

**Public Submission
Hill Thalys Architecture and Urban Projects
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**Explanation of
intended effect for a**

Design and Place SEPP

Nominated Architects

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Acknowledgement of Country

We wish to acknowledge the traditional custodians past, present and emerging of the Eora Nation, the lands of the Gadigal people upon which we have prepared this submission.

We recognise the ongoing impacts that the imposition and impacts of a statutory planning framework upon these traditional lands that always was, always will be aboriginal lands. We offer our commitment to engage respectfully as guided by the traditional custodians.

Introduction

The NSW Government Architect and Department of Planning, Industry and Environment is to be congratulated for the initiative and immense work the team(s) have undertaken to introduce a Design and Place SEPP. This new policy is set to become a centre-piece of the NSW planning framework, with the potential to make significant cultural change over time that is intended to greatly improve the design quality of how we engage our many and varied places and types of settlement.

Critical to its success is the introduction of a Design and Place SEPP that protects and enhances the best of existing policies through any new policy structure, with support so it is resourced and implemented effectively.

Thank-you for the opportunity to provide feedback on this proposed important public work.

Contents

This submission is three parts:

- Part 1 Summary overview
- Part 2 Detailed response to the Explanation of Intended Effects document and mechanisms.
- Part 3 Detailed response to ADG and UDG performance

Abbreviations

ADG	Apartment Design Guide
D+P SEPP	Design and Place SEPP
EP&A Act	Environmental Planning and Assessment Act (1979)
EP&A Regulation	Environmental Planning and Assessment Regulation (2000)
NCC	National Construction Code
SEPP 65	SEPP 65 Design Quality of Residential Apartment Development
SILEP	Stand Instrument Local Environment Plan
DCP	Development Control Plan
UNIDHR	United Nations International Declaration of Human Rights
UNSDG	United Nations Sustainable Development Goals
UDG	Urban Design Guide

Part 1 Summary Overview

1.0 Clarify the overarching intent

We understand the intent of the Design and Place SEPP to be the good design of places in the public space and to elevate the concept of Place. It is essential this is explicitly stated as the intent.

Prioritising and defining the public space is key for this overarching SEPP, and its Aim must be to improve the design quality of all development in NSW by recognizing, engaging and responding to public space.

As a comparative exemplar, SEPP 65 is titled Design Quality of Residential Apartment Development and its principal Aim is:

- (1) *This Policy aims to improve the design quality of residential apartment development in New South Wales.*

As proposed, this intent is absent from the EIE.

Recommendation 1.0

1. The Aim of a Design and Place SEPP is to be explicit in its intent, that the Policy is:

*To recognize, protect, and improve public space and public space in New South Wales.
To improve the design quality of built outcomes of all development and places in New South Wales.*

1.1 Mechanisms to give effect

The effect of mechanisms is discussed in more detail in Part 2 of this submission.

In summary, a proposed Urban Design Guide and new Apartment Design Guide (and other future design guides) must be given statutory effect explicit as a clear line of sight through the Design and Place SEPP, the Environmental Planning and Assessment Regulation and the Environmental Planning and Assessment Act.

Where appropriate, there are opportunities for local strategic planning instruments likewise to implement the Guides for consistency with their Local Strategic Plans.

As a working exemplar, the statutory pathways are in place for SEPP 65 and the ADG via cl 50 (1AB) and Schedule 1, Part 1 cl 2 (5) of the EP&A Regulation.

It is effective because of the jurisdictional work that requires design teams to **demonstrate how** a design achieves the SEPP 65 design quality principles through the ADG objectives and design criteria/guidance. A current weakness of this pathway is that the first order decision decisions regarding site strategy, site arrangement, and building typology are not sufficiently explicit in its requirement of a direct line of sight to the Site Analysis (nor that this analysis has work to both synthesise information, and interpret its design implications).

We note two principal weaknesses of the proposed Design and Place SEPP and two observations:

Firstly, is a fundamental failure to understand, define and differentiate public space as an entity that is separate and different to the private domain.

This is fundamental to a statutory recognition of the public space as an entity around which development in the private domain is permitted to occur. Public space systems (Green and Blue Grid) have public rights that must be statutorily recognised, promoted, protected and thus elevated within the planning system so it is properly balanced against existing private rights in the private domain.

The existing planning framework is heavily biased towards benefits vested in individual private rights at the expense of the recognition and outcomes for Country and public space, this

imbalance needs to be explicitly and statutorily redressed in a Design and Place SEPP if the intent of a D+P SEPP is to be realised and our cities fit-for-purpose into the future.

Secondly, the proposed structure of the SEPP will have little impact or application because the proposed mechanisms are weak or non-existent.

All SEPP Principles and all 19 Considerations* must apply to all types and scales of development – that is: Precincts, and Significant Development, and All Other Development. As proposed, only Precincts capture the Considerations primarily devoted to Country, Place and Public Space.

As currently proposed, this risks undermining the 20 years of inroads of SEPP 65 and the relationship of the ADG's Parts 1, 2 and 3 with Part 4. Instead of strengthening the most effective mechanisms of SEPP 65, the Design and Place SEPP appears is at risk of eroding it.

The proposed mechanisms mean there will be no demonstrated line of sight from a Site Analysis, Synthesis and Interpretation to the fundamental, first order design response informing the site strategy, site arrangement and building typologies. This is fundamental to demonstrating how a design has responded to Place.

Thirdly, we note mandated performance metrics must be based on *best practice* and be evidence-based so that existing statutory provisions enabling 'flexibility' within the EP&A Act, the EP&A Regulation and SILEP that overwhelmingly result in lesser outcomes, are accountable to a demonstrated superior outcome, holistic design quality, and a positive contribution to public space.

A principles-based SEPP relies on measurable numeric benchmarks to limit (if not entirely avoid) subjective opinion. Broad Principles cannot be objectively tested and creates uncertainty for all stakeholders and will result in inconsistent interpretation by all stakeholders.

Unless all Considerations* are mandated for all development types and scales and there are clear enforceable development standards (numerical benchmarks and explicit performance outcomes) the D+P SEPP will be relying on the very broad and somewhat ambiguous Principles to 'deliver' design outcomes. Reliance on Principles or Considerations* without strong, enforceable, mandated numeric performance benchmarks will result in:

- uncertainty for all stakeholders
- promoting market-inefficient speculative development
- exacerbating existing problems that enable transfer of risk from the private speculator, onto the unsuspecting public. This occurs where developers fail to carry out proper due diligence in land transactions because the probability of an approval via existing 'flexibility' provisions enables poor quality design decisions and built outcomes.

We note the structure of the D+P SEPP in its current form achieves a far lesser outcome than is currently achieved by the mechanisms and drafting of SEPP 65 and the ADG.

Fourthly, it is unclear whether a D+P SEPP will override provisions where other government agencies currently can by-pass statutory requirements and which is leading to poor design quality, impactful and insensitive urban outcomes – such as Transport for NSW, Utilities, Infrastructure SEPP, State Significant Projects, Roads Act amongst many.

Language and descriptors in the SEPP must be accurate and effective, and require action and jurisdictional work.

Principles that are vague and the use of descriptors such as 'Consideration' will be subject of lengthy debate through NSWLEC. It will be questioned whether a 'Consideration' is able to mandated to deliver an outcome, rather than merely being mandated to 'consider' as its descriptor implies. 'Consideration' could be seen to be further weakened by cl 4.15 of the EP&A Act that only requires a matter be 'considered' not demonstrated. 'Considerations' as a term should be changed to Objectives.

Recommendation 1.1

1. 'Public Space' must be recognised as a statutory entity in its own right that is distinct from private domain. It must be defined so its components are clearly described.

Private domain that may have a public function, however, is not Public Space. It is Private Domain and must never be interchangeable with, or treated 'as if' it is the same as Public Space.

2. All Principles and Considerations* must apply to all types and scale of development in NSW and must be demonstrated. The Urban Design Guide and Apartment Design Guide (and other future Design Guides) are to be aligned with all the Considerations* as appropriate. (See item 5 for descriptor).
3. A direct statutory line of sight from Site Analysis (as an action involving identifying information of Country, place and site; Synthesis; and Interpretation of implications for a design) to first order site strategy design decisions (as a direct response to the site analysis) must be explicit, mandated, and must be demonstrated in order for an approval to be granted.
4. Best practice numerical performance benchmarks must be mandated. An alternative pathway must be via a clear and objective assessment process stating clearly the performance outcome. It must be rigorous, best practice, and should demonstrate a superior holistic design outcome compared to a compliant development. See also ICAC 2012 Submission at Recommendation 1.8.
5. Language must be explicit. Introducing ambiguous concepts will lead to poor outcomes.

Principles must state their clear intent.

'Considerations' are to be renamed as Objectives with Design Criteria as Standards to be mandated. Design Guide development controls/metrics are to be Development Standards with a statutory pathway given effect in the D+P SEPP and through cl 4.15 of the EP&A Act. (Note: It may be appropriate to enable Councils to set controls such as Deep Soil and Landscape where their Local Character Statements demand other and greater performance and/or to enable specific urban repair and public space spatial outcomes). See also Recommendation 1.8

1.2 UN International Declaration of Human Rights (UNIDHR) and the UN Sustainable Development Goals (UNSDGs)

We support reference to Article 25 of the United Nations International Declaration of Human Rights and the United Nations Sustainable Development Goals ¹.

- These need to overarch all the Design and Place Guides;
- All the Sustainable Development Goals associated with the design and making of built form, public space and infrastructure should be included - Goals 3,6,7,9,12,13, ² in addition to Goals 11, 3 and 8;
- The effectiveness of the Design and Place Guides needs to be monitored toward achieving the Sustainable Development Goals ³;
- Review and refine the Design Guides over time to better achieve the UN Sustainable Development Goals.
- Article 25 UNIDHR should be referenced by all housing Design Guides. The Design Guides need to secure acceptable standards of amenity for all housing types - apartments, seniors, affordable, missing middle, etc. A unified Housing Guide is recommended, ideally presenting housing type and specific metrics on a single page.

Recommendation 1.2

The Design Guides and Design and Place SEPP need to align with the UNIDHR and UNSDGs to enable ongoing evaluation that can be tested to our national obligations as signatories.

¹ Senate Report on UNSDG Feb 2019, Cl 4.16 The committee heard that 'the SDGs are a global agreement between member states through the UN process but that their implementation...happens at the city or municipal level' Foreign Affairs, Defence and Trade References Committee Senate Report on UNSDG Feb 2019.

² Diagram of the 17 UN Sustainable Development Goals is attached.

