



28 April 2021

Ms Abbie Galvin
NSW Government Architect
Department of Planning, Industry and Environment
Locked Bag 5022
Paramatta NSW 2124

Dear Ms Galvin,

SUBMISSION IN RESPONSE TO EXPLANATION OF INTENDED EFFECT FOR A DESIGN AND PLACE STATE ENVIRONMENTAL PLANNING POLICY

Thank you for providing the opportunity to contribute towards shaping the strategic direction and planning framework of NSW.

Mirvac supports the Government's commitment to creating great places and good design. Creating great places for our communities to live, work, and play is critical to ensuring the success and sustainable growth of our urban areas. Our development decisions are focused on the need to deliver the right outcomes in the right places. From inception in 1972, this strategy has seen Mirvac build a strong reputation across NSW and broader Australia, delivering projects with high quality design outcomes. In this regard, we are aligned with the Government's commitment to deliver healthy and prosperous places that support the wellbeing of people, community and Country.

This submission includes our detailed feedback on the Design and Place State Environmental Planning Policy (D&P SEPP) explanation of intended effect (EIE). Our feedback is based on 49 years of experience delivering well designed, innovative and quality homes and forward thinking mixed used developments.

Executive Summary

We generally support the principles proposed to be established by the D&P SEPP for the design and assessment of places in urban and regional NSW, as outlined within the EIE. We also strongly support the implementation of an Apartment Design Guide (ADG) as a principle-based guidance document that can be flexibly applied to enable place-led and performance-based outcomes.

We believe that the nine design quality principles established in SEPP 65 are clear, thorough and provide a sufficient framework to deliver excellence in design outcomes. It is the use of the ADG by consent authorities as a compliance tool, rather than the policy itself, that is causing the issues currently being faced by the industry.

We agree that well-designed built environments make sound economic sense and that every new development has the potential to transform our quality of life, enhance the environment and stimulate the economy. As we emerge from the pandemic, property development will play an important role in job creation and economic recovery, and it is essential that the proposed D&P SEPP and revised ADG do not unnecessarily stifle this growth and activity.

Notwithstanding the above, there are several detailed matters where Mirvac's position is not aligned with the DPIE and where it is expected that changes will prevent key objectives of the D&P SEPP from being achieved. Our view is that the proposed D&P SEPP, as exhibited, does not demonstrate an assessment of impacts or studies that have informed the proposed position. Nor does it adequately address significant supply constraint and affordability issues present in our State. Introducing additional and revised prescriptive metrics within the revised ADG will discourage consent authorities from applying the document as a guide, which will further hinder housing supply and affordability targets.

We are concerned that the extent of new items and changes proposed will:

- make application preparation timeframes longer.
- cause further delays to assessment timeframes.
- exacerbate the existing issues with the ADG being used as a compliance tool and not as a guide.
- further stymie innovative design.
- cause confusion against statutory planning controls.
- reduce potential GFA.
- increase costs.
- delay projects.
- ultimately result in significant issues relating to housing supply and affordability.

We recommend that the DPIE either refine or reconsider the following critical items in association with the additional detailed feedback contained within this submission:

- **ADG structure**: There is an opportunity to restructure the ADG so that it more clearly establishes that design criteria are to be applied flexibly by consent authorities. This should also be reinforced in the D&P SEPP as legislation. Mirvac suggests minor drafting amendments to emphasise that alternative design responses must be considered where it can be demonstrated that objectives are met.
- **BTR and Housing Diversity**: Care must be taken to ensure that the D&P SEPP and revised ADG do not create barriers to the development of the BTR and affordable housing sectors. Mirvac recommends developing specific guidance and criteria for these typologies, consistent with the objectives of new and incoming legislation.
- **Deep soil and landscaping**: Increasing the minimum deep soil zone provision will limit development in compact urban environments. It is not always possible or appropriate to incorporate areas for deep soil planting and any requirement to provide deep soil must acknowledge existing site constraints and provide opportunities for alternative solutions to be developed.
- **Communal open space**: Delivery of communal open space in accordance with the proposed ADG requirements is not always achievable and should be considered on a site-specific basis. Imposing a new metric for communal open space based on occupancy does not consider the differing requirements and objectives of residential development in dense urban areas where residents benefit from access to surrounding amenities. It does not also consider ongoing liability and costs for future Owners Corporations. Perhaps the guidance should encourage a review of the extent of communal open space for the design to justify why it has taken a particular approach in each case.
- **Building separation for residential towers**: Any requirement for building separation needs to consider existing site opportunities and constraints. It will not always be possible to achieve 30 metres between habitable rooms and the proposed requirement will significantly reduce the development potential of urban infill precincts. We strongly recommend the revision to 30 metres is not adopted.
- **Natural ventilation**: This will have significant implications for high rise residential towers creating a design constraint so restrictive that residential tower development will no longer be feasible. There are also situations where mechanical ventilation is appropriate, and technology is rapidly evolving. This is a major issue item under the proposed D&P SEPP and ADG.
- **Max GFA of 700m² floor plate for residential towers**: The proposed cap on floor plate size is extremely limiting for residential tower development. 700m² of GFA for a residential building is too small. The requirement does not always allow development to respond to its site and context and it will stifle innovation in building design. Mirvac disagrees with the proposition of the EIE that “slender towers” inevitably produce better development outcomes as different site conditions and locations generate differing urban design objectives. This item is a major issue item under the proposed D&P SEPP and ADG.

