

23 April 2021

Dear Sir/Madam

RE: Design and Place SEPP – a further attack on the urban environment

Friends of Ku-ring-gai Environment Inc (FOKE) is a volunteer community group, formed in 1994 to protect Ku-ring-gai's unique character, heritage and environment.

As President, I am writing on behalf of the Friends of Ku-ring-gai Environment Inc. to strongly object to the new Design and Place SEPP and the Intended Effects Statement (IES) which is currently on public exhibition for comment.

We believe the proposed SEPP is the worst retrograde and broad ranging attack on established environmental standards that our 25 year old organisation has witnessed by or from any previous State Government for which we have encountered.

Whilst the initial consultation is for the Intended Effects Statement (IES) we believe the overall design of the SEPP is to severely weaken the ability of councils and particularly communities in urban areas of NSW to protect environmental standards. We believe this SEPP will allow developers and their consultants to exploit the environment through the ideological loopholes. The SEPP will potentially remove standards that developers must meet, replacing them with "flexibility" and "matters for consideration" which we do not believe is in the public interest in protecting trees and biodiversity in the urban environment.

Ku-ring-gai has been highly impacted by inappropriate development over the past two decades, from destructive top down State Government planning policies e.g. urban consolidation. Hundreds of critically endangered ecological protected trees (Blue Gum High forest and Sydney Turpentine Ironbark trees) in Ku-ring-gai have been removed and been replaced with concrete! This is not ecologically sustainable.

With urban areas such as Ku-ring-gai being impacted by important issues such as climate change, tree retention and canopy, green energy, biodiversity and resilience, it is of great concern that the State Government is relegating the interpretation of environmental standards to developers and their consultants to decide!

Ku-ring-gai Council is currently consulting the community on the Local Character Statement as part of the Local Strategic Planning process for the Housing Strategy and for any changes to Ku-ring-gai's LEPs and DCPs. We can see that any work that Council undertakes with the community to protect the Local Character could be completely undermined and impacted by workings and implementation of the loopholes in this SEPP!

We understand developer's consultants will be able to use alternative assessment methods that will best suit their client's outcomes instead of development projects being benchmarked against clear best practise targets. Instead, outcomes will be delivered by a 'good design process' (paid for by the developer) using non-binding "guidance" documents. This process is clearly designed to allow 'flexibility', 'trade offs' and 'moving away from prescriptive controls' which clearly favour the development industry. Councils and the community will be flooded with studies with a limited capacity to argue for better or alternative outcomes.

The document constantly states, “*These intended effects will be realised through mandatory considerations...(including) for heritage, water management, green infrastructure, emissions, resource efficiency and tree canopy.*” It would appear to us that everything is clearly discretionary, based on consideration only not specification of minimum standards. This will allow the various development centric design panels to approve continual reductions in essential protections.

We strongly concur with the criticisms and the issues highlighted by the Total Environment Centre of the proposed Design and Place SEPP and IES in that:

“• Retention of the existing mature tree canopy can be offset by green roofs, walls and softscape or two small trees, if they survive (goodbye native plant and animal habitat).

- The energy target in BASIX that has served the city and towns well, can be eliminated by considering the energy content of building materials in a vague gesture to a circular economy (and it won't help reduce household energy costs).
- BASIX is further undermined by an overriding 'pathway' towards 2030 goals and net zero by 2050 (how can you replace actual achievement of targets with buildings constructed now, that obviously can't change in the future?). Alternative national targets (eg NABERS) are also 'matters for consideration'.
- The 40% tree canopy target can be traded away. Without this canopy target being mandated, it will not occur and the damaging Urban Heat Island impacts will continue to exacerbate the effects of climate change; have negative health impacts for the community; contribute to evaporation and drought conditions; and decrease urban water quality. Shading and trees have the greatest health and cooling benefits.
- It will undermine the value of protection and green space zones as determined by local communities as part of their own community engagement and strategic plans.

The Department of Planning is not leading by example through the setting of best practice standards, but wants to be led by developers, whether good (only a few) - or average or bad (most) seeking minimum cost for maximum return. It makes the community and local councils, a sideshow.”

The adoption of a 'principles-based approach' will require a significant shift and leaves unanswered some fundamental questions about how this will tie in with the existing statutory framework for DA assessment under Part 4 of the *Environmental Planning and Assessment Act 1979 (EPA Act)*.

Planning reform should seek to enhance confidence in the system, which comes through predictability and timeliness in decision making, for all parties. The EIE foreshadows a proliferation of additional policy and guidance documents, the legal status and relevance of which is unclear.

Additionally, the Department envisages that each council will revise its LEPs and DCPs where necessary to align with the Design and Place SEPP replacing minimum standards with 'principles' and 'public good', essentially meaning that all development will be left to unelected panels and consultants to oversee and enact Sydney's and NSW's future liveability. The Design and Place SEPP irresponsibly seeks to expand the role of these design review panels for all types of development.

The Department of Planning has not covered itself in glory over the past decades by allowing developers to run rampant over our city. The lack of specific and measurable controls has led to the current disastrous apartment situation where the government has allowed a broken system to perpetuate to the detriment of residents and the community. I am referring not only to the debacle with Mascot and Opal Towers, but the planned communities without infrastructure for schools, roads and public transport.

We believe the proposed SEPP hands over the urban environment, its sustainability and the liveability of NSW council's and communities to developers and the public sector and is a clear abrogation of responsibility by the State Government to protect the environment for present and future generations. The SEPP and IES should be scrapped. In the light of climate change and biodiversity loss, environmental standards should be strengthened and protected and not undermined by the Department of Planning and the State Government for the sake of the development industry.

Yours sincerely

Kathy Cowley
PRESIDENT

cc The Hon Rob Stokes MP Minister for Planning and Public Spaces. Member for Pittwater
cc The Hon Jonathan O'Dea MP Member for Davidson
cc Mr Alister Henskens SC MP Member for Ku-ring-gai
cc The Hon Paul Fletcher MP Member for Bradfield
cc Mayor and Councillors – Ku-ring-gai Council
cc The General Manager – Ku-ring-gai Council