

# Public Exhibition for the Explanation of Intended Effect New State Environmental Planning Policy (Design and Place)

Your Name	Michael Woodland
Your Organisation	Keylan Consulting on behalf of The Billbergia Group
Postcode	2095
Phone	
Email	
Stakeholder group	<input checked="" type="checkbox"/> Industry <input type="checkbox"/> Council <input type="checkbox"/> Aboriginal Community <input type="checkbox"/> Community <input type="checkbox"/> State Agency
Age demographic	<input type="checkbox"/> 18-25 <input type="checkbox"/> 26-45 <input type="checkbox"/> 46-65 <input type="checkbox"/> 65+

## Your feedback

### How to make a formal submission

We welcome your feedback on the Explanation of Intended Effect for a New Design and Place State Environmental Planning Policy. **Submissions close on 31 March 2021.**

Feedback is sought on all parts of the document. Please consider if the proposal:

- Reflects contemporary understanding and practices
- Clearly articulates the intentions of the policy
- Should consider other opportunities.

## Explanation of intended effect (EIE)

Please see comments provided in attached letter

### PART 1

#### Introduction

Please see comments provided in attached letter

### PART 2

#### Proposed new State Environmental Planning Policy (Design and Place)

Please see comments provided in attached letter

### PART 3

#### Key components of the new State Environmental Planning Policy

Please see comments provided in attached letter

### PART 4

#### Proposed amendments to existing State Environmental Planning Policies

Please see comments provided in attached letter

### PART 5

#### Relationship with other planning instruments and policies

Please see comments provided in attached letter

### PART 6

#### Planning pathways

---

**APPENDIX A**

**Proposed Amendments to the Apartment Design Guide and SEPP 65**

---

Please see comments provided in attached letter

---

**APPENDIX B**

**Proposed New Public Spaces and Urban Design Guide**

---

Please see comments provided in attached letter

---

**APPENDIX C**

**Sustainability in Residential Buildings**

---

Please see comments provided in attached letter

---

**Additional comments**

---

Please see comments provided in attached letter

---

**Thank you for your time in preparing this submission.**

27 April 2021

Department of Planning, Industry and Environment  
4 Parramatta Square  
Parramatta, NSW 2150

Dear Sir/Madam,

**Submission on the Explanation of Intended Effect for the Draft State Environmental Planning Policy (Design and Place)**

This submission has been prepared by *Keylan Consulting Pty Ltd* (Keylan) on behalf of *The Billbergia Group* in response to the *Department of Planning, Industry and Environment's* (DPIE) exhibition of the Explanation of Intended Effect (EIE) for the new *Draft State Environmental Planning Policy (Design and Place)* (Draft SEPP).

We have undertaken a detailed review of the EIE and generally support the key themes and principles. We acknowledge and support the State Government's aim to ensure high quality buildings and places across NSW.

The Billbergia Group has many active residential and mixed-use developments across Greater Sydney which will be significantly impacted by the proposed changes identified within the EIE.

Overall, Billbergia raises serious concern that the proposed changes will significantly increase the cost of delivering residential and mixed use development - which will ultimately impact housing affordability. The proposed changes will reduce the number of units per floor plate, however the cost of delivering the units will remain the same.

This new policy direction will inevitably lead to reduced housing affordability as revenues will need to be escalated to reflect the relative increase to construction costs without the feasible yields.

In particular, this submission is made in the context of the major urban renewal project at Camellia. The Billbergia Group has been working with NSW State Government and the City of Parramatta Council (Council) on a new Town Centre for the Camellia Precinct.

In 2019, the Billbergia Group lodged a Planning Proposal which seeks height controls up to 65 storeys accommodating a new town centre, community facilities and approximately 4,850 new dwellings. The Billbergia Group is currently in discussions with DPIE and Council on the proposal.

## Review of the Draft SEPP

This submission provides comments and recommendations across the following key areas of the EIE:

- Design and Place Principles
- Apartment Design Guide
- Urban Design Guide
- Design Review Guide
- Changes to BASIX and Sustainability Requirements

### *Design and Place Principles*

We support the establishment of the five guiding principles and the stated aim to move away from a planning system governed entirely by overly prescriptive controls. The five principles align with Billbergia's philosophy of creating communities through high quality and sustainable residential projects.

However, despite our support for a principle-based planning system and the associated flexibility and positive design outcomes, we raise serious concern over many of the proposed measures within the EIE - which we contend are counter-productive to DPIE's aims.

We raise this as a concern within the context of the proposed guides. In our experience, historically consent authorities across NSW often apply guides such as the *Apartment Design Guide* (ADG) as strict controls and have offered little flexibility to vary these design criteria even when flexibility results in an overall improved planning outcome.

