



23 April 2021

NSW Department of Planning, Industry and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Sir/ Madam

Submission on the Design and Place State Environmental Planning Policy (SEPP)

Conybeare Morrison (CM+) has reviewed the exhibited Explanation of Intended Effect (EIE) for a Design and Place SEPP in preparation of this submission. The opportunity to provide comments during the current notification period and ahead of preparing the SEPP and associated guidelines is appreciated.

An efficient and timely planning system is the key to the economic and social recovery from the COVID-19 pandemic. The NSW Government has introduced several policy reforms in 2020 aiming to deliver a better planning system for NSW. The aim of the Design and Place SEPP, which is to make the planning system easier for all and create healthy, sustainable and prosperous built environments, is in line with the NSW planning reform initiatives. As practitioners in the built and environment industry and people living in the state of NSW, we concur with the abovementioned aim. We welcome the Department of Planning, Industry and Environment's (DPIE) move to improve the policies and processes.

This submission comprises two parts. The first part is to outline the initiatives we support; whereas the second part is to list the areas of concerns we have based on the review of the EIE. We appreciate that the EIE is of high level and will guide the writing the new Design and Place SEPP. As such, there are no detailed SEPP clauses to be commented on at this stage. We would review and comment on the SEPP again once it is on public exhibition.

1.0 Areas of support

We acknowledge the DPIE's initiative to deliver a simplified and consolidated suite of policies. We concur with the overarching principles, including:

- Put place and design quality at the forefront of development
- Care for Country
- Sustain healthy and thriving communities

Streamline the Planning Process

We share the same view that a more explicit guiding policy would streamline the planning process. The proposed combination of the two SEPPs being SEPP 65 - Design Quality of Residential Apartment Development and SEPP- Building Sustainability Index: BASIX 2004 is welcomed. It would reduce the complexity of the SEPPs. The proposed Design and Space SEPP would reduce the total number of policies and integrate BASIX data with other planning data, which would streamline and improve the efficiency of the development application process. A more efficient development application process, in turn, would bring economic benefits and strengthen the market's confidence in this difficult time.

A Principle Based SEPP

The proposed Design and Place SEPP would apply to both urban and regional NSW. It would also cover places of all scales from precincts, significant developments, and buildings to infrastructure and other public domain. The principle based approach echoes the aim of delivering an explicit SEPP and would assist streamlining the planning process. The proposed principle based approach would also enable the new SEPP to span across all scales rather than trapping itself into the finer grain details and overlooking the entire perspective. Therefore we support the principle based approach in drafting the new SEPP. However, there are some concerns regarding the balance between principle and quantitative based controls. Please also refer to Section 2 of this submission.

A Comprehensive Guide on High Quality Design and Places

We note that one of the main focuses of the proposed Design and Place SEPP is to improve the wellbeing of people, community and Country. To achieve this, the new SEPP intends to introduce five underlying principles and 19 design and place principles to guide new development in different scales.

We concur with the intention of preparing a comprehensive guide on high quality design and places. Considering the current SEPP 65 only applies to the developments contains apartments, the new SEPP would potentially fill the gaps in guiding larger scale development / masterplanning. It would also give weight to the importance of high quality design in precinct and significant development levels.

We suggest that the concept of 'the Missing Middle' be incorporated in to the documents to ensure that this typology forms a viable segment of the housing market moving forward.

Strengthen the Apartment Design Guide (ADG)

SEPP 65 together with the ADG plays an important role in shaping the apartment quality throughout NSW. The successful implementation of the ADG in the past five years has brought positive impacts on the living amenity across the state.

We welcome the decision to review and update the current ADG to respond to the feedback received over the years. The intention of streamline and simplify the guidance is supported. It is our understanding that the new ADG would seek further improvements of the apartment living amenity, including increased building separation, visual privacy, solar access, cross ventilation and bigger bedroom size etc., and mandating the following guidance:

- Solar access
- Daylight and ventilation
- Common circulation and spaces
- Heating and cooling infrastructure

We support the idea of making the abovementioned metrics mandatory, as it would remove the grey area exists. It would also provide centrality as to how to implement the relevant guidance. We welcome the proposed requirement that all council DCPs would have to comply explicitly with the new SEPP. This would reduce confusion and provide a clearer structure of controls while removing the need for Councils to duplicate controls in describing preferred design outcomes on individual sites.

It is also mentioned that *'the ADG will be revised over time to combine all housing design guidance into a single design guide to be used with the Housing Diversity SEPP and Design and Place SEPP. This would include additional design guidance for student accommodation, co-living, boarding houses, and housing for seniors.'*

We generally support the idea of expanding the ADG to cover other residential types. Subsequent amendment to other SEPPs (e.g. SEPP Seniors Living) would be needed to ensure the relevance of the new ADG. A clear structure is also needed to ensure the public can navigate easily in the new ADG and find relevant design guidance suitable for different residential types.

