



planning consultants

28 April 2021

Our Ref: 210326 Draft Design and Place SEPP submission

Department of Planning, Industry and Environment  
4 Parramatta Square,  
12 Darcy Street  
PARRAMATTA NSW 2150

Via: <https://www.planningportal.nsw.gov.au/design-and-place-sepp>

Dear Sir/Madam,

**Re: Submission - Design and Place State Environmental Planning Policy (SEPP)**

### **1.0 Introduction**

Thank you for the opportunity to comment on the draft Design and Place SEPP currently on exhibition. DFP Planning Pty Limited (DFP) provide these comments as a professional town planning, heritage and urban design consultancy. This submission is not written on behalf of a client or any other party. Our comments have been prepared based on the material exhibited by the Department of Planning, Industry and Environment, namely the Expression of Intended Effect (EIE) document.

The EIE provides a high-level indication of proposed changes to SEPP 65 – Design Quality of Residential Apartment Development and SEPP BASIX and introduction of a new SEPP, but does not provide comprehensive details of proposed development controls or mechanisms. DFP would welcome an opportunity to comment on the new SEPP once a draft document has been prepared, prior to its finalisation.

### **2.0 Overview**

It is understood that the new SEPP will introduce an Urban Design Guide (UDG) as well as amend the Apartment Design Guide (ADG). The UDG will require a development to consider how it responds to and contributes to the surrounding area as well as introduce controls around connections to country, health, sustainability, and streetscape. It should be recognised that the ADG in its current form contains objectives relating to these matters. It is recommended that the requirements of the UDG be incorporated into the ADG to prevent duplication and the creation of conflicting controls.

The EIE explains an intention to reference the following guidance documents in the new SEPP:

- Draft Greener Places Design Guide;
- Draft NSW Public Spaces Charter;
- Proposed Design Review Guide;
- Proposed Urban Design Guide;
- Proposed Resilience Toolkit; and
- Proposed strategic guide to planning for natural hazards in NSW.

The copious design documents incorporated into the NSW planning system creates complexity and ambiguity. It would be beneficial if the new SEPP were to outline a clear role and hierarchy of determining weight of these, and any other relevant design guide documents, to ensure consistency of their interpretation and application.

Similarly, design guidelines including the ADG, Child Care Planning Guideline, Seniors Living Policy Urban Design Guidelines for Infill Development, and most likely the proposed UDG, include objectives and controls inconsistent or in conflict with local Development Control Plans (DCPs). The new SEPP represents an opportunity to clarify the role and hierarchy of each of these documents and to prescribe controls that are to be set by State level guidelines as opposed to those that are to be reserved for local DCPs, not dissimilar to the Standard Instrument mechanism.

### **3.0 Development Controls**

The EIE states that the new SEPP will be 'principle based' but will continue to prescribe minimum development standards. A principle-based approach is supported as it represents an opportunity to provide flexibility where better and more site-appropriate outcomes can be achieved. It would be beneficial if the SEPP and associated design guides clearly specify the controls which can be varied and the criteria on which a variation can and should be supported.

#### Housing Diversity

The EIE recognises that existing unit size, configuration and mix is not achieving housing diversity. Currently, development is providing predominantly one (1) and two (2) bedroom dwellings, with a lack of family units with sufficient living and working-from-home space. This is in large part due to floor space ratio (FSR) and height of building (HOB) controls and the market reality that greatest return can be achieved by maximising apartment yield. This has largely resulted in lower quality and less variety in built product.

While maximum FSR and HOB controls have a role in providing a safety-net to prevent the severest impacts of generic residential development, they do not deliver the flexibility and variety required to produce more aspirational development outcomes. It is recommended that the SEPP explore mechanisms for facilitating, and even encourage, variation to development standards (outside of Clause 4.6) where the same intention (such as housing density, mix and affordability) can be better delivered through a site specific response, guided by the ADG.

#### Built Form

Built form and consideration for matters such as scale, massing, building lengths, tower floor plate size and dual aspects are crucial to the quality of residential and mixed use developments. Too often developers fill a space to the limits of the FSR and HOB controls without adequate consideration of appropriate built form details. Flexibility to these statutory planning controls should be provided where it can be demonstrated that a superior outcome in terms of natural light, cross ventilation, privacy, and other amenity benefits would be delivered.

Limiting the number of apartments per floor to eight (8) for tower development serviced by each lift is recommended to deliver communal hallways that feel less like hotel corridors and that are conducive to getting to know one's neighbours, for a greater sense of community and greater citizenry resilience.

Requirements for consideration for details such as the provision of lifts based on number of apartments served and lift performance, and additional storage space are important inclusions for quality of life.

### Parking

Proposed amendments will facilitate a needs-based car parking assessment to revise maximum parking rates. This is supported as reducing parking availability is a recognised way to encourage a modal shift and encourage the use of public transport, walking and bicycles. This can have health, social, environmental and productivity benefits. It also improves development feasibility and housing affordability by reducing the need for expensive excavation.

Parking controls should recognise the variety of travel behaviours across different locations. This is not just a product of proximity to shops, services, and public transport, as travel modes are produced by broader influences of behaviour and syntax. For example, if services are accessible via a high-quality urban street then an individual is more likely to walk this route than if the same distance were along a harsh fast moving highway. Where there is an established practice of walking or cycling, producing an active street, others are more likely to be motivated to walk or cycle.