- **Car parking:** whilst it is desired that parking rates are reduced, our experience is that our customers are increasingly seeking parking as a mandatory item and we are very concerned that further reductions to already comprised parking numbers will have a material impact on market acceptance, viability of projects and reasons for Consent Authorities to not approve projects.

We expand on each of these matters and additional items below and request that they be taken into consideration and amendments made to provide the best possible outcomes and in turn to ensure the proposed D&P SEPP meets the objects of the *Environmental Planning and Assessment Act 1979*.

1.0 Design and Place SEPP

Strong support is given to the DPIE's commitment to simplifying and improving the NSW planning system and "reducing complexity without reducing rigour". Mirvac agrees that new development has the potential to enhance the environment and stimulate the economy and that the creation of a **consistent set of principles, considerations and guidelines** would lead to improved development outcomes.

However, the proposed D&P SEPP, as exhibited, unnecessarily introduces further complexity to the planning process which will lengthen development approval times (and promote more class 1 merit appeal litigation in the Land and Environment Court), limit opportunities for job creation and create further barriers to housing supply (also adding that a lack of housing supply will drive up prices and prevent public benefits from being delivered). This is because:

- It is not made adequately clear that there is a duty imposed on consent authorities to flexibly apply the design criteria.
- The quantum of material to be considered and addressed is much greater than current.
- Numerical considerations reduce discretion in the assessment process.

Design review processes are likely to cause delays without mechanisms in place to limit review timeframes and ensure adequate resourcing.

Mirvac provides the following detailed response to the proposed D&P SEPP.

Aims of the proposed D&P SEPP

- The broad aims of the proposed D&P SEPP including giving effect to the objects in s.1.3 of the EP&A Act and the promotion of sustainable development, amongst other things, is supported.
- Mirvac supports "starting with Country" as a foundation for place-based design and planning. Mirvac operates under a Reconciliation Action Plan (RAP), which forms part of the sustainability strategy and Enriching Communities mission to invest in communities within and beyond company boundaries. We look forward to the opportunity to review further details about how the aim will translate to clear guidance, process and implementation.
- Mirvac supports the creation of a consistent set of principles, considerations and guidance for the design of the NSW built environment. Consistency within the planning framework can provide greater certainty during the design and assessment process and improved built environment outcomes throughout NSW if coupled with performance-based objectives, rather than prescriptive requirements.

Principles of the D&P SEPP

- Mirvac supports the advancement of a principle-based approach to the planning system and agrees that it can encourage innovation and better outcomes by moving away from prescriptive rules to a local, context specific approach.

- The five guiding principles that form the basis of the proposed D&P SEPP are broadly supported by Mirvac however the suite of new and updated documents must be carefully drafted to make clear that a merits-based assessment will apply. It is imperative that all proposed final draft material is made available for public exhibition for a considerable period, particularly if the material changes being proposed are not amended.
- It is essential that discretion be available for innovation in planning proposals and development applications, and it is the experience of Mirvac, and the Industry more generally, that design excellence is often achieved where flexibility is offered in place of strict development controls. There is a concern that, despite the aims of the proposed D&P SEPP, consent authorities will give excessive weight to numerical based design criteria which will stymie developments that are deserving of support having regard to the broad range of considerations that must be balanced on merit.

