

# DOHERTY SMITH & ASSOCIATES

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GPO Box 39  
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To whom it may concern,

**RE: DESIGN AND PLACE STATE ENVIRONMENTAL PLANNING POLICY  
EXPLANATION OF INTENDED EFFECT**

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Doherty Smith & Associates welcomes the opportunity to provide comment on the proposed Design and Place State Environmental Planning Policy and on its intended effect.

### **2.4.1 Development Scales**

The Explanation of Intended Effect (EIE), Section 2.4.1 mentions that developments of 10 hectares or 1,000 people will be subject to the proposed SEPP. There is no distinction made between urban, rural, or any development in semi-rural areas. Many rural developments will trigger this SEPP with minimal "people". The application of the SEPP should be clarified and the scope narrowed to refer to urban developments only. Alternatively, the SEPP requires substantial review in relation to semi-rural and rural development.

It is also not clear whether the SEPP applies to the total developable area, and whether the area includes residue parcels retained as bushfire buffers, environmental corridors, drainage corridors, or whether the intention is for the SEPP to apply to the residential areas of a development only. In many cases, residential developments set aside land as a vegetation buffer or biodiversity offset, which will distort the total area of the development for consideration. The EIE does not explain adequately how the threshold triggers apply.

The area threshold for a "Precinct Development" would capture a 10 hectare development. In rural and regional NSW, a 10 hectare development may only yield 10 1-hectare rural-residential lots, or perhaps 100 residential lots at typical development scales. This scale of development will not achieve 1,000 people. The SEPP should not apply to areas in the manner specified.

The threshold for "significant development" captures developments in excess of 4000m<sup>2</sup>, however this size development in a regional area is often as small as two lots – a far cry from the 500 people threshold. The SEPP must clearly explain the thresholds, in relation to

development other than inner-urban, which is what it appears to have been written in consideration. Further, development on a parcel of land on a site bounded by streets on all sides is common, in a rural or regional area, however the yield of lots is, in general, significantly lower than the threshold.

The development scales as set out in the EIE are inappropriate and need to be reconsidered.

### **3.1.1 Design Skills – “Designers Qualifications”**

The EIE specifies qualifications for designers as defined by Clause 50 of the Environmental Planning and Assessment Regulation 2000. This clause specifically relates to residential apartment development. It is entirely inappropriate that the designers of a residential apartment development be automatically considered appropriate and qualified to prepare designs for large-scale residential development outside the scope of residential apartments.

The EIE goes on to mention SEPP (Educational Establishments and Child Care Facilities) 2017 (Education SEPP). A search of this SEPP reveals no use of the term "qualified", or "qualification". The term "consultant" only appears in reference to bush fire risk assessment. Thus, the reference to this SEPP is erroneous. Further to this, design of an educational establishment or a child care facility is not contemporaneous with design of residential development, making this reference spurious.

The EIE also mentions the Design and Building Practitioners Act 2020. This act has only recently been commenced, and is limited in scope to buildings, rather than development of land. This Act does not apply to design of residential developments other than apartment buildings. Reference to this Act limits the scope of the SEPP to building design, while the EIE encompasses large-scale residential development.

The references to existing legislation have been erroneously used as justification to impose a requirement for qualified designers. While there is no objection to a requirement for qualified designers, the spurious use of existing legislation is not a compelling argument.

The EIE then states that:

*To ensure places and spaces are designed by suitably qualified design professionals, the Design and Place SEPP proposes that:*

- *a registered architect (qualified designer, same definition as presently used) will be required for all buildings with three or more storeys, and in the case of multiresidential buildings, four dwellings*
- *a registered landscape architect (qualified designer, new definition) will be required for all open space greater than 1000 m<sup>2</sup>*
- *a qualified designer, i.e. urban designer, architect with master planning skills or landscape architect, will be required for master planning of all precincts and significant development (qualified designer, new definition).*

It is noted that Registered Surveyor is not listed as a "qualified designer" despite the fact that most of the townships, suburbs, cities, and precincts in NSW have been designed by

Registered Surveyors in the past. Registered Surveyors must have a broad knowledge of development standards, from lot layout and orientation, to civil design and construction. The omission of Registered Surveyors from the list of "qualified designers" is incredibly short-sighted and inappropriate. In addition, other designers are qualified and suitable to design residential development, and should also be included in the list of "qualified designers"

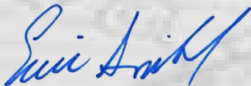
### **Conclusion**

The EIE has not comprehensively addressed the current issues with residential design to justify the need for further legislation. The proposed SEPP appears to be legislating what is already considered "best practice" in the development profession, while limiting the manner in which development can be undertaken. Errors in referencing existing legislation do not make for a strong argument, and are indicative of limited checking and poorly thought-out justifications. There are real and strong concerns in relation to the threshold for the application of the proposed SEPP. The imposition of "qualified designers" is not appropriately justified, and focussed on residential apartment building development only. The development scales set out in the EIE are exceeded by the potential impacts of the proposed SEPP. The implications of this SEPP in relation to residential development on a broader scale than residential apartment buildings have not been considered in relation to current and past practice.

Doherty Smith & Associates do not support the proposed SEPP as described in the EIE.

If you have any further queries, please do not hesitate to contact me.

Kind regards



Eric Smith  
Surveyor Registered Under  
The Surveying & Spatial Information Act 2002