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Re: Design and Place SEPP Explanation of Intended Effects

Thank you for the opportunity to provide feedback on the Explanation of Intended Effects (EIE) for the proposed Design & Place State Environmental Planning Policy (D&P SEPP).

Liverpool City Council considers improvements in built form and amenity of development in the local government area (LGA) as critical to support a growing population. To that end it supports the creation of a D&P SEPP to elevate the consideration of design in the NSW planning system. Council also supports the consolidation of SEPP 65 and the BASIX SEPP into the new SEPP to reduce complexity in the planning system.

The EIE on exhibition includes elements of which Council is supportive, some which are not supported and others where further guidance is required before Council can indicate its support.

GENERAL COMMENTS

Principle-based approach

Council is supportive of the intention of the five design principles, however is concerned as to how this can be effectively operationalised without an increased burden on Council development assessment officers and lawyers. As subjective principles, without additional detailed guidance, there appears to be increased scope for conflict, which could lead to costly and lengthy Land and Environment Court (LEC) processes to resolve. Further guidance on how a principle-based system can operate effectively and without excessive burden on Council resources is requested before Council can lend support to these five design principles.

Education and resourcing

While Council is supportive of a planning system that encourages innovation, with appropriate variations encouraged to provide improved amenity and place outcomes, this comes with a significant burden on Council development assessment staff and other decision makers. Significant resourcing into professional development will need to be provided for both development assessment and strategic planning officers, should the proposed SEPP be implemented. Council requests that the Department commits to funding training programs to upskill planners in urban design assessment, and that tertiary education providers are consulted so that the increased focus on urban design assessment and outcomes can be reflected in course syllabuses and accreditation requirements.

Interaction with Codes SEPP

In order for the principles of the D&P SEPP to be applied consistently, Council believes that a review of controls in the Exempt and Complying Development SEPP (Codes SEPP) must be undertaken as a matter of urgency. While it is noted that a review is indicated for 1-3 years following the implementation of the D&P SEPP, Council believes this review is well overdue and needs to be conducted as a parallel process, not only to align with the intention of the D&P SEPP, but so it too can align with the principles of the Greater Sydney Region Plan (GSRP) and Western City District Plan (WCDP).

Liverpool Council has significant greenfield growth areas, and much of the development of the LGA is taking place in land release areas. However, there is limited control over planning outcomes in these areas, with the vast majority of residential development approved as complying development under the Codes SEPP. Currently it would be difficult to argue that outcomes being seen across Western Sydney through the Codes SEPP are meeting any of the stated principles of the D&P SEPP, nor liveability and sustainability principles of the GSRP or WCDP. Due to current controls, dwellings approved under a complying pathway generally cover almost all of their respective lot, lack appropriate provision of private open space, and are unresponsive to site conditions and context. Councils are unable to tailor standards to suit individual circumstances. Both DA and Complying Development pathways need to be able to respond to the D&P SEPP to ensure consistency of design quality across the local government area (LGA), and currently it is difficult to see how a code assessment pathway can interact with this principles-based SEPP without major revisions.

It is also noted that at the same time the Department is promoting a principles-based approach to planning, it is also working to expand the types of development that can be assessed through 'tick the box' complying pathways, bypassing Council approval processes. If the controls contained within the Codes SEPP are not updated to meaningfully address the principles of the D&P SEPP, there is potential for significant differences in built form and design quality between DA and Code-based approval pathways.

Further guidance on how the D&P SEPP will interface with other proposed SEPPs, such as the Housing Diversity SEPP, is also requested. It is crucial that there is an understanding of how the D&P SEPP interacts with other significant reforms being pursued by DPIE so that unintended consequences can be minimised.

Status of supporting documents

Council supports good design being embedded into the planning system through the D&P SEPP, and the reference to the suite of Government Architect documents that have been developed to support good design. These various documents that remain in draft form should be finalised before exhibition of the draft SEPP, and it is Council's view that the draft SEPP should give these documents statutory weight, rather than sitting as appendices.