Design Review Processes

- Mirvac strongly supports the requirement for large scale developments to be designed by suitably qualified design professionals including registered architects, registered landscape architects and qualified designers, where relevant. Mirvac adopts this approach in current practice.
- Indeed, where a registered architect is involved in a development project, weight should be given to their professional expertise when undertaking an assessment against the ADG including more limited terms of reference and clear instruction that strict ADG compliance is not a prerequisite for design excellence.
- Mirvac acknowledges that a design review process **may** add value as part of the assessment process for large and complex developments. The EIE indicates that additional thresholds for design review will be prescribed by the D&P SEPP, local Council or a combination of both. Mirvac looks forward to the opportunity to provide further comment on thresholds once developed as part of the D&P SEPP drafting process.
- Streamlining the design review process is critical to the timely assessment of proposals and, when properly managed, can lead to improvements in design quality. Mirvac strongly supports the preparation of a Design Review Guide which would consider **and limit** review timeframes according to project complexity. Mirvac advocates for limiting design review timeframes to ensure that projects are not unreasonably delayed and to allow for feedback to be properly considered and addressed.
- It is essential that the design review process is adequately resourced by competent and suitably qualified professionals who can be prudent in their assessment of development proposals, balancing all requirements for excellence, to ensure that delays to development applications are reduced. It is also important that design review panel members have an appropriate level of experience and commercial acumen to ensure adequate skill is employed in assessing design.

Development Scales:

- It is recommended that the thresholds for the three scales of development be reviewed to ensure the triggers are appropriate for development of all asset classes.

Mandatory matters for consideration

Mirvac is supportive of the broad strategy for design and place considerations and their application to precinct level developments. However, certain considerations are too prescriptive and should be reconsidered or refined to allow for a flexible, site-based design approach. These include:

- **Local living** – Mirvac strongly supports the notion of delivering housing in urban areas within walking distance to local amenity. Accessibility to local amenities is relevant to strategic land use planning, but it is problematic to strictly apply these principles to all precinct scaled projects. In keeping with a merits-based approach, Mirvac suggests refining the local living requirements to incorporate “where possible” as follows:

All housing in urban areas of new precincts is within:

- **Where possible**, 20 minutes walk of local shops.

- **Where possible**, 5 minutes walk of local public open space.
- **Where possible**, housing is also within 20 minutes walking distance primary schools, district open space, public transport, and supermarkets or groceries.
- **Green Infrastructure** – We defer to the submission made by the Property Council of Australia on 28 August 2020 in response to the Draft Greener Places Design Guide and accompanying letter of endorsement by Mirvac on the same date (refer **Attachments 1** and **2**). Mirvac reiterates that while the Draft Greener Places Design Guide provides useful direction for decision makers around the planning and delivery of green infrastructure, there is a risk that will add further complexity to the planning system as a time when streamlining of processes is business critical.
- **Transport and Parking** – Mirvac opposes an amendment to maximum car parking rates. Limiting available car spaces reduces housing diversity and excludes buyer groups who rely on car travel as the primary mode of transport. Our experience is that our customers are increasingly seeking parking as a mandatory item and we are very concerned that further reductions to already comprised parking numbers will have a material impact on market acceptance, viability of projects and reasons for Consent Authorities to not approve projects. This should be more flexibly applied to allow sites to respond to market demand for car parking spaces in the locality.
- **Activation** – “Activity Streets” must be defined to provide greater certainty in applying the design consideration. In addition, Mirvac considers that, to avoid tenancies that are perpetually vacant and therefore detract from creating a sense of place, ground floor activation should be site specific and according to market demand.
- **Affordable housing** – Mirvac acknowledges that affordable housing targets are an important mechanism to deliver housing supply to low-income households in Greater Sydney. However, Mirvac’s position is that including affordable housing as a mandatory matter for consideration is unnecessary given the tools already available with the legislative framework and other strategic planning documents (i.e. Council policies, Voluntary Planning Agreements, District Plans, and Local Housing Strategies etc). It is our opinion that the mandatory matters for consideration should assist proposals in demonstrating **good design**, yet affordable housing has no relevance to the design outcome. It is recommended that the consideration be deleted.

2.0 The need for transitional arrangements

Mirvac strongly supports and recommends the need for the implementation of transitional provisions as part of the D&P SEPP package to protect those projects that have already been lodged. Critically, transitional arrangements are needed to ensure that projects can continue to be designed and approved on ongoing large-scale urban regeneration schemes (with multiple stages) where masterplans or site specific DCPs are already in place and have been planned based on the current SEPP 65 and ADG.

For example, the Green Square precinct has been designed with consideration for current SEPP 65 and ADG building separations and apartment size requirements. There would be significant implications for time, cost and yield of future stages if the proposed D&P SEPP and revised ADG were applied to precincts where master planning and lot layout have been undertaken using the current guidelines. It is emphasised that, where masterplans have been approved and road patterns agreed, they are extremely difficult to redesign.