³ Senate Report on UNSDG Feb 2019, Cl 4.68 4.69 Submissions provided examples of how different countries have approached implementing the SDGs at the local level...Several submissions nominated the United States (US) Cities SDG Index as an example of international best practice. The Index includes a consolidated database of indicators to monitor sustainable development in America; a snapshot of where cities stand on SDGs implementation to help identify priorities for early action in each city; Foreign Affairs, Senate Report on UNSDG Feb 2019.

1.3 Premiers Priorities

We support reference to the Premier's priorities. We suggest that the proposed Design Guides need to elaborate and strengthen these priorities:

- Target 5 minute walk from homes in urban areas to two or three "quality green open and public" spaces. 5 minute walk (400m) is a standard referenced in UNSDG 11.
- Support the Greater Sydney Commission urban tree canopy target of 40%. Public and private space needs to contribute differentially. Does/will the Greener Places Design Guide prescribe urban tree canopy targets for private as well as public space?
- While improvement on deep soil provisions is overdue, the proposed deep soil metrics are still not sufficient and do not reflect existing deep soil provisions of many local government areas that are recognised as performance metrics that deliver meaningful and characterful urban canopy. These should be retained by Local Councils.
- One-size-fits-all landscape Standards in all existing complying development type SEPPs is a demonstrated failure leading to cumulative, devastating, long-term environmental outcomes. This includes SEPPs such as Exempt and Complying Development, SEPP Affordable Rental Housing, SEPP Housing for Seniors or People with a Disability, Growth Centres amongst others.

Recommendation 1.3

1. Support the Premier's Priorities with mandated performance metrics that are best practice and evidence-based.
2. Deep Soil and Landscape metrics must be retained by Local Councils within their strategic planning instruments aligned with their DCPs where greater provisions can prevail. This is evidence-based and recognised by NSWLEC. Existing outcomes such as Ku-ring-gai achieve the NSW state housing targets while deep soil and landscape is of a rate needed to deliver the community's expectation of all development being within a dominant canopy and garden setting.

Deep Soil and Landscape provisions retained by Local Councils will enable more detailed and targeted outcomes where urban repair may be required or particular urban outcomes require greater urban canopy. It will also enable future audits where the public and/or private domain may have to do more of the heavy-lifting to ensure urban heat can be addressed through targeted planting of canopy trees.

Alternatively, should DPIE pursue a non-discretionary development standard within the SEPP, the proposed standards must be increased to enable Councils with demonstrated success at delivering the needed urban canopy to continue to serve the public space and private domain urban character.

1.4 Connecting with Country

We welcome the release of the *Draft Connecting with Country Framework*.

The structure of the SEPP must ensure a mechanism that gives mandated statutory effect to the *Framework*, so that it is properly elevated and aligned with the ADG and UDG. This directly supports Consideration* 1 of the D+P SEPP.

The current proposed D+P SEPP allows the tokenistic status quo to prevail and this needs to be addressed.

Recommendation 1.4

1. All 19 Considerations* must apply to all types and scale of development.
2. The *Draft Connecting with Country Framework* must be directly cited within the D+P SEPP so that the EIE's overarching intent for meaningful engagement with Country is embedded in the instrument.

1.5 Development types

Public space has for too long been absent in NSW planning. The D+P SEPP proposes:

"to be expanded to a broader range of development typologies – individual buildings, public spaces, whole neighbourhoods, and to improve the delivery of well-designed precincts and buildings and spaces within them."

Public space is presented as a 'development type' conceptually captured 'as if' located within a private development site.

Public space is spatial and a continuum entity that, by definition, is NOT private.

The new SEPP has not yet afforded public space the status as a recognised statutory entity and which is at the core of the policy and core of how we form our cities on Country. This needs to be addressed.

Recommendation 1.5

1. See Recommendations 1.1 regarding Public Space and statutory effect mechanisms.
2. See Recommendations 1.4 regarding Connecting with Country.

1.6 Aims for the revised Apartment Design Guide

Generally, some of the proposed changes to the ADG are welcomed, with qualifications.

In particular are important changes that will improve:

- building typologies
- life cycle resident amenity.
- address existing deficiencies/loopholes that are enabling poor design outcomes
 - addressing tower footprints,
 - building separation of towers,
 - natural cross ventilation.

Further discussion is required around solar amenity, which the proposed changes appear may have the unintended effect of weakening existing provisions.

However, we note with some concern that the EIE Aims of the revision has not identified the primary intent being to further improve design quality of residential apartment development.

Further there appears no D+P SEPP Principle that directly captures resident amenity currently captured under the SEPP 65 Principles.

The EIE revision priority appears to be focused on 'industry concerns' rather than good public policy outcomes. We need to form an approach that is consistent with formulating good public policy.

We urge the NSW Government Architect and DPIE not to weaken what is currently a proven, established and functional policy in NSW that is dedicated to improving design quality and amenity of apartment developments.

Recommendation 1.6

1. SEPP 65 (and mechanisms that make effective the ADG) is the only enforceable policy in Australia that effectively addresses design quality and amenity.
2. Robust enforceable standards must be retained not weakened.
3. The D+P SEPP must include a Principle that directly responds to amenity, and more broadly that all existing SEPP 65 Principles are explicitly captured within the D+P SEPP.

1.7 Aims of the Urban Design Guide

We enthusiastically support the introduction of an Urban Design Guide. It is much needed and overdue.

However, to be effective it needs to give primacy to public space which is at the heart of all urban design.

The EIE proposes mechanisms giving the UDG effect that are weak and limited, applying only to Precincts.

Urban design and public space are integral to all development regardless of types or scale. Therefore, all development needs to be cognoscente of its contribution and response to public space, its place within the greater continuum of natural and human systems, and to the good design of place.

While the detail to which the UDG will be implemented may vary with the scale and type of development, a cultural shift is required if the intent is for industry and all stakeholders to 'think beyond the site boundaries'.

Currently there is no mechanism within the D+P SEPP that will achieve this.

Recommendation 1.7

1. The UDG must apply to all types and scales of development.

1.8 Statutory mechanisms

See item 1.4 regarding giving the D+P SEPP effect in NSW.

The statutory mechanisms to be aligned to address the following:

- a) CI 4.15 of the EP&A Act

The current drafting and wording enable poor design outcomes. The word '**consider**' is passive. There is no requirement for the granting of an approval that the consent authority is satisfied any provision of an environmental planning instrument is **demonstrated**. Provisions of EPIs can be merely considered, and in effect ignored or given little weight. To improve the quality of design at approval stage, the requirement must be to demonstrate the EPIs and Guides are satisfied.

- b) D+P SEPP mechanisms giving effect to the Considerations*

All of the 19 Considerations* must be given effect under the D+P SEPP to apply to all types and scales of development. All development must demonstrate its response to the *Draft Connecting with Country Framework* and to urban design and the public space via the UDG.

A clear statutory line of sight from the EP&A Act, EP&A Regulations, the D+P SEPP, UDG and ADG is required to demonstrate how the Principles, Considerations*, Design Criteria and Guidance are satisfied. This will require at the first instance that there is a clear line of sight commencing from a Site Analysis to the first order design decisions.

- c) Statutory line of sight from Site Analysis to Site Strategy, Site Arrangement and Building typology.

Site Analysis requirements must be explicit in the 'work' it is required to do. Analysis must involve a 3-part process of action – more than an inventory of information, it must analyse, synthesise, and interpret. A graphic representation must demonstrate how the first order fundamental design decisions of the site strategy, site arrangement, building typology are directly informed by, and a response to, the Site Analysis findings.

A direct statutory line of sight from Site Analyses, Syntheses, Interpretation to the first order design decisions must be demonstrated in order for an approval to be granted.

- d) Clause 50 (1AB) and Schedule 1, Part 1 cl 2 (5) of the EP&A Regulation are to reflect more explicitly the statutory line of sight from the Site Analysis to Site Strategy, Site Arrangement and Building Typology. The requirement is that the design is to demonstrating **how** the design has addressed the D+P SEPP Principles, 19 Considerations*, and Design Criteria (numeric performance Standards)and design guidance in the UDG (for all development) and ADG for Class 2 development (to be extended to different housing types should the ADG become a broader Housing Design Guide).

- e) CI 4.6 of SILEP

Current provisions are onerous, legalistic, and planning based as a written exercise, that does not achieve outcomes that serve the community or public policies or design quality outcomes.

CI 4.6 is used as an enabling pathway for poor design to by-pass non-discretionary development standards and development controls because there is no requirement for a superior design outcome, nor a holistic test of a superior outcome of the whole design proposal to be demonstrated.

It is a pathway to transfer private risk resulting from unrealistic expectations and/or inadequate due diligence onto the public in the form of poor quality design.

The role of Design Review Panels should be required to assess all variations to development standards. Clause 4.6 must make provisions that a consent must not be granted by the consent authority unless a DRP has determined the holistic outcome of the proposed development is superior to that of a compliant development. This would start from the first principles of the direct line of sight being demonstrated from the Site Analysis and response to the site strategy, site arrangement and building typology.

Economic viability of a development is the responsibility of the developer (profit taker) and their financial institutions to determine, it is not the responsibility of the community to carry any losses.

Clause 4.6 must make explicit that the 'orderly and economic development of land' does not extend to failures to carry out proper due diligence, to speculative land transactions, and/or profit-takers have just paid too much for land.

f) 'Flexibility' and 'Innovation'

'Flexibility' should be understood by all stakeholders as a privilege being granted by the community. It is not an as-of-right benefit to private interest or government agencies in the absence of public obligations.

Of note here is the Independent Commission Against Corruption 2012 submission *Anti-corruption safeguards and the NSW Planning System*

Recommendation 1 of that submission:

That the NSW Government ensures that discretionary planning decisions are made subject to mandated sets of criteria that are robust and objective.

Current flexibility provisions are in abundance throughout every EPI and Guideline document. It is currently structured and implemented to benefit speculative development proposed by profit takers - developers.

The legalistic, planning focused, written requirements are not design based, design quality based, or overall quality of outcome based.

The effect is that 'flexibility' is the pathway used for enabling poor quality development because there is no associated design quality test, or a requirement to identify and demonstrate any 'innovation'.

'Flexibility' has a legitimate place in the planning system particularly where local strategic planning may be inappropriate due to lack of resources and expertise, and the influence of standard instruments and one-size-fits all provisions that are blunt, unsophisticated and often not fit-for-purpose leading to perverse outcomes (in particular for deep soil and landscape and loss of canopy or damage to natural systems).

'Flexibility' can be effective where it is made explicit in the statutory requirements that development standards are not as-of-right assumptions to development outcomes, that proper due diligence is expected when assessing land costs, and that all development is dependent on, and must be tested against, the broader place and specific site conditions.

Where the community has vested 'flexibility' through public policies, it is reasonable to demand a public obligation with that privilege. The obligation must require the making of a superior positive spatial and design quality contribution to the public space to future users over the long term, as a contribution to the city than would a compliant development.