2.0 Areas of Concerns

The EIE provides a sound base guiding the preparation of this new SEPP. The nominated aims and principles are of satisfactory; however, there are some concerns identified during our review. Summarised below are our areas of concerns:

Scale and Complicity of the New SEPP

The EIE indicates that the new SEPP would be guided by the five overarching principles:

- Design places with beauty and character
- Design inviting public spaces
- Design productive and connected places
- Design sustainable and greener places
- Design resilient and diverse places

A total of 19 Design and Place Considerations are developed based on the abovementioned five principles. The 19 considerations would guide the development from precinct to local level. There would also be 15 existing, amended and proposed guidelines supporting the new SEPP.

It is our concern that the number of considerations and guiding documents would prolong design and assessment processes which is contrary to the aim of simplifying the planning process. Extra reporting time for both the consent authorities and applicants are expected, if the 15 guidelines were to be given weight by the new SEPP (like SEPP 65 to the ADG). It would also cause confusion, in particular in the design and development phase, as to which guideline(s) to review and reference to.

We note that in developing of the new SEPP and the associated guidelines a number of strategies are reviewed and reflected, including the international level documents - United Nations Sustainable Development Goals, World Health Organization Healthy Cities, and the state level documents - Better Places and Greener Places etc. We appreciate the DPIE's effort of aligning the new SEPP with high-level goals and strategies. However, we wonder whether the new SEPP would provide a single point of reference to the relevant development to curtail the document reviewing / referencing process. We suggest reducing the number of guidelines by incorporating the key messages into the new SEPP clauses and/or consolidate similar guidelines. It is also important that a clear strategy is in place to guide the document referencing in both design and reviewing processes.

We understand that the new SEPP would apply to both urban and rural areas across NSW. We recognise that principles and considerations are proposed and assigned to different development types. However, it is important to note that urban and rural areas have different context and focuses. The rules apply to a well-established urban area might not be suitable to a rural town and vice versa. Therefore, we would like to see that the new SEPP reflects the differences and avoids adopting a blanket approach to the whole state. It is also important to avoid overwriting the Local Strategic Planning Statements (LSPS) which have recently been developed across the State.

It is mentioned in the Appendix A of the EIE that a new Housing Diversity SEPP will be introduced in the future. We agree that housing diversity is one of the key elements to high quality living. However, we worry that introducing the Housing Diversity SEPP would diminish the effort and aim of 'simplify and consolidate' the SEPPs. We suggest incorporating relevant housing diversity clauses / guidelines in the Design and Place SEPP.

We highly recommend the new SEPP to incorporate other building typologies beyond apartment buildings, including 'the Missing Middle' – low rise medium density housing. We envision that the new SEPP to become a single point of reference where a diverse range of housing types are covered.

Balance between Principle and Prescriptive Based Controls

It is mentioned in the EIE that the new SEPP would be a principle based SEPP. As discussed above, we concur with this approach. We understand that the principles would form the 'bones' of the new SEPP and there would be some prescriptive controls in place to supplement the principles. Therefore the balance between principles and prescriptive / quantitative controls is crucial.

There are some considerations in the EIE that are considered very fine grain, which would potentially undermine the scope of application of the new SEPP. The following dot points outline our areas of concerns:

- Propose baseline residential density targets in urban areas – It is not clear how a unified baseline would apply across the state. It is our concern that this would overlap with the Local Environmental Plans (LEP) and create another level of complexity.
- Set maximum block lengths, increasing the provision of publicly accessible through-site-link; Retain or enhance existing significant and moderate tree canopy or replacing any removed moderate or significant trees with at least two trees or precinct DCP/council replacement rate, whichever is higher – We support the intention; however, these provisions usually exist in the Development Control Plans (DCP).
- Density ranges will be determined during development of the Design and Place SEPP, based on a development's location and transport access, with a minimum density capacity of 15 dwellings per hectare – Further clarification is needed on this. We would like to understand the mechanism of determining density ranges. It is also important to know how the LEPs would reflect the density ranges in the new SEPP.