Review

Council believes a review process needs to be undertaken to ensure that development under the proposed D&P SEPP results in improved design outcomes. A review process

should be committed to by DPIE to assess the outcomes seen under the SEPP in its initial years and implementing revisions to address any unforeseen issues.

RESPONSE TO PART 2: STRUCTURE OF THE NEW SEPP

Aims of the new SEPP

The objectives of the Environmental Planning and Assessment Act covered by the EIE also include the following that were not identified:

- (c) to promote the orderly and economic use and development of land; and*
- (d) to promote the delivery and maintenance of affordable housing.*

Connecting with Country

The introduction of connecting with country into the design and place lexicon is supported. Care must be taken to ensure the application of these elements are able to produce effective outcomes that maintain integrity at varying scales. The integration of country should require thorough engagement with relevant stakeholders, suitable to the location of the project/precinct. A 'design verification statement' style report should be mandated for applications required to conduct engagement. This could articulate the values identified, and the manifestation of them into the design outcome.

As this new approach will place additional burden on Council staff, resources to provide Councils with skills in assessing designing within country would be vital in ensuring implementation is achieved effectively at the local government level.

Measures of success should be established for LGA's to guide decisions around whether appropriate connections with country have been made. Tokenistic gestures should be discouraged, and the integration of country within developments should not just focus on superficial or artificial elements.

The NSW Government could also consider incentives for Indigenous students to study architecture, urban design or planning to ensure that First Nations become more prominently represented in the design and planning professions.

RESPONSE TO PART 3: KEY COMPONENTS

Design skills

Council supports the requirements for certain developments to be designed by suitable qualified design professionals, as noted in point 3.1.1. Council looks forward to further information on a proposed mechanism for registering 'qualified designers'.

Design evaluation and review

Council supports design review panels as a mechanism to improve design quality and support innovation. However, these panels require the appropriate technical expertise to achieve good outcomes. Council supports the development of a Design Review Guide that sets required expertise, and suggests it also require a diversity of representation. Any standardised design review process will need to be clear, simple and scalable. The Design Review Guide should include expectations as to the thoroughness required when reviewing projects so to maintain consistency and useability of advice.

Application requirements

Application requirements should reflect the scale of a project/development and its context. For major developments there should be a 'Context Plan' that is similar to a Site Analysis plan, indicating how the development relates to its context; built-form, scale, architecture, character. This should reference applicable character statements, LSPSs, and also the surrounding urban and environmental fabric.

Mandatory matters for consideration

Council supports the proposed design and place considerations with the following further information and caveats:

Local living – Metrics based upon time rather than distance may work to exclude the different abilities of a range of community members, including older people and those with disabilities. It is recommended a standard metre basis is used to consider catchments. The metrics as indicated do not appear very ambitious, particularly if an outcome is to reduce car reliance. Council puts forward the following metrics for consideration:

- 1.5km walk to shops;
- 500m walk to local parks;
- 1km walk to primary schools;
- 1.5km walk to high schools;
- 1.5km walk to large parks and sporting fields;
- 1.2km walk to train stations;
- 500m walk to bus stops.

Walkability metrics will assist residents in contingency scenarios such as COVID-19, where the full needs of a community are required to be met within a lock-down environment. This should also manifest in 'resiliency' sections.

Street Design – New subdivisions should encourage development of an ILP or similar concept design, to ensure best practice principles are met. New subdivisions should be guided appropriately to ensure they provide for connectivity through future adjoining subdivisions in order to avoid inappropriate cul-de-sac layouts, and congested arterial and feeder roads.

Green infrastructure – Mapping of green infrastructure is required and should be coordinated with other LGAs. Concise green infrastructure guidance must be produced to enable development decisions to be simple and achievable. The interface with green infrastructure (and environmental land in general) needs to be guided. This applies to single dwellings through to larger multi-residential and/or commercial developments.