A definition of 'innovation' should be included to provide clarity around what is expected to be achieved where the privilege of 'flexibility' is used either to vary development standards, or discretionary development controls.

'Innovation' is borne out of constraints and finding new ways of solving constraints. It must be defined and a requirement be that 'innovation' is specifically identified and demonstrated where 'flexibility' provisions are sought.

- g) Cost benefit and public interest. The criteria is too narrow and weighted too heavily towards private economic benefit and job creation. The cost to the community of poor design outweighs the short-term economic benefit, and job creation occurs for any approved project regardless of design quality. It is up to the community to demand those projects deliver better long-term outcomes.

The argument often submitted by profit-takers is that good design costs more and is unaffordable. This does not hold once true long-term cost impacts of poor design are properly calculated. Yes, there is more upfront costs, but this is outstripped by the long-term economic benefits of good design.

Recommendation 1.8

The following mechanisms must be amended or introduced and aligned:

1. Clause 4.15 of the EP&A Act – the jurisdictional work must require that in order for a consent authority to grant an approval, an application must *demonstrate* the provisions of cl 4.15 (1), (2), (3) are satisfied (not merely *considered*).

2. D+P SEPP mechanisms - Considerations* must be renamed *Objectives*.

All Objectives of the D+P SEPP must be triggered and applicable for all types and scales of development so that that Country, public space and urban design are mandated elements to be demonstrated for all design outcomes.

The UDG must be applicable to all scales and types of development. Urban design is integral for every development.

3. A direct statutory line of sight from Site Analyses, Syntheses, Interpretation to the first order design decisions must be clearly reflected in the fundamental site strategy, site arrangement, and building typologies of all development. This must be demonstrated in order for an approval to be granted. A greater role for design review panels is required at the preDA stages to ensure this is satisfied by persons with the necessary design based, cultural heritage, and urban design expertise (not planners or lawyers).

Preferably, a preDA process for development applications should be mandated so that proper due diligence can be carried out early and before a proponent has invested too heavily on multiple consultants and design development. This would enable early design direction and a smoother and speedier approval pathway.

4. Clause 50 (1AB) and Schedule 1, Part 1 cl 2 (5) of the EP&A Regulation are to reflect more explicitly the statutory line of sight of Recommendation 3 above and that the design response demonstrate **how** it has satisfied all D+P SEPP Principles and Considerations* and the UDG and ADG in order for an approval to be granted.
5. Clause 4.6 of SILEP – must be design-quality based, and outcome based. Sought variations to non-discretionary development Standards must require a Design Review Panel be satisfied the holistic outcome is superior in design quality to the outcome of a compliant design.

A Cl 4.6 assessment criteria must mandate:

- design quality be demonstrated
- the variation be tied to fundamental site analysis, fundamental design response to public space, site arrangement and building typology as a response to place
- a holistic meritorious assessment that demonstrates metrics of broader public benefits — a superior holistic outcome be demonstrated compared to a compliant design.

6. 'Flexibility' and 'Innovation' within the planning system must have mandated requirements to serve public policy and public interest through design quality and superior outcomes, and specific 'innovation' being identified.
7. Public interest must be more broadly defined to include public health, public space outcomes, sustainability, superior user experience, design quality and the like.

The narrow interpretation and application of public interest prioritises the creation of jobs, which is often over-estimated and/or occurs regardless of higher or poor quality design.

8. Criteria for cost benefit to be broadened to include value of good design and cost impact of poor design over the long term.

Cost impacts borne by the community as a result of poor quality of design, are to the public space, place and urban canopy, sustainability, health, and the liveability of our cities, and unacceptable as-built quality requiring excessive maintenance and/or rectification.

1.9 Design Quality

Resources need to be focussed on good design not on poor design being made legally 'approvable'.

Too much time, cost and resources is expended on poor design being 'enabled' to become legally 'approvable'. This needs to be reversed so the greatest effort is in facilitating higher quality development outcomes throughout the system.

This commences with proper due diligence in land transactions that considers the site not assumes entitlement of as-of-right development quantum, development potential clearly derived from Site Analysis and the first order design decisions for site strategy, before progressing to a development application, and beyond to construction and completion.

Recommendation 1.9

1. 'Good design' and 'design excellence' (as an outcome and a process) are to be defined.
2. Mechanisms are needed to identify and have the power to reject projects at PreDA stage where poor design and flawed fundamental decision-making at concept stage is first identified. This is before a developer becomes too heavily invested at which point the opportunity to meaningfully address design deficiencies is essentially lost. This will promote innovation early, and promote the importance of the intrinsic connection of place through meaningful site analysis and synthesis, response to public space, fundamental design response.
3. A requisite at preDA stage is to demonstrate development potential derived from context and site analysis, not the rigidly assumed and implemented as-of-right maximum permitted development (or more) that favours poor urban outcomes.
4. Expand the role of Design Review Panels earlier at preDA stage and to be given a component of authority while the existing role of existing consent authorities is still retained.
5. Design Review panellists must to be practising designers, architects, urban design, landscape, sustainability, and cultural heritage.
6. To be reviewed is a meaningful Site Analysis and fundamental design response including a test of the response to public space. See Recommendations 1.1 and 1.8:
 - a) Aligned with the D+P SEPP and UDG
 - b) Site analysis must include the synthesis, and interpretation of information to demonstrate **how** the information informs the design response.
 - c) Building typology and site strategy to be given either:
 - a green light to proceed to develop the design for a development application,
 - red light requiring a redesign and resubmission,
 - amber light to confirm the fundamental approach is appropriate but requires certain issues to be addressed. If not addressed at preDA, the design is given a red light and does not proceed to DA.
7. Design Review Panels need an on-going statutory role following DA approval. It is post-DA that design quality diminishes, and the D+P SEPP intent is to improve the design quality of as-built outcomes.

1.10 BASIX

The review of BASIX is overdue and is supported with qualifications.

The D+P SEPP must not weaken the existing provision to the lesser requirements and measures of other jurisdictions.

Conversely, it should not prevent higher levels of environmental performance resulting from existing limiting clauses.

Tradable provisions must not result in low resident amenity.

Recommendation 1.10

1. Repeal the limiting clauses 8, 9, 10 that prevent higher sustainability targets from being achieved. These are inconsistent with NSW commitment to the Net Zero Emissions Plan.
2. BASIX is to retain superior provisions not introduce lesser measurement methods or performance that may be operating in other jurisdictions.
3. "Flexibility" provisions must mandate superior performance outcomes.
4. "Innovation" must be identified and demonstrated where flexibility is sought.

Part 2 Detailed response to EIE document

2.0 Introduction

The following response speaks to the EIE document in detail.

We note there are certain issues and assumptions that flow through the EIE that have implications for other aspects of the EIE as they interact.

In response to our submission, we anticipate further consideration and amendment is required for the release of a Draft Design and Place SEPP, Urban Design Guide and the revised Apartment Design Guide later in 2021.

Page	EIE item	Heading	HT Comments
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Executive Summary			
5		D+P SEPP	<ul style="list-style-type: none"> • The D+P SEPP must be based on mandated metrics with a robust accountable process that must demonstrate holistic design merit and superior performance outcome when seeking to vary them. 'Flexibility' within the current planning system gives effect to pathways that by-pass public policies requirements. • 'Flexibility' granted to private domain 'rights' must have attached statutory enforceable public responsibilities that demonstrate and deliver superior public outcomes. • A principle-based policy without effective best-practice metrics will fail within the current planning system and development culture.
5		Incorporating BASIX	<ul style="list-style-type: none"> • It is disappointing to see the primary purpose of BASIX (being to drive energy, water efficiency and sustainability commitments) is the lowest priority in the intended effects. • Simplifying its use is supported, but must not enable loopholes as pathways for performance. Construction Certificate and as-built audits required before an occupancy certificate is granted. • Post-occupancy audits required to enable evidence-based upward revisions of targets.
5		Revised ADG	<ul style="list-style-type: none"> • The general revision is supported in principle where superior design outcomes and building performance is the goal. • It is disappointing if 'industry concern' is driving the revision rather than the primary purpose of the ADG under SEPP 65 which is for <i>Design Quality of Residential Apartment Development</i>. • Any pathway for 'flexibility' needs clear, mandated measurable performance metrics at its base. Absence of evidence-based, best-practice metrics will fail the city and community. It will only benefit developers and to date has almost universally not delivered innovation within the NSW planning system and culture. • An eventual Consolidated Housing Guide is supported in principle. • However, it must aim high and address dire existing or absent amenity and landscape provisions of existing complying development type housing codes and SEPPs (HSPD and ARH). (EG inadequate solar, building separation, privacy founded on the use of screens across windows, inadequate deep soil, excessive site coverage/dwelling size for detached and some attached housing types, loss of canopy enabled). • The Guide(s) need robust clear metrics preferably on a single page for each housing type that must be founded on evidence-based testing that will deliver sustainable, canopy rich, and characterful development – Landscape and Deep Soil are to be compulsory, but set by Local Councils. • Long, ambiguous and numerous Guideline documents will not be effective. (Consider the form of the existing encyclopaedia that the Exempt and Complying Development SEPP has become – very cumbersome to use because there are too many development types being captured). • SEPP mechanisms and revised EP&A Regulation requirements are required to provide a clear statutory line of sight from site analyses+synthesis+interpretation to the fundamental design response to place i.e. site strategy and arrangement, building typologies, and unit typologies. • A similar mechanism is needed for all significant development and all types.