This issue is exacerbated by the language used within **Appendix A** which states for certain controls (**BOLD** our emphasis):

*...For the avoidance of doubt clarify that design criteria are **mandatory**...*

The EIE and revised ADG **should not include mandatory design criteria** as this is contradictory to the aim of moving towards a principle-based planning system. However, if DPIE insists on including mandatory controls they should be clearly identified and separated from the existing design criteria within the ADG to clarify for both industry and consent authorities which criteria are intended to offer flexibility.

Furthermore, we urge DPIE to consider how the proposed guides and the proposed ADG changes realistically respond to the aim of transitioning to a 'principle-based planning system'. Billbergia supports a true principle-based planning system which encourages creativity and design excellence to achieve the five proposed principles.

### **Recommendation**

1. Revise the ADG and develop the new guidance and SEPP with no mandatory design controls and instead utilise performance-based controls which offer flexibility, consistent with the aim of a planning system not governed by prescriptive controls

## Apartment Design Guide

We also raise issue with several of the specific proposed changes to the ADG design criteria.

We are concerned the changes will impact on housing affordability, housing choice and significantly increase development costs. This is likely to exacerbate existing market affordability and availability issues. This impact on feasibility will also affect the capability of proponents to contribute to community, social and civil infrastructure going forward.

The table below outlines our comments on the key changes within the ADG:

Proposed Change	Comment
<p><i>Landscape and Greening</i></p> <ul style="list-style-type: none"> <li>• Increase min deep soil zones as a % of site area</li> <li>• Range DPIE is considering: <ul style="list-style-type: none"> <li>○ &lt;650m<sup>2</sup> = 14-18%</li> <li>○ 650-1500m<sup>2</sup> = 14-18%</li> <li>○ 1500-3000m<sup>2</sup> = 14-18%</li> <li>○ &gt;3000m<sup>2</sup> = 21-25%</li> </ul> </li> <li>• Pro-rata reduction if retail, commercial and entrances on ground floor &gt; 85% of the building footprint</li> </ul>	<p>We understand the importance of deep soil zones for increasing canopy cover across the state.</p> <p>However, the proposed prescriptive increase is an oversimplified solution to the problem. This control does not consider site-specific factors, for example mixed use developments which are required to provide podiums which maintain the building line and accordingly cannot facilitate the same amount of deep soil within their site.</p> <p>We request a more flexible control is provided which allows for consideration of site and development characteristics to reduce the required rate.</p>
<p><i>Building Form</i></p> <ul style="list-style-type: none"> <li>• New criteria for towers (including any part of buildings of nine or more storeys ) of: <ul style="list-style-type: none"> <li>○ Maximum GFA of 700m<sup>2</sup></li> </ul> </li> <li>• Maximum eight units per core per floor</li> </ul> <p><i>Building Separation</i></p> <ul style="list-style-type: none"> <li>• Minimum separation distance for towers of 25+ storeys of 30m between habitable rooms</li> </ul>	<p>This control will significantly restrict the potential number of units able to be provided on sites and may render redevelopment unfeasible in many circumstances unless additional height is provided. As mentioned above, the costs of delivering units remains the same whether it is 10 units or 7 per floor plate and ultimately this additional cost per unit will need to be reflected in increased unit prices.</p> <p>Further, these controls discourage creativity in design and alternative solutions and will ultimately contribute to a monotonous urban landscape.</p> <p>Accordingly, we request these controls are not included in the revised ADG.</p>
<p><i>Mixed use development and street activation</i></p> <ul style="list-style-type: none"> <li>• Allocate 40% of ground floor space for non-residential use in R3 &amp; R4 zones, and centres</li> </ul>	<p>We support the aim to provide for non-residential uses on ground floors of residential flat buildings, however this should not be a state-wide prescriptive control.</p>