While it is agreed that minimum parking provisions should be reduced in connected, high density mixed use settings, it should be recognised that commuter patterns are not the only consideration of car ownership. For example, Transit Oriented Development in suburban locations might encourage residents to commute to work by public transport but these residents might, for example, still desire a private vehicle to take the kids to sport on the weekend. Ultimately the provision of car parking, especially basement parking, is expensive and so the market will largely provide, but not overprovide, the appropriate parking quantum for a particular location.

The EIE states that the planning amendments will utilise *Guide to Traffic Generating Developments (RTA 2002)*. These traffic rates are grossly out-of-date, preceding the existence of rideshare, carshare, contemporary delivery systems, Sydney's Metro and light rail infrastructure and the substantial uplift of suburban centres and work from home. As such, these rates do not reflect contemporary travel behaviours and more accurate traffic generation rates should be utilised.

### Solar Access

The EIE states that solar access requirements will be modified to increase the hours within which solar access must be delivered. Concern is raised that this will allow apartment design to restrict apartments more closely to the bare minimum required hours and ultimately reduce the total number of solar access hours currently provided. Existing solar access requirements are not considered overly stringent, and it would make for a long winter's day for an apartment not to have any solar access say, after 10am.

### Noise controls

The EIE expresses an intention to provide for greater acoustic separation from internal and external noise sources. While no details regarding the potential standards or controls have been included in the exhibited package, the principle of preventing apartment use conflicts and mitigating amenity impacts is supported. This is especially important with a greater variety of users now living in apartments and more people working from home.

### Deep soil zones

The EIE recognises a need to increase deep soil provision to allow for improving tree planting and pervious surfaces to capture stormwater run-off. Greater deep soil provision is vital to deliver on the Premier's Priorities, contributing to the Green Grid and to achieve environmental and liveability as advocated in key strategic documents.

### Communal open space

The proposed amendments intend to modify communal open spaces requirements to be based on occupancy rather than site area. This is recognised as a more fair and appropriate mechanism. The requirement to provide an adequate quantum of common space, independent of any public space or deep soil, for gatherings, events and play space is supported. In addition to quantum, the quality and usability of communal open space should be mandated. These spaces should have direct solar access and should not be achieved by providing access to otherwise unusable 'dead space'.

Height of building limits should not restrict rooftop communal open space areas with lift and stair access and recreational indoor and outdoor spaces for residents.

The benefits of more directly accounting for the needs of the building's occupants are recognised. However, this approach relies on building occupation being accurately accounted for. Greater supply of apartments with dedicated work/study spaces and additional living spaces and indoor and outdoor spaces for children to play are important to provide genuine alternatives to detached dwellings for families. However, it is imperative that mechanisms be incorporated to prevent such study spaces and second living spaces from being used as additional bedrooms as they would not be designed for this purpose in terms on natural light and ventilation. These 'bedrooms' might also avoid attracting their fair and reasonable Section 7.11 contributions, reducing the wider local infrastructure provision.

#### **4.0 Design Excellence**

The proposed SEPP will require development of three (3) or more storeys, open space greater than 1,000m<sup>2</sup>, and Precinct and Significant development to be designed by a 'qualified design professional' being a person registered with the associated professional body. This encompasses a great deal of development that is subject to assessment and approval but excludes other development such as Exempt and Complying. It is our experience that these other developments comprehensively detract from/disfigure urban and regional settings. The design quality of these forms of residential and other developments needs to be addressed.

It is recommended that a higher professional qualification be required for identified precincts such as Local Character Areas and Heritage Conservation Areas to produce higher quality outcomes in these locations. Notwithstanding the above, professional qualifications are not necessarily a guarantee of design skills. The benefits of mandating work to be done by qualified design professional would be greatly enhanced by better training.

#### **5.0 Conclusion and Recommendations**

SEPP 65 has been in force since 2002 when the majority of residential flat building development was very different, typically being of a smaller scale, less widespread, and having previously been focused only in key centres. The diversity of those who choose to live in apartments and the way they live has since changed and a review and update of the SEPP, BASIX and the ADG is welcomed.

A principle-based approach is supported as it represents an opportunity to provide flexibility where better and more site-appropriate outcomes can be achieved. It would be beneficial if the SEPP and associated design guides clearly specify the controls which can be varied and the criteria on which a variation can and should be supported. It is also requested that the new SEPP outline a clear role and hierarchy of the many state and local design controls and guidelines to ensure consistency of their interpretation and application.

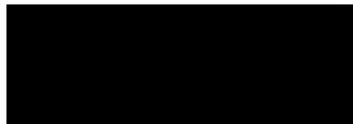
Ultimately it is hoped that the new SEPP will not be seen as a way of mitigating the worst aspects of apartment living, but about producing outcomes genuinely superior to other housing typologies for the great diversity of residents.



Should you require any further information or clarification on this submission, and to continue a dialog please feel free to contact Piers Hemphill, Principal Planner on [REDACTED] or at [REDACTED].

Yours faithfully

**DFP PLANNING PTY LTD**



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**KENDAL MACKAY  
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