Page	EIE item	Heading	HT Comments
5		New UDG	<ul style="list-style-type: none"> • The introduction of a UDG is strongly supported. • The guide must embed Country as a continuum from inception to procurement and as public spaces and projects perform over time. • The UDG must be founded on public space as the core for city making from which development in the private domain will respond and move towards cultural/social contracts to positively contribute. • Disappointing that public space remains relegated as a design 'element' rather than a primary aim of the policy. • Opportunity for public space to become a statutory land use recognised in its own right within the SEPP and SILEP and to enable meaningful public space and system commitments to new Precincts and improved places undergoing change, and strategic planning enabling complexity and adaption over time.
5		Design Review Guide	<ul style="list-style-type: none"> • Supported • Needs the advisory role to be elevated to enable certain approvals – Precincts, the making of LEPs and DCPs, and when varying public polices or performance metrics.
Part 2 Proposed SEPP Design and Place			
11	2.1	Structure of the new SEPP	
12	2.2	Aims of the new SEPP	
		5. Enable the delivery of quality design, integrated outcomes and innovation and places in NSW	<ul style="list-style-type: none"> • Support in principle. The delivery of new connected, high quality public spaces must be a priority. Query why the abundant flexibility already embedded within the planning system has not delivered unless specific projects have implemented effective holistic design quality control and oversight from inception, concept, PreDA, DA, CC and construction processes. • Certainty in measurable performance outcomes facilitates innovation. If the expected performance is not clearly articulated and mandated, evidence proves there is no incentive or imperative for industry as a whole to deliver.
13	2.2.1	Connecting with Country	<ul style="list-style-type: none"> • Excellent to see Connecting with Country aspirations elevated more meaningfully into the planning system. • The current structure of the proposed SEPP appears will not result in the intended outcome unless all Considerations apply to all development and all scal- to truly embed proposed D+P SEPP Aim 2. • Recognition and engagement needs to be demonstrated in all design responses if the needed cultural shift in industry thinking and process is to occur.
14	2.3	Principles of the new SEPP	<ul style="list-style-type: none"> • A principles-based SEPP is supported where Public Space principles are robust and meaningful. • Principles and document content that strengthens and provides more direct lines of sight to the UN Sustainability goals (all of them) and WHO Healthy Cities should be considered. This should emphasise Public Space, Walkability, active transport and public transport. • It is unclear how some of the Principles can be implemented and interpreted and demonstrated. They need to be strengthened. • A minor observation but important to messaging is the graphics used as 'icons' for each principle. They appear chaotic and not representative of each different associated principle. Some appear antithetical. • Better Placed 7 Objectives are commendable but not effective.

Page	EIE item	Heading	HT Comments
			<ul style="list-style-type: none"> - The document structure and content has not been engaged by industry, and is not enforceable by NSWLEC or consent authorities due to its Guideline status not being a Planning Instrument within the EP&A Act at s4.15, s4.16. - It is unclear how it can be implemented under a complying development type SEPP. - While acknowledged as a worthy contribution its benefit is primarily to local government in developing LEPs and DCPs/Local Strategic Plans. - Better Placed requires a significant review <i>in addition to</i> the intended EIE to elevate its status. - Its reference as a keystone policy in the D+P SEPP currently may lead to confusion with the D+P SEPP Principles and 19 Considerations. • The number of reference Guides still proposed to sit outside the direct remit of the SEPP remains a concern for the intent to simplify the policy framework.
17		Principle 2 - Design inviting public spaces	<ul style="list-style-type: none"> • A Design and Place SEPP needs to have Country and public space at its core. It is a policy about Place. • The D+P SEPP policy setting does not address the current void around public space that exists within the NSW planning framework and development culture. • Principle 2 is commendable but statutory recognition of public space as a land use (that comprises many functions and human engagement) is required and that status then be aligned in this new policy. • Public space is more than its description as playing a 'crucial role'. It is central to our cities, towns, villages, suburbs. It is the entity around which private domain development occurs. • Recognition, protection and delivering to public space needs a strong SEPP to give effect for advocacy that will support superior design outcomes. • The SEPP focus and structure currently is in danger of being another to add to the existing plethora of private domain focused policies rather than doing what NSW needs it to be and its intended effect as an overarching public policy about design and place. • NOTE: Considerations 1-9 are those talking to primarily public realm yet are given no effect to any development type other than in Precinct scale. This is a fatal flaw of the policy. • Connecting with Country is absent from the foundation Design Principles.
19		Principle 4 - Designing for sustainable and greener places	<ul style="list-style-type: none"> • Support this important principle. • NOTE: Retention of existing BASIX limiting clauses (cl 8-10) perform as an inhibitor to innovation.
21	2.4	Application of the SEPP	<p>NOTE: SEPP also looking at exempting certain land use zones (EG SP1, SP2, SP3) or development types at Schedule 1 of SEPP State and Regional Development. This should be rejected. Many highly impactful development types and scales of development will otherwise not be captured including where local or state authorities may be the proponents.</p>
21	2.4.1	Precincts Significant Development All other development	Supported Supported Supported
23	2.4.2	Development types	Public space is seen to be a development type
Part 3 Key components of the new SEPP (Design and Place)			

Page	EIE item	Heading	HT Comments
25	3.1	Design Processes	
25	3.3.1	Design skills	<ul style="list-style-type: none"> • Unclear how an urban designer will be defined and considered qualified. • There is no equivalent urban design equivalent to the AIA and (and associated Architect's Act and Code of Professional Practice) and AILA that currently exists.
26	3.1.2	Place-based approach	<ul style="list-style-type: none"> • Current EIE structure (and by extrapolation, assumed mechanisms) for place-based design are not represented in the D+P SEPP at this stage. • Considerations 1-11 must apply to all development and all scales. • Considerations 1-9 in particular are key to understanding place, and a design response/contribution. While the engagement and depth of focus will depend on development scale and type, all considerations must be equally mandated. • The current effect of Considerations 1-9 applying ONLY to Precinct scale development means meaningful engagement with Country, the application of the UDG and ADG site analysis is given no or inadequate statutory effect to significant development or any other development under s4.15 of the EP&A Act. • This erodes the cultural shift desperately needed in our planning system to address the void where Traditional Custodianship, public space, and natural systems need to be recognised and championed and given effect so the private domain engages in ways it traditionally has never been required to do.
26	3.1.3	Design evaluation and review	<ul style="list-style-type: none"> • Supported in principle. • Concern that the evaluation is to be based not on the SEPP Principles and 19 Considerations but is also to introduce a further 7 design Objectives of Better Placed. • Better Placed should not be used as the evaluation criteria, the 7 objectives should be represented in the D+P SEPP's 5 Design Principles and the 19 Considerations. (See also reasons cited HT comments at 2.3). • Better Placed is best as a background policy unless it can be significantly revised and amended to be fit-for-purpose for evaluation purposes under the proposed D+P SEPP.
27	3.2	Design and Place Considerations	<ul style="list-style-type: none"> • Semantics matter and unfortunately, if 'Considerations' are to be mandated, they will need to become Objectives (or similar where they are not exactly Objectives or Criteria). See also comments 3.1.2. • 'Consideration' in the proposed planning context means optional. 'Considerations' and intended 'performance' will be likely rendered ineffective if tested through NSWLEC.
27	3.2.1	Application Requirements	<ul style="list-style-type: none"> • There is no actual engagement of Country represented within the application requirements contrary to the Draft <i>Connecting with Country Framework</i>. • Site Analysis: <ul style="list-style-type: none"> - Rename Site Analysis to <i>Site and Place Analysis, Synthesis and Interpretation</i>. - All development needs a clear statutory line to sight from the Site and Place Analysis, Synthesis and Interpretation to the design strategy for the site. This will enable clear advice at the very early stages of development to identify poor development that may be poor quality founded on poor fundamental decision-making. - A Site and Place Analysis, Synthesis and Interpretation must have jurisdictional work it must do within the EP&A Regulations.

Page	EIE item	Heading	HT Comments
			<ul style="list-style-type: none"> • Design Statement <ul style="list-style-type: none"> - Has no effect. - A Design Statement must have jurisdictional work it must do through the EP&A Regulations. It must be required to <i>demonstrate how</i> the 19 Considerations* have been addressed by identifying specific design decisions/ site or typology strategies/ detailed design responses and the like.
Pp 27-32	3.2.2	Mandatory Matters for Consideration	<ul style="list-style-type: none"> • Considerations 1-19 <i>must</i> apply to all development scales and type. The level of detail and type of engagement will be nuanced via the scale and type of development. • Considerations 1-9 capture all the elements that focus on Country, public space and natural and human systems. • Proposed D+P SEPP structure applying Considerations 1-9 only to Precincts will enable a statutory pathway that undermines Country and Place and Public Space. • As currently proposed it will undermine 20 years of policy progress made by SEPP 65 and the ADG. • Consideration 17 – needs to be further developed so it is effectively delivering net zero buildings. <ul style="list-style-type: none"> • BASIX – retaining the limiting clauses 8, 9, 10 effectively prevents communities and local councils or state authorities from setting higher sustainability standards if industry is seeking certainty addressing their own fiduciary risk towards zero net carbon. The D+P SEPP must facilitate real innovation by enabling higher sustainability targets. • Modifications post DA approval must be required to demonstrate an equal or superior outcome is achieved. This also needs to be considered in context of the Design and Building Practitioners Act and Regulations.
33	3.3	Guidance	
33	3.3.2	Guidance to be revised	<ul style="list-style-type: none"> • <i>Better Placed</i> should be included in the proposed revision list. See previous comments at 2.3, and 3.1.3. • Support that <i>Greener Places</i> is being revised and strengthened.
Part 4 Proposed amendments to existing SEPPs			
35	4.1	SEPP 65	<ul style="list-style-type: none"> • Supported in principle where evidence-based principles and performance metrics achieve a superior design and public outcome compared to the existing policy and Guide.
36	4.2	SEPP BASIX	<p>NOTE: Intention to retain existing limiting clauses 8, 9, 10 will continue to prevent faster action towards net zero emissions.</p> <ul style="list-style-type: none"> • This is contrary to the D+P SEPP intent for innovation when already a growing number of local councils (and others in industry) are wanting more mechanisms and incentives to manage their own transitions towards net zero emissions and in solutions for limiting and mitigation climate related risk. • The limiting clauses should be repealed to better enable a controlled transition rather than what is increasingly being identified as a hard, uncontrolled transition in the NSW (and Australian) economy.
Part 5 Relationship with other planning instruments and policies			
38	5.1	EP&A Act, EP&A Regulation, LEPs and DCPs	
38	5.1.1	EP&A Act, EP&A Regulation	<ul style="list-style-type: none"> • Legislative changes are required to the Act to enable a more functional planning system.