Proposed Change	Comment
	<p>There is a risk this design criteria will have negative traffic consequences if retail is provided away from public transport. Additionally, demand for retail is declining in many areas and this control could create a significant oversupply of retail floorspace.</p> <p>Further, this will reduce the availability of ground-floor units which contribute to diversity within the housing market, particularly as ground floor units are valued for their varied private open space.</p> <p>Accordingly, we request this control is not included in the revised ADG.</p>
<p><i>Bicycle parking and mobility storage</i></p> <ul style="list-style-type: none"> <li>• Studio and 1br – 1 secure space</li> <li>• 2br – 2 secure spaces</li> <li>• 3br + - 3 secure spaces</li> </ul>	<p>A one size fits all approach to bicycle parking is inappropriate particularly when considering how accessibility to bicycle infrastructure and topography of the surrounding area significantly impacts bicycle usage.</p> <p>Bicycle storage should remain subject to the relevant Council's DCP where appropriate.</p>
<p><i>Solar access</i></p> <ul style="list-style-type: none"> <li>• Clarify that design criteria are mandatory</li> <li>• Increase range of hours in which a development may achieve solar access</li> <li>• Provide guidance on shading and glare control</li> </ul>	<p>We note the proposed change to increase the hours in which a development may achieve solar access.</p> <p>We request the design criteria be revised to allow solar access requirements to be fulfilled within any daylight hours.</p>
<p><i>Natural ventilation</i></p> <ul style="list-style-type: none"> <li>• Require ceiling fans for habitable rooms with 2.7m ceiling heights</li> <li>• Increase natural cross-ventilation requirements to 70% of units and apply this across all storeys</li> </ul>	<p>Increasing cross-ventilation to the proposed 70% is unfeasible on many sites and will ultimately require less units to be provided on each site.</p> <p>We request the 60% criteria be retained.</p> <p>We also request DPIE consider allowing alternative ventilation methods such as openable skylights to fulfil cross-ventilation requirements.</p>
<p><i>Apartment layout</i></p> <ul style="list-style-type: none"> <li>• Enable varying layouts to support different households. A requirement of 20% of 2 or more bedroom units to be 'family units' is to be provided with minimum 12m<sup>2</sup> bedrooms for all bedrooms.</li> </ul>	<p>This control is too restrictive and doesn't consider apartment demographic variations across the state.</p> <p>Accordingly, we request this control is not included in the revised ADG.</p>
<p><i>Communal open space</i></p>	<p>We request DPIE reconsider mandating communal (internal) rooms as they may not realistically be used frequently enough to</p>



Proposed Change	Comment
<ul style="list-style-type: none"> <li>• Replace minimum site area metric with a unit mix / occupancy metric</li> <li>• Specific requirement for communal open space and communal (internal) rooms</li> <li>• Provide covered communal space accessible from the street capable of hosting events consisting of: <ul style="list-style-type: none"> <li>○ 2.5% of GFA for non-residential uses</li> <li>○ Min. 250m<sup>2</sup> for residential developments &gt; 1000m<sup>2</sup></li> </ul> </li> </ul>	<p>warrant their inclusion in all residential flat buildings.</p> <p>The EIE states these spaces could be used by strata meetings, events, parties and gatherings. It is likely strata bodies would not approve use of these spaces for parties and gatherings due to noise and other impacts from visitors, further, strata meetings are not frequent enough to warrant a dedicated space.</p>
<p><i>Daylight and ventilation</i></p> <ul style="list-style-type: none"> <li>• New requirement to provide adequate daylight and natural ventilation to all common circulation spaces</li> </ul>	<p>These proposed criteria will add an additional level of difficulty in designing buildings and may ultimately come at the cost of less units achieving solar access and natural ventilation.</p> <p>We request DPIE reconsider the realistic impact of this control and the value of achieving daylight and ventilation to these spaces noting that they are generally only occupied for a very brief amount of time.</p>

Table 1: Comments on proposed changes to the ADG

As stated above, the proposed changes to the ADG clearly do not reflect a move away from overly prescriptive controls but rather show the policy moving in the opposite direction. The changes will greatly increase the cost of delivering developments which will have flow on impacts to housing affordability and capability of contributing to infrastructure.

We would also like to highlight that this will affect the value of Government Land and also create a significant impact for social and affordable housing. The increased costs will affect the ability to provide a higher proportion of social and affordable housing, particularly in Government projects partnered with developers (including Billbergia projects at Lidcombe, West Ryde and Arncliffe). This will likely lead to an increased shortage of social and affordable housing and an accompanying increase to waiting lists and times.

#### Recommendation

2. DPIE make the recommended amendments to the ADG as outlined in Table 1
3. DPIE undertake and publicly release a detailed feasibility impacts analysis of the proposed changes to the ADG and revise accordingly where appropriately to reduce impacts on housing supply and affordability

### **Urban Design Guide**

We support the development of the *Urban Design Guide* (UDG) to improve design outcomes for master planning, precinct planning and large sites. However, we request the guide is developed noting the lessons learnt from the ADG.

Accordingly, we request the UDG promotes flexibility and alternative design solutions. This is particularly important when considering how sites and schemes vary across the state and the same prescriptive design controls for structure, grain, form and environmental performance are not appropriate everywhere.