We suggest that a balance between principle and prescriptive controls is a better approach. The new SEPP needs to clearly define its relationship with other legislations and controls, in particular the LEPs and DCPs. It is suggested that the new SEPP should not focus on the fine-grained quantitative controls, but to provide guidance to the local plan making process and hand back detailed controls to the LEPs and DCPs, including:

- No.10 of the mandatory consideration - Density (height and FSR)
- No.16 of the mandatory consideration - Activation (a min. percentage of activated frontage)
- UDG - Part 2 - street intersection density
- UDG - Part 3 - street wall controls
- UDG- Part 4 – setback controls

Absence of the Built Form Related Principles

Five overarching principles are proposed for the design and assessment of places. The principles have a strong emphasis on places or spaces rather than high quality built forms. We understand that the 19 design and place considerations provide built form related suggestions; however, we believe high quality built forms are the key to successful places and spaces. Places and spaces cannot be segregated from the surrounding built environment. Therefore, it is critical to address the importance of the built form quality in the overarching principles. We suggest that the overarching principles should relate to both spaces / places and built forms. A good example is the current SEPP 65 principles, which has principles relating to both built form and the surrounding context.

The Qualification Requirements

We welcome the decision of requiring qualified design professionals to design places and spaces. We appreciate that architects and landscape architects have their own registration board respectively; however, urban designers do not have a registration body. Urban design is a cross discipline profession, which interfaces with architecture, landscape architecture, town planning and other professions. In the absence of a registration body, it is hard to define who is a qualified urban designer. There are many architects and landscape architects who are experienced in urban design but do not obtain a qualified urban design degree. It would be unfortunate to exclude these professionals in urban design or master planning processes.

A key aspect of successful urban areas is the synergy across built form and public space. Urban designers have a solid grounding in how this works. We suggest the DPIE work with the industry and institutes i.e. Planning Institute of Australia (PIA) to further define who should be considered as a qualified urban design professional.

The ADG and UDG Related Issues

As discussed in Section 1, we support the intention of improving multi-unit living amenity in general. This should include aspects of terrace house design to embed this type into the mix wherever possible. The introduction of the Urban Design Guide also provides a state level guidance on urban design. The comments we have are:

- The feasibility of the improved numeric controls in the amended ADG, including deep soil, solar access, natural ventilation, private open space dimensions, bedroom and storage sizes – When the existing LEP controls, in particular height and floor space ratio controls, were developed, they made reference to the current ADG requirements. Hence, we believe the abovementioned improvements would affect the achievable Gross Floor Area (GFA). This would potentially impact the financial feasibility of a development. We suggest a thorough study is to be done to understand the implications of the advanced numeric controls.
- The tower size provision in the amended ADG – A maximum tower GFA of 700sqm is nominated for buildings above 9 storeys, which aims to limit bulky towers. We agree that slender towers would provide a better urban design outcome. However, 700sqm GFA might be too small for tower buildings; a fixed figure would also potentially limit the diversity of built forms. We suggest to provide a range rather than a fixed number, or use apartment numbers instead (e.g. 8 units/floor). We believe this would provide some level of flexibility and promote tower built form diversity.
- Introduction of acoustically separable areas in the amended ADG – Acoustically separable areas will be introduced to units with one and more bedrooms. The intent of this design criterion is to facilitate working from home arrangement. We support the idea of accommodating the changes that has brought by the COVID-19 pandemic; however, it is also import to ensure that the acoustically sparable areas are of high amenity and are not used as additional bedrooms.
- The introduction of lot dimensions, front and rear setbacks in the UDG – As discussed above, the relationship between the UDG and the local level LEPs and DCPs is to be clearly defined. We believe that controls like lot dimensions and setbacks shall exist in DCPs, which deal with more localised issues; whereas the UDG should focus on the universal principles set the minimums and provide overarching guidance / criteria on solving the local problems.

3.0 Conclusion

Overall, we support the DPIE's intend of simplifying the planning process and promoting high quality spaces. The principle based approach to write the new SEPP is supported. We also welcome the decision of strengthening the ADG, in particular mandate certain metrics. Based on the commentary in Section 2 of this submission, we recommend that the new SEPP to:

- Provide a simplified point of reference that applies to both urban and rural areas across the state
- Balance principle based controls and quantitative controls to provide suitable guidance to all levels
- Incorporate both space and built form related principles to deliver high quality spaces / places
- Distinct and simplify its relationship with LEPs and DCPs
- Carefully consider the feasibility of applying the advanced numeric controls, in particular in relation to the ADG and the UDG

Thank you again for the opportunity to provide comment on the Explanation of Intended Effect for a Design and Place SEPP. We trust this submission is of assistance in delivering this new SEPP. We are looking forward to reviewing and commenting on the new SEPP later this year.

Should you wish to discuss this submission, please do not hesitate contacting the undersigned on (02) 8244 8888.

Yours sincerely

Conybeare Morrison International Pty Ltd



Richard Nugent

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