Page	EIE item	Heading	HT Comments
38	5.1.2	LEPs and DCPs	<ul style="list-style-type: none"> • Strongly support proposed amendments to cl 4.6. • Cl 4.6 is essentially a jurisdictional legal and planning test in a system that is riddled with 'flexibility' pathways as enabling mechanisms for really poor design outcomes. It is absent of test of design quality or holistic outcomes. • Cl 4.6 must mandate a superior holistic design and performance outcome is demonstrated. • A new mechanism is needed that requires a design review panel to determine the merits of the variation in order for a consent authority to grant an approval. (The panellists are to comprise qualified and experience professionals with the expertise to carry out a holistic merit assessment of the design.) • It is foreseeable that local councils and consent authorities may resist design review panels holding a consent role. • However, cl 4.6 appears able to accommodate amendments that retain the existing Council or Local/Regional Planning Panels etc as the consent authority but includes a provision that approval <i>must not be granted</i> unless a design has the endorsement of a design review panel particularly where variations to public policies are proposed. • The whole purpose of a D+P SEPP is to improve design quality. To have relevance, cl 4.6 submissions need to be cross-referenced to the Site Analysis, Synthesis, Interpretation and the fundamental first order site response, site arrangement and building typology.
38	5.2	Other EPIs impacted by the new SEPP	
38	5.2.1	SEPP (Sydney Regional Growth Centres) 2006	<ul style="list-style-type: none"> • Generally support proposed amendments
39	5.2.2	SEPP (Exempt & Complying Development Codes) 2008	<ul style="list-style-type: none"> • Current Codes' development standards are not fit for purpose. • Cumulative impacts of this SEPP are unsustainable and contrary to the intent of the new D+P SEPP. • Many Development standards will need to be repealed and or amended in particular for deep soil, landscape, building separations for privacy, visual privacy predicated on screens across windows of habitable rooms or forcing only highlight window types, a proliferation of hard surfaces, excessive building sizes for detached and some attached dwelling types etc). • ALL performance metrics must be founded on evidence-based best practice aligned with the Aims of the D+P SEP.
39	5.2.3	Proposed Housing Diversity SEPP	<ul style="list-style-type: none"> • Supported. See previous comments regarding amenity and best practice performance metrics. • Current development types boarding houses, serviced apartments, student accommodation and aged care must require best practice resident amenity metrics are satisfied.
39	5.3	Planning Circulars & Practice Notes	Noted.
39	5.4	Ministerial Directives	Noted.
39	5.5	Better Placed	<ul style="list-style-type: none"> • EIE intent appears Better Place is to be revised and amended to align with the new D+P SEPP. This is not reflected at 3.3.2. • Better Placed requires significant revision to be fit for purpose in the way it is intended to be used. • We question the role of <i>Better Placed</i> because it appears largely redundant if the D+P SEPP and UDG and ADG are doing their jobs. The current format and content of <i>Better Placed</i> will cause confusion and adds Objectives on top of the 5

Page	EIE item	Heading	HT Comments
			Principles, 19 Considerations*, and requirements of the UDG and ADG. However, it is acknowledged it has been central as a policy that has led to the introduction of a Design and Place SEPP.
Part 6 Planning Pathways			
41	6.1	Part 4 of EP&A Act	
41	6.1.1	SSD and Precincts	NOTE: All 19 Considerations <i>must</i> be given effect to all scales and types of development. See comments 3.2.2.
41	6.1.2	Local Council	NOTE: All 19 Considerations <i>must</i> be given effect to all scales and types of development. See comments 3.2.2.
41	6.2	Part 5 of EP&A Act	
41	6.2.1	State significant infrastructure	See previous comments 3.2.2.
41	6.2.2	Review of environmental factors (REF)	Noted
42	6.3	Planning Proposals	<ul style="list-style-type: none"> • See previous comments 3.2.2. • Disappointing to see statement like “Targeted engagement with the local Aboriginal community including Traditional Custodians <i>may be required if relevant</i>” (italics added). This is indicative of how the D+P SEPP approach appears to be inconsistent with meaningful and embedded engagement of Country as fundamental to understanding Place.
46-50		Glossary	<ul style="list-style-type: none"> • <i>Consideration</i> – To be changed to Objective, with inclusion in Glossary to explicitly define the Objectives as mandated requirements to be satisfied. • <i>Design Excellence</i> and <i>Good Design</i> - need to be more clearly differentiated and their expectations. EG: There is no requirement for best practice to be demonstrated in either definition or exceeding best practice as outcomes. • <i>Mitigation</i> - ensure alignment with other policies Adapt NSW. Additions that will also capture HABITAT III as necessary. • Public space - must only include space (land or buildings) that is publicly owned. Private land or development that serves a public function is <u>not</u> public space. The blurring becomes a further erosion of the public interest and indicative that the D+P SEPP not currently reflecting the importance and fundamental need for the planning system to recognise public space and all its characters and types as an encompassing statutory entity of itself. • <i>Tree</i> – the definition limited to AS 4970 does not enable a qualitative or performative differences between a 3m ‘tree’ and large canopy to be understood in context of sustainability, place, local character statements etc. Alignment with other policies may be required where review is being carried out.
Appendix A Proposed Amendments to the ADG and SEPP 65			
		General	<ul style="list-style-type: none"> • Must be extended to capture boarding houses, student accommodation, serviced apartments, and build-to-rent. • Amenity provisions currently result in structural inequality for housing.

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			<ul style="list-style-type: none"> • Issues of affordability require significant policy changes including land economics, public value capture of uplift, tax exemptions. • Impacts of consecutive policy failures over the past decades at both national and state levels should not be borne by those least able to manage them.
A4	A.1	Introduction	<ul style="list-style-type: none"> • The stated intent is that the ADG revision will: <i>“ensure the planning system can facilitate more flexible design approaches that respond to key criteria...”</i> However, this should be viewed in context of existing serious deficiencies in the existing planning system. • The existing planning system at every level of policy enables: <ul style="list-style-type: none"> - almost every development objective and standard or guideline to be challenged and potentially varied (if not ignored) and still gain an approval; - no requirement for a <i>holistic high-quality design outcome</i>; - and/or DA approval conditions that may have significant physical/spatial implications for the design originally approved when addressed in design development. - the lowest design quality benchmark of ‘legally capable of approval’ as the public test. • Flexibility as construed in the planning system currently is an enabling pathway for poor design to progress through the whole system and gain approval. • The existing benefits of flexibility are heavily in favour of developers and their private interest and not fairly balanced with public responsibility and outcome. This is failing our cities and the community. • Reform that vests regulatory and procedural fairness to the public interest and representation must be equal to that afforded to powerful vested private interests. • Public resourcing and skills support are required to benefit a broader public interest as defined by design quality and public space contribution.
A5	A.1.1	Better housing, better places	See previous comments.
A5	A.1.1.1	COVID-19	Support observations.
A5	A.1.1.2	Housing supply, feasibility, and affordability	<ul style="list-style-type: none"> • Consideration of accessibility needed here. • Current RIS investigating regulatory change in the National Construction Code seeking to increase standards to improve design quality that enables housing supply suitable for far more of its citizens’ needs. • ‘Feasibility’ must be addressed with urgently needed policy reform in land economics (public value capture of up-zoning and inclusionary zoning), housing policy settings (inclusionary zoning, stopping the continued loss of social or affordable housing only required to be held for 10 years), taxation (negative gearing and capital gains tax exemptions), and financial lending requirements. • Leadership is required for a cultural shift away from housing as a commodity and wealth creator to housing as social infrastructure. • Developer greed and speed has been facilitated and preferred ahead of public benefit and controlled city-making. • The ‘market’ has failed affordable and social housing and cannot be expected to solve the shortage. It is the role of government to step in where there is a public need to house segments of the community that are not being served by market forces. • Those least able to deal with housing policy failures should not be those experiencing poor amenity.

Page	EIE item	Heading	HT Comments
A6	A.1.1.3	Healthy, sustainable, resilient communities	<ul style="list-style-type: none"> • Support observations • Recognition of long term health outcomes with good housing and livable places.
A6	A.1.2	Recent lessons learnt	<ul style="list-style-type: none"> • Critical that ADG performance metrics are retained and strengthened to maximise amenity not be weakened. • A process to vary standards and metrics can be supported where there is a clear statutory line of sight between site analysis/synthesis/interpretation and the fundamental site design strategy (incl arrangement, building typology and unit typology). • A pathway for varying standards must be robust, require independent design review by those qualified and experienced to provide a holistic assessment of design quality, require a superior design outcome be demonstrated, require a positive contribution to the public space. CI 4.6 must be argued in terms of the Site Analysis, Synthesis, Interpretation and the actual holistic design and performance starting from the first order site strategy, site arrangement and typologies. • Support of the holistic design quality review panel <i>must</i> be gained in order for an approval to be granted by a consent authority. • A principles-only, vague, performance policy will fail the citizens, environment, and liveability of places in the existing NSW planning system and culture. It becomes subjective opinion, cannot be consistently applied, and is costly to all stakeholders. • The fundamental purpose of a D+P SEPP is to improve design quality and must be explicitly identified in the Aims of the SEPP.
A8	Table A2	Additional themes from ADG 2015 Review	<p><u>Communication and interpretation:</u></p> <ul style="list-style-type: none"> • ADG as a Guide within the EP&A Act <i>must</i> be given effect as an EPI or it will be ignored. • Numerical values enable fast compliance but is absent of a design quality check to confirm how, why and where it is appropriate to vary. <p><u>Innovation:</u></p> <ul style="list-style-type: none"> • 'Flexibility' pervades our planning policies from the EP&A Act, Regulations, LEPs, DCPs and other Guideline documents. • The issue is the assessment process (planning and legal focus): <ul style="list-style-type: none"> - does not have the expertise to make a holistic merit assessment of design quality, - the statutory mechanisms have no requirement to demonstrate design quality, superior performance outcome, positive contribution to the public space and broader public amenity, - requires education of industry and consent authorities that must be supported by input from those with the design expertise to make holistic assessments, - a planning and legal centric focus absent of the expertise is not capable of knowing how and when it is appropriate to use the existing flexibility provisions. • Flexibility in the current planning culture is not delivering creativity or innovation, it is enabling poor design with arguably the least creativity and innovation to not meet minimum performance. <p><u>Identifying the Context</u></p> <ul style="list-style-type: none"> • The feedback speaks to diversity of housing type not context. • Unclear what is the issue and what is proposed. <p><u>Primary controls</u></p>

Page	EIE item	Heading	HT Comments
			<ul style="list-style-type: none"> • Many LEP and DCP controls will differ to the ADG because of community expectations for local character. However, the ADG has proven to be a superior document to almost all Council DCPs because it emphasises positive design qualities rather than negative criteria. • Expansion of items within cl 6A of SEPP 65 is supported in principle for all except Deep Soil Landscape. Deep soil Landscape is critical to be left in local council control and not become a one-size fits all development standard. • Standardised LEP and DCP document format are helpful for addressing many inconsistencies. <p><u>Communal and Public Open Space</u></p> <ul style="list-style-type: none"> • Public space is not adequately represented in the D+P SEPP. Public space needs to be recognised as a statutory entity of itself in the planning system. • This has not been adequately understood in this new policy. • Support in general the need for a specific Guide that describes and quantifies elements of public space as a design quality outcome. <p><u>Building Performance</u></p> <ul style="list-style-type: none"> • General support for need to improve building performance. <p><u>Design Review Panels</u> (DRP)Three-part process:</p> <ol style="list-style-type: none"> 1. Pre-DA stage – DRP in a consent role enabling concept design proposals to progress to DA based on clear statutory line of sight from site analysis/synthesis/interpretation and fundamental design strategy. <p>Red light, amber light, and green light.</p> <p>This will save time and costs early in a design process, so resources for all stakeholders is in DAs of sufficient design quality to progress and receive a smoother path to approval. This should also minimise NSWLEC appeals where time and resources is currently wasted.</p> <ol style="list-style-type: none"> 2. DA stage - Council or Local/Regional Planning Panels etc to remain the ultimate consent authority, but approval <i>must not be granted</i> unless a DRP has carried out a holistic assessment of the design quality and supports the application particularly where variations to public policies are proposed – ADG/development standards via cl 4.6 of SILEP. 3. Post DA approval – modifications <i>must</i> have support of DRP in context of reasons for the original approval and must demonstrate an equal or superior public outcome in design quality and public space contribution.
A8	A.1.3	Aims of the revised ADG	<ul style="list-style-type: none"> • Nowhere in the Aims of the revision is the intent to improve design quality of apartment development even identified. • The public experience of 'industry concerns' removing or weakening regulation continues to deliver poorer outcomes to the environment, design quality, and public benefit over the long term. • Weakening amenity provisions should not be enabled. Current weaknesses of the ADG are in some inadequate provisions that enable poor outcomes (such as building depth too great, excessive number of units served by single lift cores and corridors, large footprints, bulk of towers, inadequate natural cross ventilation performance, deep soil landscape). Greater