A true principle-based approach should be pursued for the UDG through avoiding prescriptive and numerical controls. The UDG should utilise principles and objectives and use case studies to demonstrate how applicants can use these principles to design and demonstrate high quality urban design.

#### **Recommendation**

4. The UDG utilise a true principle-based approach and avoid using any overly prescriptive and numerical controls

### **Design Review Guide**

We support the proposed *Design Review Guide* (DRG) as a measure to standardise design review processes across the state and clarify their weight and role. Any future mixed-use development of the Camellia site will likely undergo design review processes and accordingly, Billbergia recommends the process be made as streamlined as possible to reduce untimely delays whilst still ensuring positive design outcomes.

In light of this, the standardised process should reflect the current best practice in NSW which is the Government Architect's State Design Review Panel which ensures sufficient certainty to proponents.

In particular, we request the DRG emphasise the importance of the same panel members being retained throughout the design review process as well as the need for document requirements to be specified upfront and in advance.

#### **Recommendation**

5. The DRG reflect the Government Architect NSW's State Design Review Panel and include measures to ensure design review processes are timely and do not come at unreasonable financial cost to proponents



### **Changes to BASIX and Sustainability Requirements**

We support the overarching priority to minimise human impacts on natural systems and reduce emissions. We also support the flexibility offered by the proposed independent merit assessment pathway in lieu of completing a standard BASIX assessment.

Further, the EIE acknowledges that BASIX compliance can be challenging on certain sites and states DPIE is considering allowing minor trade-offs. We support the flexibility offered by allowing trade-offs as this allows proponents to pursue creative solutions which can result in an overall better outcome.

The proposed changes to sustainability requirements for residential buildings are supported as they demonstrate consistency with DPIE's aims to transition to a principle-based planning system. The approach taken for sustainability requirements demonstrates an understanding of the complexities and difficulties that arise when designing to comply with prescriptive controls, this approach should be replicated when revising the ADG and developing the UDG.

### **Recommendation**

6. The merit-based assessment pathway in lieu of a BASIX assessment and sustainability trade-offs be further pursued and included in the final Design and Place SEPP

### **Conclusion**

The Billbergia Group has a strong track record in working closely with local and state Government Councils to produce quality residential and mixed-use developments that promote a healthy lifestyle, sustainable living and vibrant areas for stimulating social interaction.

Billbergia believes the intent of the proposed changes within the EIE, particularly the changes to the ADG can be met through innovative design and merit-based assessment as opposed to the stringent numerical and mandatory controls. In particular, we note the proposed changes are going to greatly increase the cost of delivery per unit and will require increased revenues to accommodate the new controls. This will ultimately further deteriorate housing affordability and reduce the capability of developers to contribute to infrastructure.

In particular, our review of the EIE for the Draft SEPP has identified a number of policy areas we support including:

- the aim to move away from a planning system governed entirely by overly prescriptive controls towards a principle-based planning system
- standardisation of design review processes across the state
- continued pursuance of sustainability in residential development including new merit-based assessment and trade-offs for BASIX

However, we have also identified several areas of concern:

- the proposed changes to the ADG do not reflect the aim of transitioning towards a principle-based planning system
- many of the proposed changes to the ADG are unworkable in practice and are likely to significantly reduce development yields and increase development costs
- the UDG may include prescriptive design criteria similar to those within the ADG

Accordingly, we have provided the below recommendations for DPIE's consideration in development of the SEPP and accompanying guidance material:

#### Recommendations

1. Revise the ADG and develop the new guidance and SEPP with no mandatory design controls and instead utilise performance-based controls which offer flexibility, consistent with the aim of a planning system not governed by prescriptive controls
2. DPIE make the recommended amendments relating to the ADG as outlined in Table 1
3. DPIE undertake and publicly release a detailed feasibility impacts analysis of the proposed changes to the ADG and revise accordingly where appropriately to reduce impacts on housing supply and affordability
4. The UDG utilise a true principle-based approach and avoid using any overly prescriptive and numerical controls
5. The DRG reflect the Government Architect NSW's State Design Review Panel and include measures to ensure design review processes are timely and do not come at unreasonable financial cost to proponents
6. The merit-based assessment pathway in lieu of a BASIX assessment and sustainability trade-offs be further pursued and included in the final Design and Place SEPP

We look forward to the opportunity to comment on the revised guidance and proposed legislative instrument during the next exhibition period.

Please do not hesitate to contact me on [REDACTED] or [REDACTED] if you wish to discuss any aspect of this submission.

Yours sincerely



Michael Woodland BTP  
Director

Attachment 1: Design & Place Submission Form