Council supports retaining and enhancing tree canopy. Replacement trees should be provided at an appropriate maturity to ensure liveability and resilience outcomes are achieved. However, the SEPP should encourage the retention of existing trees as a matter of priority. New subdivisions often have existing trees removed wholesale so that the created lots can be benched and sold. This adds to the heat island effect and should be discouraged.

Resilience – Heat/environmental modelling of precinct-scale projects should be encouraged to prevent creation of urban heat islands.

Density – Council requires further information on proposed density ranges before support can be indicated. Transport access will also need to consider transport service levels, rather than simply distance to transport.

Transport – The SEPP intends to provide needs-based car parking. Any moves to reduce minimum parking rates needs to consider not only distance to public transport, but service levels and also indicative travel time in comparison to driving. Liverpool currently faces poor modal split between private vehicle use and public transport use due to poor frequency and travel time of bus services, and poor travel time of rail, in comparison to private vehicle use. This means that private vehicle travel is heavily prioritised by Liverpool residents, and this requires further investment by the State government into improving travel times and services. Council cannot support any reduction in minimum parking rates until transport services are improved and active transport modes become more attractive.

Impacts on public space; Impacts on vibrant areas; Impacts on activation – These points reinforce the notion that a ‘context plan’ should be a standard deliverable for major developments, which should indicate how the development relates to its context, and should reference applicable character statements, surrounding built form and scale, surrounding public and vibrant spaces, and existing activation policies. Council strongly supports addressing impacts on vibrant areas and activation, and requests further information on how areas are determined to be ‘vibrant areas’. Language should be strengthened to require development to demonstrate positive outcomes, rather than simply avoiding diminishing existing outcomes.

Tree canopy – The timeframe for delivery of target canopy cover needs to be identified so that the outcome is maintained past construction. This objective also needs a clear relationship with offset processes, which risk canopy cover not being properly delivered. Tree canopy needs to be provided throughout the LGA to adequately mitigate heat islands, and not just offset to a separate designated area.

RESPONSE TO APARTMENT DESIGN GUIDE APPENDIX

In reference to Table A5, the following comments are made:

- Landscape and greening – Council supports an increase to minimum deep soil zones.
- Building separation – Council supports an increase in building separation for towers ≥ 25 storeys.
- Clarify ground floor ceiling heights – Council supports this on the basis that it will help create safer and more active streets.
- Car parking – As noted before, Council cannot support further reductions in car parking rates until meaningful improvements to public transport service is implemented in the Liverpool LGA

In reference to Table A6, the following comments are made:

- Solar access – Reinforcing the mandatory nature of the criteria is supported. Increasing the range of hours should be followed with an increase to the percentage of apartments required to achieve the standard.
- Apartment layout – Increased bedroom sizes are supported but not at the detriment of living areas. For larger apartments, access to master bedrooms directly off living areas should be discouraged to provide enhanced privacy to sleeping areas.
- External noise and pollution – Dwellings facing major roads should be discouraged from locating apartments on the first two floors
- Local planning considerations – Further detail on how local planning considerations that conflict with other areas of the SEPP will be treated is required.
- Private open space – Increasing the minimum depth of private open space is supported
- Storage – Increasing total storage requirements is supported
- External noise & pollution – Improving amenity for apartments near major roads is supported. Increased mechanical ventilation should not impact upon solar access requirements
- Acoustic separation – Further increases to acoustic separation are supported

In reference to Table A7, the following comments are made:

- Communal open space – Council supports the proposed SEPP implementing a communal open space (COS) control that is based upon occupancy rate of a development, rather than by site area. This will ensure that COS is not oversupplied in low density developments or undersupplied in high density developments. Council, however, believes that this same thinking should be applied to the provision of public open space in precinct-scale development. Council expects that Greener Places Design Guidance should be updated to ensure an appropriate minimum amount of open space per resident is being provided as part of precinct-scale development, and that this minimum be reflected in the D&P SEPP. Currently, public open space risks being undersupplied in precinct-scale development, which is misaligned with Premier's Priorities. The approach to public open space noted in the Urban Design Guide should not be based upon percentages. Currently there is a contradiction in how communal open space and public open space is treated, and this should be resolved.
- Lift requirements – This is strongly supported. At least 1 lift should be a minimum size suitable for moving furniture. Lift lobby areas should be large enough for comfortable movement and short social interaction.