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			roles for design review panels will assist, the continued role of DRPs post DA approval and changes to the cl 4.6 of SILEP to mandate demonstrated superior holistic design outcomes to be supported by a DRP.
A9	A.2	Key components of this revision	
A9	A2.1	Overview	<p><i>“update design guidance to ensure it provides adequate flexibility for applicants to achieve the design objectives”</i></p> <ul style="list-style-type: none"> • See previous comments regarding ‘flexibility’ at A.1 Introduction, and Table A2 comments at Innovation and A.1.3 Aims of the revised ADG. • General support for ADG to be reorganised as proposed.
A10	A.2.2	Urban design and site planning	<p style="text-align: center;">Clear line of sight - information translated into Action</p> <p>Place and Site Analyses • Gather information – moving from wide scale through to site scale</p> <p>Synthesis • Consider information holistically</p> <p>Interpretation • Apply critical thinking to understand the meaning of place and site analyses. It will reveal the opportunities, constraints, sensitivities for the design response.</p> <p>Site Planning, spatial arrangement, design strategy Captures the first principles of design as a holistic action that sets the framework of architectural, landscape and urban form derived from the Place and Site Analyses, Synthesis and Interpretation</p>
A11			<p>Response to Place</p> <ul style="list-style-type: none"> • Unclear how this can work when Considerations 1-9 in particular are specifically excluded for every development type other than Precinct scale. These are the specific Considerations that capture Connecting to Country and site and place analysis • The effect of the SEPP as proposed appears will not have a statutory mechanism enabled for a clear line of sight from a response to place and site analysis/synthesis/interpretation to fundamental design decisions around the site arrangement and design strategy, building typology and unit typology. • If all 19 Considerations are not applied to all scales of apartment development, the effect appears that the SEPP will not apply and may conflict with the work currently expected of s50 (1AB) of the EP&A Regulations for design verification statements. • The current provisions provide a potentially powerful tool to force improved design quality, but need to be tightened so the line of sight is made explicit. • If only captured through the ADG as a Guide under the EP&A Act (s4.15 and s4.16), it will fail through the planning and legal centric approval system of Planning Panels and NSWLEC. • The outcomes can be expected to be worse than the existing SEPP 65 and ADG.
A14 - A16	A.2.3 Table A5	Residential Amenity Summary of proposed changes to ADG in relation to urban design and site planning	<p>1. Contribution to Place</p> <ul style="list-style-type: none"> • Considerations 1 to 9 of the D+P SEPP must apply to all development scales for Contribution to Place to be given effect. <p>2. Landscape and Greening</p> <ul style="list-style-type: none"> • Upper range for deep soil is inadequate and must be retained with Local Councils. A one-size-fits-all provision has failed every existing NSW policy. If DPIE is insistent on

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			<p>a development standard, it must be raised and must enable Local Councils to use a sliding scale that differentiates between locations within their centres (which may have a 0% requirement):</p> <ul style="list-style-type: none"> 20-30% for sites 650-1500m² 20-30% for sites 1500m²-3000m² 30-50% above 3000m² <ul style="list-style-type: none"> • Needed to capture all LGAs that have Local Character Statements, LEPs, DCPs requiring all development to be in dominant canopy trees and established garden settings. NSWLEC continues to recognise the status of these LGA's provisions. • The higher rate will enable more scope for urban canopy repair particularly for reconnecting remnant significant forest types. • Cumulative impacts of tree removal compared to replacement trees (that may be removed or fail to thrive are better mitigated where the higher upper limit minimum for deep soil encourages retention of existing significant trees. • Power must be vested with local councils to set their minimum deep soil requirement within this greater sliding scale. <p>3. <u>Building form</u></p> <ul style="list-style-type: none"> • Support max floor plate 700m² but prefer smaller. Our research shows 600m² footprints are viable. • 8-12 units per core/floor is excessive and resulting in poor unit typologies. It must be reduced to 6 maximum, preferably 4 or 5 per core/floor. <p>4. <u>Building Separation</u></p> <ul style="list-style-type: none"> • Support increased separation to 30m for 25+ storeys. This should be further tested as it may result with reduced tower footprints. • Design guidance and performance outcomes are needed where some sites may be otherwise sterilised, but could support certain development. This would also need robust site analysis and site strategies to be demonstrated. <p>5. <u>Mixed use development and street activation</u></p> <ul style="list-style-type: none"> • 40% min non-res use in R3 and R4 zones unlikely to be viable for R3 but could be made more flexible to enable live-work dwelling typologies. <p>6. <u>Clarify ground floor ceiling heights</u></p> <ul style="list-style-type: none"> • Support 4.2m. However, a range of 3.6m to 4.2m would enable a transition for local councils to update LEP building height controls over time. <p>7. <u>Ground floor activation</u></p> <ul style="list-style-type: none"> • Amend SILEP to increase the range of non-residential uses such as communal rooms and live-work dwelling types. • See also item 5 for Mixed Use <p>8. <u>Car parking</u></p> <ul style="list-style-type: none"> • Supported
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			<p>9. <u>Bicycle parking and mobility</u></p> <ul style="list-style-type: none"> Supported
A16 - A21	A.2.3 Table A6	Residential Amenity Summary of proposed changes to ADG in relation to Residential amenity	<p>1. <u>Solar access</u></p> <ul style="list-style-type: none"> Support 15° either side of north. However, this does not enable adequate consideration of existing subdivision and street layouts. Increasing the number of units to be naturally cross ventilated may promote improved orientation also. The extension of solar access hours from 8am to 4pm in principle appears positive. However, it must be accompanied by increased hours of amenity. The requirements for solar access and overshadowing modelling must be explicit so that both existing development and future permitted development are considered to ensure equitable sharing of amenity and impacts. <p><u>Shading and glare control</u></p> <ul style="list-style-type: none"> Generally supported <p>2. <u>Natural ventilation</u></p> <p>a. Support Ceiling fans for habitable rooms with 2.7m FL-CL height</p> <ul style="list-style-type: none"> Must be no change to existing requirement for all habitable rooms to be naturally ventilated and to not borrow air from other rooms. Must be no change to FL-CL height 2.7m for habitable rooms. <p>b. Increase for natural cross ventilation should be increased to 80% (70% is still too low).</p> <p>c. NCC restriction on 125mm opening sizes needs to be repealed or a mechanism that the ADG overrides the provisions. This would need to align with the requirements for Principle Designers and Building Practitioners under the new Design and Building Practitioners Act.</p> <p>3. <u>Livable Housing targets through universal design</u></p> <ul style="list-style-type: none"> TBC but Silver is inadequate for the housing demand. Local Council's should set requirements based on their own housing strategies from evidenced based identified need and population targets in context of their known existing and projected demographics. Platinum Level should be increased to 15%. <p>4. <u>Apartment size</u></p> <ul style="list-style-type: none"> Supported generally, but does not align with intent for more family focus and work from home arrangement previously identified. <p>5. <u>Apartment layout</u></p> <ul style="list-style-type: none"> See item 4. Support family focus for unit layouts. <p>6. <u>Local planning considerations</u></p>

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			<ul style="list-style-type: none"> • Appears one-size-fits-all tool that may encourage homogenous densities rather than the intended diversity. • The 15 dwellings/ha density has led to perverse outcomes particularly where futued re-subdivision occurs. This could be guidance to assist strategic planning but should vest with local councils to align with Local Housing Strategies in turn aligned with State targets. <p>7. <u>Private open space</u></p> <ul style="list-style-type: none"> • Supported <p>8. <u>Storage</u></p> <ul style="list-style-type: none"> • Must not decrease storage within units. • Support in principle for increase for storage outside units • If storage is relocated to basements, there are existing issues with deficiencies of existing Australian Standards – effectively silent for sub-ground waterproofing. The Standards are not expected to be amended until at least 2025 and needs to be done in conjunction with existing weaknesses in the NCC. • This has real implications over the life of developments if more goods and potentially valuable personal items can be stored in spaces that may be foreseeably impacted by water ingress and/or are poorly ventilated. <p>9. <u>External noise and pollution</u></p> <ul style="list-style-type: none"> • It appears the proposal is to reduce the current performance benchmarks of SEPP 65 ADG requiring natural ventilation to habitable rooms and acoustic comfort so align with the lesser amenity and sustainability provisions of the iSEPP requirements. This will have the effect of noise affected units needing to be permanently sealed if acoustic comfort is to be achieved. • This has implications for how natural cross ventilation and natural ventilation of habitable rooms will be defined and delivered, and will be a lesser performance requirement in locations with the least amenity. • The D+P SEPP and amended ADG needs to maintain the higher SEPP 65 benchmark for these locations and to be tied to building type, site arrangement and apartment type/layouts through a strengthened and statutory line to sight from the site analysis/synthesis/interpretation and fundamental design strategy for the site. • Future Council reviews will need to address strategic plans so that higher densities are in locations with highest existing or future planned natural and public amenity including active and public transport options and access. But existing conflicts should be managed through innovation not the standards lowered to suit poor design. • The D+P SEPP should challenge poor existing practices that concentrate high densities along main roads and railway corridors. Density with amenity should be a stated aim and requirement. <p>10. <u>Acoustic separation</u></p> <ul style="list-style-type: none"> • Generally supported

