain roof colours, ensuring greater emphasis on location of buildings with respect to solar factors and ensuring better ventilation, etc.

Suggestion 46: Increase BASIX requirements based on an extensive cost benefit analysis or similar

Suggestion 47: Consider urban heat island effect when reviewing BASIX requirements

Suggestion 48: There is a loophole in the existing BASIX requirements whereby large rural lots without access to reticulated water are able to achieve a very high BASIX number because of the size of their tank, which they need for all of their water use. This loophole should be corrected, as there may be other sustainability and efficiency measures that are missed for the site.

Suggestion 49: Thermal NaTHERS requirements should apply in Wollondilly

## **PROPOSED CHANGES TO ADG AND SEPP 65**

The proposal to change the Apartment Design Guide and the requirements contained within SEPP 65 is supported in principle. However, the following recommendations are put forward:

Suggestion 50: A.2.2 Table A4 –revised car parking rates to ensure provisions are well-matched for the local area is supported, however the review of minimum rates should consider implications to transitional areas such as Growth Area precincts which do not have public transport services upfront.

Suggestion 51: (A.2.2 Table A5) the Bicycle parking provisions contained within this table appear to be tailored to metropolitan areas but not necessarily transitional areas such as Growth Area precincts which do not have public transport services and bicycle path networks upfront. Excessive bicycle parking requirements could result in unused storage space in developments in the short to medium term. It is suggested that the ADG provides some flexibility to accommodate for these scenarios.

## **PROPOSED NEW URBAN DESIGN GUIDE (UDG)**

The introduction of an urban design guide to complement introduction of the new SEPP is supported. However, it should be prepared in consultation with Councils prior to being exhibited later this year.

Suggestion 52: (B.3.4 Design considerations: Resilience by Design) - elements of the proposed UDG should include future proofing considerations to mitigate risks in line with the potential impacts of climate change. It is suggested that emergency services such as Rural Fire Service and State Emergency Services are included as part of the process to establish the resilience frameworks for precinct scale development.

Suggestion 53: (B.3.5 Intended effects) – the UDG intent should apply to non-standard land use zones such as those defined in the State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 and State Environmental Planning Policy (Sydney Region Growth Centres) 2006.

Suggestion 54: Guidelines for preparation of site analysis documents should be included in the UDG, because currently they have the propensity to be basic and not provide enough information.

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Suggestion 55: Request that the Environmental Performance Section of the Urban Design Guide contain provisions that would allow for applicable precinct plans to consider biodiversity values and outline intended procedures for the intended management and maintenance of these values.