RESPONSE TO PROPOSED URBAN DESIGN GUIDE

Council supports the development of the Urban Design Guide, but makes the following comments:

- Guidance on greenfield subdivisions is required

- Guidance on lot sizes should relate to environmental factors and resilience targets.
 - Lots in bushfire protected areas will need space to craft defensible assets.
 - Lots in new inland subdivisions should allow more space for planting of trees to mitigate heat island effect.
 - Lots closer to transit links can afford to be smaller
 - Lots facing public open spaces, civic areas, and schools etc can afford to be smaller, allowing panoramic security to occur.
 - Lot widths and setbacks should be considered also.
- Guidance on street design and layout should be provided, including:
 - Appropriate deployment of cul-de-sacs
 - Guidance on street block sizes and orientation
 - Guidance on how street/road layouts can work with the landscape and terrain.
- Guidance on minimum public open space provisions should be provided early so that LGAs can plan and design these spaces appropriately. As noted previously, Council believes that metrics based on population are required to ensure adequate provision of public open space.

RESPONSE TO BASIX APPENDIX

Council supports a major review of BASIX, and improved standards. Any review of BASIX should ensure that minimum sustainability standards are no lower than those set through the National Construction Code. In order to contribute to net zero aspirations, a pathway to net zero for the built environment must be established, with regular review periods for BASIX set and incremental increases to sustainability standards flagged in advance in order to set expectations and provide developers with time to incorporate changes into design.

Council strongly discourages any moves to trade off thermal comfort requirements for improved appliance energy efficiency or renewable energy generation. Climate projections show extreme heat events are occurring more often with greater intensity. Western Sydney is already subject to a greater number of days over 35 degrees Celsius, compared with the Eastern Harbour City. As temperatures increase, the city becomes more at risk of dangerous heatwaves, which can cause power outages. If thermal comfort of apartments were to be traded off for increased energy efficiency of appliances, or through local power generation, this puts residents at greater risk of heat-related complications, particularly during power outages. The suggestion to investigate trade-offs for thermal comfort does not align with the principles of the SEPP, namely Principle 4: 'Design sustainable and greener places for the wellbeing of people and the environment' and Principle 5: 'Design resilient and diverse places for enduring communities'. It therefore should not be entertained.

BASIX should also be amended to better respond to urban heat/microclimate, as well as individual household thermal comfort, energy and water use. This could include the BASIX tool having better consideration of the externalities associated with dark roof colours, which are currently not appropriately disincentivised, leading to decreased albedo across much of Western Sydney, exacerbating an already hot environment. Council also recommends that the revised BASIX uses the most current climate data, including heatwave, peak temperature and weather data. Increased compliance is also

necessary, including improvement of on-the-ground compliance checks to ensure BASIX outcomes are achieved.

Council supports increased transparency of BASIX data and the disclosure of water and energy performance at point of sale or lease for residential and commercial properties.

Council supports the Western Sydney Regional Organisation of Council's (WSROC) advocacy in this area and believes a greater focus on urban heat needs to be contained within BASIX, and that councils that are in areas more affected by urban heat (such as in Western Sydney) should be enabled to impose higher thermal comfort and urban heat standards.

Thank you for taking the time to consider Liverpool City Council's submission on the EIE. This forms Council staff's initial feedback on the Design and Place SEPP EIE prior to the receipt of a draft SEPP later in the year. Please note that more refined advice as informed by our elected Council will be provided once a draft SEPP is exhibited.

If you have further questions, please contact Cameron Jewell, A/Senior Strategic Planner on 02 8711 7862, or at jewellc@liverpool.nsw.gov.au.

Yours sincerely,



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