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A22 – A23	A.2.4 Table A7	Common spaces & vertical circulation Summary of proposed changes to the ADG in relation to common spaces and vertical circulation	<p>1. <u>Communal open space</u></p> <ul style="list-style-type: none"> • Support change from metric of 25% in principle. • However, this must be aligned with Site Analysis that identifies residents' access to public open space in close proximity and which enables accessible path of travel. • Increasing the amount of public space available must be contingent on increasing areas of public space if proposed in lieu of providing communal space on site. Both serve different purposes and private amenity should not be borne by a public cost where there is inadequate public space for the surrounding densities. • Suggest amount that may be varied dependent on broader contextual performance indicators and site area. • Support opportunities for engaging with the street but would have to be dependent on Local Character Statements that identify areas in LGAs for more urban interface that may support structures in the front setbacks. It is in danger of enabling messy streetscapes rather than activating them. Also dependent on the ground floor uses enabled and identified in local strategic planning. <p>2. <u>Daylight and ventilation</u></p> <ul style="list-style-type: none"> • Support strengthening existing requirements. • Current provisions are difficult to implement with too many proponents still proposing (and gaining approved) for fully internalised common lobbies with very poor resident amenity. <p>3. <u>Lift requirements</u></p> <ul style="list-style-type: none"> • Not supported. • Number of units enabled to be served from a single corridor and core per floor is too high and should be reduced. • Include a metric so that lifts per floor and units served delivers the same amenity for lower height developments and towers. <p>4. <u>Building access, common circulation & spaces</u></p> <ul style="list-style-type: none"> • Supported.
A24 - A26	A.2.5 Table A8	Environmental performance Summary of proposed changes to the ADG in relation to Environmental Performance	<p>1. <u>Energy efficiency</u></p> <ul style="list-style-type: none"> • Supported in principle provided mechanisms enable greater performance benchmarks to be set by local councils where evidence-based planning for their future net zero emissions targets and demand by local communities, where some LGAs may be more advanced along the transition process than others. • Limiting clauses in BASIX must be repealed. <p>2. <u>Electric vehicles</u></p> <ul style="list-style-type: none"> • Supported. See also item 1. <p>3. <u>Heating & cooling</u></p> <ul style="list-style-type: none"> • Support for centralised systems in basement or service levels. • Support for no A/C units permitted on balconies.

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			<p>4. <u>Water managements</u></p> <ul style="list-style-type: none"> Supported in principle. See also item 1. <p>5. <u>Building & landscape management</u></p> <ul style="list-style-type: none"> Supported in principle particular for waterproofing. However, 5-10yrs is inadequate. Needs to be a minimum 20-year to ensure good construction detailing, waterproofing systems and product selection becomes the norm particularly for landscape on structures. Building maintenance need to require effective (in addition to compliant) waterproofing. Deficiencies with the Australian Standards and the NCC need to be addressed and the codes aligned to be fit-for-purposed. Earliest anticipated timeline for needed amendments to be effective currently not until 2025. ADG should address this so that provision during the DA approval design considerations are well-aligned with the additional obligations under the new Design and Building Practitioners Act. <p>6. <u>Environmental performance of materials</u></p> <ul style="list-style-type: none"> Good inclusion and supported in principle. However, there may be supply issues and certification/provenance that may result in unintended perverse outcomes. Also see item 1. <p>7. <u>Waste</u></p> <ul style="list-style-type: none"> Supported. 	
A27 - A28	A.2.3 Table A9	Proposed Transition from SEPP 65 Proposed transition of SEPP 65 to the D+P SEPP	CI 1 CI 2 CI 3 CI 4 CI 5 CI 6 CI 6A Div 1 Div 2 CI 28 CI 29 CI 30	Supported Supported General support. (A consolidated Housing Design Guide must not end up like the unwieldy & largely unworkable Housing Codes SEPP (Exempt & Complying Development)). Supported. No exclusions unless accompanied by requirement for equal or higher performance standards specific to areas of particular environmental or cultural sensitivity. Supported in principle. NOTE: NO support for retaining BASIX existing limiting clauses 8, 9, 10. Supported in principle except the Deep Soil and Landscape. Must provide mechanism for local Council to set the required minimum for their LGA and Precincts based on a higher performance scale than proposed See A.2.3 Table A5 comments. Must only be design expertise permitted on DRPs. Supported in principle. However, all 19 Considerations must be given effect for all scales of development. See comments 3.2.2 and A.2.3. Supported in principle. ALL Consideration must apply to all types and scale of development. Deep Soil inadequate. Higher upper range metric required AND Local Councils are to retain right to override with a higher performance requirement where consistent with

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			CI 31 32,33 Local Character strategies. See comments A.2.3 Table A5. Supported in principle. Supported in principle.
A29	A.4	Proposed relationship to an UDG	<ul style="list-style-type: none"> • Problem with proposed mechanisms. • All 19 Considerations* must apply to all types and scale of development to give effect to the site analysis requirements. • The proposed relationship means the UDG can be ignored by all development other than precinct scale. • This can be resolved by all 19 Considerations being mandated to be demonstrated for all development and scales.
A30	A.5	Proposed relationship to housing diversity SEPP	<ul style="list-style-type: none"> • Place, landscape & amenity provisions equal or superior to the ADG must apply to all housing types where people will be living including boarding houses, student housing, rent to buy and serviced apartments. • ALL existing complying development type standards are dysfunctional and resulting in unsustainable and long-term damaging impacts across every LGA. They must be repealed and all standards to be evidence based on delivering sustainable canopy and natural systems, and minimise and mitigate urban heat.
Appendix B Proposed Urban Design Guide			
B3	B.1	The need for an UDG	<ul style="list-style-type: none"> • The UDG needs to prioritise the creation of new and improvement of existing public spaces as its primary focus. • It must apply to all types and scales of development.
	B.1.1	Implementing best practice	<ul style="list-style-type: none"> • All metrics and aspirations need to be given effect and be aligned with what will deliver best-practice. • UN Sustainable Development Goals – all should apply, all are interrelated. If different SDGs apply to different Design Guides, this should be clearly explained and identified. • Premier’s Priorities – supported in principle but the fundamental weakness of the SEPP in failing to properly define and enshrine Public Space as a statutory entity is inconsistent with Priority 11. Other DPIE policies require amendments to stop the rapacious clearing of canopy and significant vegetation in particularly to address the damaging effects of SEPP (Vegetation in Non-Rural Areas) 2017 (Native Vegetation SEPP) and enabling provisions via SEPP Exempt and Complying Development (Housing Codes). • It needs to give emphasis to improving walkability and active transport. • References to <i>Better Placed</i> is acknowledged, but likely to produce some confusion if also being given effect. <i>Better Placed</i> requires urgent review to align with the proposed D+P SEPP and be tightened so it can be implemented as intended. Risk is a SEPP with 5 Principles, and 19 Considerations* in addition to <i>Better Placed</i> 7 Objectives and their numerous unidentified descriptors is repetitive and confusing. It is also that not well coordinated with the more practical <i>Evaluating Good Design</i> guidance. If the D+P SEPP and UDG and ADG are doing their job, <i>Better Placed</i> should be largely redundant or considered as useful only as a background document to assist strategic planning considerations.
B4	B.1.2	Serving the community	<ul style="list-style-type: none"> • General aspirations are positive.
	B.1.3	Developing guidance	<ul style="list-style-type: none"> • The guidance is nebulous and not focused on public space. It talks generally around elements of the public space, but has no thematic grounding as a policy.

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			<ul style="list-style-type: none"> • The descriptions perpetuate the existing planning framework and development culture focused and prioritising the private domain. • The D+P SEPP and the UDG needs a clear public space prioritised, hierarchical framework where the private domain is responding to place and the public space continuum. • The D+P SEPP structure and mechanisms give no effect to the UDG other than for Precincts. Public space in all its forms is interwoven with all scales and types of development - even a small site can make a contribution. • Current mechanisms appear will perpetuate the site-centric design and development culture that is currently failing place-making.
B4	B.1.4	Responding to contemporary strains	<ul style="list-style-type: none"> • In principle aspirations are supported. • Public space is generally is 'talked around' but is not at the core of the UDG. • UDG needs to clearly define and differentiate between what is public and what is private. They are not the same. • The need for, and benefit of, private spaces/domain serving a public use must not be conflated with 'public' space that is owned by the people through the Crown, state and local authorities and agencies. • Each is necessary in their own right and needed to complement each other and needs to be recognised as such.
B5	B.1.5	Delivering value	<ul style="list-style-type: none"> • As above. • Without a clear delineation of Public Space and Private Space/domain there is a blurring of the public benefit and value that needs to be tracked over the long term. • The delineation is important to identify clearer evidence-based evaluation. Future policy reviews can then be tweaked to target the right mechanisms, aligned to the sector best able and fairly responsible to deliver the over-arching desired outcomes. (EG: Is tree canopy in the public space of greater benefit to the private domain and vice versa.)
B6	B.2	How the UDG can work	
B6	B.2.1	Referencing existing initiatives	<ul style="list-style-type: none"> • <i>Better Placed</i> – see comments at B.1.1 • General support. Note complexities and inefficiencies arise where multiple guides become unwieldy for industry, designers, Local Authorities, and consent authorities.
B6	B.2.2	Consolidating design guidance	<ul style="list-style-type: none"> • Support consolidations in principle.
B6	B.2.3	Establishing good design approaches	<ul style="list-style-type: none"> • See comments at Glossary for definitions of Good Design, Design Quality and Design Excellence. • NOTE: application of the UDG only applies at Precinct level, which is a weakness of the Guide and a significant limitation in all development delivering good design outcomes. • Good urban design needs to be considered for all development and all scale because each intervention contributes to place and cumulatively, positive and negative impacts can be significant. • This is particularly necessary to align with the EP&A Regulation at cl 50 (1AB) so the UDG public space and place elements are captured in the line of sight design response of apartment development.
B6	B.2.4	Applying consistent design processes	<ul style="list-style-type: none"> • NOTE: application of the UDG only applies at Precinct level, which is a weakness of the Guide and a significant limitation in all development delivering good design outcomes.
B7	B.2.5	Delivering amenity	<ul style="list-style-type: none"> • No delineation of what is public and what is private. • Needs to be addressed in the D+P SEPP and UDG.

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		through urban design	<ul style="list-style-type: none"> • See comments B.1.5 and elsewhere.
B7	B.3	What the UDG can cover	
B7	B.3.1	Scope	<ul style="list-style-type: none"> • UDG must apply to all development at all scales so each design approach 'understands' its relationship to public space and what it will be contributing. • It must NOT exclude SP1, SP2, SP3 or other special uses or development types 1-10 (or others) of Schedule 1 State & Regional Development SEPP. • Many of the proposed exclusions are highly impactful development types. All development has a public responsibility to address their place on Country and in our urban settlements. And be fit for purpose as we negotiate a shared future towards net zero emissions.
B7	B.3.2	Relationship to ADG	<ul style="list-style-type: none"> • Intent is supported in principle. • In effect, the UDG only applying to Precincts negates the intended effect. • Further, D+P SEPP must give effect to all 19 Considerations, for all scales and types of development or intent is negated.
B8	B.3.3	Proposed structure	<ul style="list-style-type: none"> • Supported in principle • Public Space needs to be explicit in Part 2 otherwise the Guide lacks thematic grounding and authority. See previous comments. It is not sufficient to capture characteristics of public space (or what may be required to be delivered in the private domain) without defining and differentiating them in the first place.
B9 – B11	B.3.4	Design Considerations	<ul style="list-style-type: none"> • SEPP must mandate all Considerations* associated standards, and performance are <i>demonstrated and delivered</i> not merely <i>considered</i>. • Part 1 Understanding Place and Country <ul style="list-style-type: none"> - Connecting with Country must apply to all development types and scales. - Understanding Context – must apply to all development types and scales. - Resilience by Design – All D+P SEPP Considerations must apply to all types and scale of development. As proposed, only Consideration 17 is given effect for all development (not Resilience Consideration 8) and Consideration 18 for tree canopy would have no effect for Precincts. This risks enabling clear-felling of existing canopy for large scale subdivisions assisted by deficiencies of the existing urban land clearing provisions. • Part 2 – Structure <ul style="list-style-type: none"> - Green infrastructure – supported – generalisations but potential conflict, see comments Part 1 Resilience. - Public Space Framework – Public Space is relegated to a 'design element' or characteristic without clear and explicit definition and delineation for the Private Domain. - Distribution of Intensity and uses – reinforces need to delineate public and private spaces. • Part 3 – Grain – as above. Intent supported in principle. • Part 4 – Form – as above. Intent supported in principle. • Part 5 – Environmental performance <ul style="list-style-type: none"> - Energy, water, waste – see comments Part 1 Resilience and application to all development types and scale. - Management and maintenance – Require on-going process for evaluation. - Utilities integration – will not apply unless all 19 D+P SEPP Considerations apply to all development types and scale.

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			<ul style="list-style-type: none"> Part 6 – Documentation – See comments for clear and explicit delineation of Public and Private. Public space cannot be protected if it is not recognised as a specific statutory entity and spatial/functional concept. As the city intensifies, there is a need for a higher percentage of public space to assist connectivity, urban life, and repair of inevitable impacts to natural systems associated with that intensification.
B12	B 3.5	Intended effects	<ul style="list-style-type: none"> Proposed structure does not enable urban repair or targeted interventions unless all D+P SEPP's 19 Considerations* apply to all development types and scale; and the UDG applies similarly. EG new streets or pedestrian connections into existing layouts, walking and cycle networks, rear lanes, new smaller public spaces etc.
Appendix C Sustainability in Residential Buildings			
C3	C.1	Introduction	<ul style="list-style-type: none"> It is not clear how sustainability is to be delivered as a consistent set of benchmarks and targets that must (ultimately) apply to all scales and types of development to achieve the NSW Net Zero Plan by 2050. Continued audit post-DA approval, at construction, OC, and for follow-up post occupancy evaluation at 2, 5 and 10yr intervals.
C3	C.2	Objectives of sustainability reforms	<ul style="list-style-type: none"> Primary aim must be the delivery of the Net Zero Plan. Current limiting provisions of BASIX cl 8, 9, 10 are inflexible and will continue to prevent a faster transition despite the majority of industry, communities and local councils being further advanced and ready to find long-term solutions. Changes to BASIX should prioritise thermal comfort over thermal performance. Design initiatives such as external operable shading and increased insulation need to be incentivised (ahead of the use of tinted black glass).
C3	C.2.1	Providing more flexibility in the available assessment pathways	<ul style="list-style-type: none"> 'Flexibility' must have mandated superior performance outcomes and robust, transparent, process (particularly if seeking to vary compliance metrics). Tradable performance must not diminish resident amenity and comfort, it must take into account their long-term health and wellbeing, and identify impacts or benefits to life-cycle running costs borne by residents/end users. Continued audit post-DA approval and construction, with follow-up post occupancy evaluation.
C4	C.2.1.1	Independent, merit assessment pathway	<ul style="list-style-type: none"> See C.2.1
C4	C.2.1.2	Providing other assessment tools that plug into BASIX	<ul style="list-style-type: none"> Supported
C4	C.2.1.3	Allowing a tailored approach for thermal comfort and energy performance	<ul style="list-style-type: none"> Supported in principle, see comments C.1 and C.2.1. Specific issues such as limiting the use of air-conditioning and use of tinted black glass need to be included.
C5	C.2.2	Aligning sustainability performance	<ul style="list-style-type: none"> Mechanism to give effect must ensure all D+P SEPP 19 Considerations apply to all development types and scale This will provide for future alignment of sustainability tools across all development types.

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		with D+P SEPP Principles	
C5	C.2.3	Sustainability assessment consistent with other jurisdictions	<ul style="list-style-type: none"> • BASIX is a superior policy compared to other jurisdictions. The D+P SEPP must not weaken the existing provision to the lesser requirements and measures of other jurisdictions. • Conversely, it should not prevent higher levels of environmental performance resulting from existing limiting clauses.
C5	C.2.4.1	Improving the customer experience	<ul style="list-style-type: none"> • Ensure the interface is user-friendly. By comparison the current e-portal is cumbersome, time consuming, and quite limited in how information can be packaged and uploaded.
C6	C.2.4.2	Promoting innovation and adoption of new technology	<ul style="list-style-type: none"> • Removing the BASIX limiting clauses will do more to promote innovation. • In the NSW planning culture 'flexibility' rarely delivers innovation, it is more likely to deliver poorer outcomes unless there is a mandated obligation for a superior holistic performance outcome to be demonstrated.
C6	C.3	Implementation	<ul style="list-style-type: none"> • Noted.
C7	C.4	BASIX Policy Initiatives Table C1	<ul style="list-style-type: none"> • Do not support retaining the limiting clauses 8, 9, 10. Do not support weakening measurement provisions that align with lesser policies in other jurisdictions. It will have the effect of preventing progress to delivering Net Zero Emissions goals.
C8 – C11	C.5	Impacts on BASIX SEPP Table C2	<ul style="list-style-type: none"> • Do not support retaining the limiting clauses 8, 9, 10. •
C12	C.6 C.6.1	Background NCC & other jurisdictions' requirements	<ul style="list-style-type: none"> • NSW should not weaken provisions to other jurisdictions where those performance outcomes are inferior. Other jurisdictions would do well to model on NSW as appropriate for lifting performance. • Black and heavily tinted glass should be banned from all street frontages and shop fronts where awnings are provided and where on levels above other means of protection such as operable shading and deep balconies are provided.
C13	C.6.2	About BASIX	

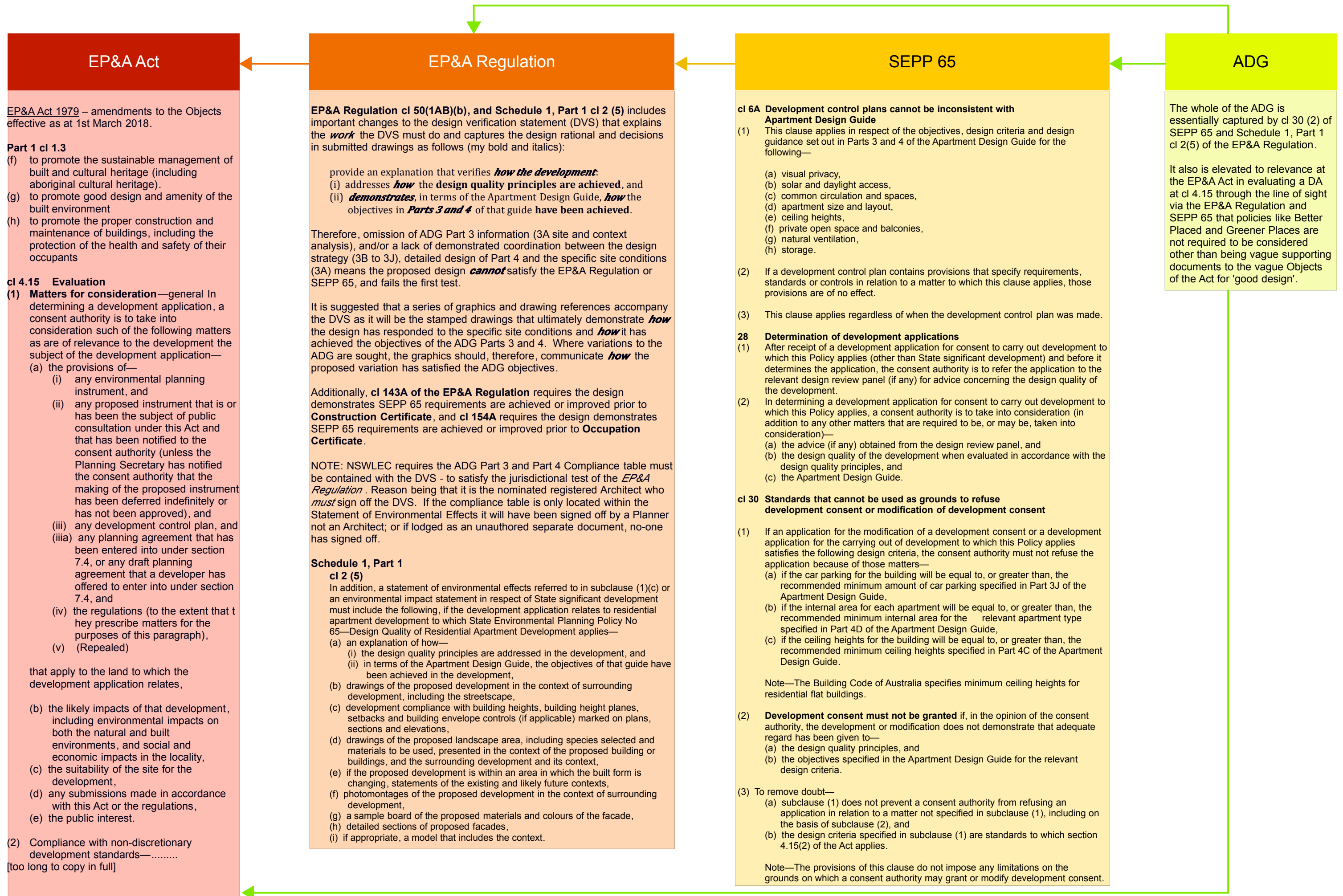


Figure 1 Example of the existing, effective statutory line of sight to be strengthened to enable proper Site Analysis+Synthesis+Interpretation to be directly linked to the first order design decisions about place, site strategy, site arrangement, building typologies needed in the Design and Place SEPP.