Mirvac recommends that any development that has obtained or lodged an application for the following by the date in which the new D&P SEPP comes into effect, should be assessed under the existing policy by way of savings and transitional provisions which allow approved developments and those developments pending determination to have the certainty of the existing policy being:

- Planning proposals
- Stage 1 Development Applications (masterplan)
- Site specific Development Control Plans

- Or any other proposed project where it can be demonstrated that the application of the D&P SEPP or revised ADG would have a material adverse implication on the development feasibility.

This recommendation is consistent with Government practice in NSW where a new SEPP is introduced, or a SEPP amendment is made.

3.0 The need for enforcement, review and monitoring

We understand that an objective of introducing the new D&P SEPP is to ensure that policies properly reflect current market conditions and planning policy. To that end we submit there is strong merit in ensuring that the introduction of the D&P SEPP is followed by regular analysis and review including:

- Provisions for review after 12 months to assess effectiveness.
- Allowance for policy to be updated from time to time.

4.0 Proposed Amendments to the Apartment Design Guide and SEPP 65

Supplementing the statutory nature of the D&P SEPP will be a revised ADG which is intended to consolidate, review and improve objectives, criteria and guidance to ensure they enable place-led and performance-based outcomes through guidance that can be flexibly applied. Mirvac not only strongly supports this move towards providing greater flexibility in existing design criteria but also advocates that this fundamental premise is essential for the revised policy to achieve this intent.

We support the design objectives of the ADG but we do not support the way in which the document is applied. Our experience is that the ADG is currently being used by consent authorities as a compliance tool and not as a guide, as intended (despite clarification by the DPIE on 29 June 2017 by way of planning circular PS 17-001). Additionally, consent authorities introduce their own specific guidelines which contradict the ADG and add further complication and confusion.

This is having a material impact on proposals throughout the industry. Unfortunately, an unintended consequence is that design is predicated on having to 'comply' which often stifles innovation or creativity where the proponent fears not being able to obtain an approval. In other instances, consent authorities have maintained that a proposed development does not achieve design excellence unless it exceeds ADG requirements. This is not the intention of the ADG nor is it a requirement for design excellence which is more appropriately benchmarked against improved design outcomes and community benefit.

While some of the proposed changes to the ADG as set out in the EIE assist in providing greater flexibility for achieving an optimum, place-based design outcome, most of the changes prescribe additional conditions which planning authorities will insist that proposals strictly 'comply' with. This will serve to exacerbate the problems currently being faced by the industry, resulting in more complicated and lengthy approval processes, less innovative design solutions and further supply constraints. In addition, many of the proposed changes will lead to substantial deterioration of yield and have material time and cost impacts on projects, affecting housing delivery and affordability.

Mirvac accordingly recommends that the revised ADG:

- be less prescriptive.
- provide more flexibility in relation to the application of the design criteria allowing applicants to demonstrate design quality principles rather than compliance with specific numeric metrics
- be restructured to ensure that it will be used by consent authorities as a guide as intended.

Additionally, we strongly encourage the State Government to look at how to give legal weight to the status of the ADG as a guide and to ensure that it takes precedent over specific guidelines and criteria introduced by individual local government areas.

The following section outlines a proposed alternative ADG structure which would allow consent authorities to use it as a guide and allow design to deviate from 'complying' with metrics where Design quality principles are still being met. Concerns are raised around the implementation of the proposed new design criteria as well as several proposed amendments to the ADG and detailed responses are listed in **Table 1** and **Table 2** below.

Proposed ADG Structure

There needs to be a clear mechanism within any revised ADG to allow consent authorities to deviate from strict compliance with metrics where this is required to achieve an optimum design outcome.

Page 11 of the current ADG outlines the structure of Parts 3 and 4. It notes that these parts provide objectives, design criteria and design guidance for the siting, design and amenity of apartment development. As mentioned above it also notes that:

'If it is not possible to satisfy the design criteria, applications must demonstrate what other design responses are used to achieve the objective and the design guidance can be used to assist in this.'

Despite this statement at page 11, Mirvac's experience is that it is generally overlooked by consent authorities most likely because it is seen as a broad overarching statement of no great consequence. The availability of discretion needs to be made explicit within each section of Parts 3 and 4 including specific guidance to assist with the exercise of that discretion. A way in which this could be facilitated is to introduce minor drafting amendments to the current wording as set out below:

'If it is not possible to satisfy the design criteria, applications may still be assessed and determined as satisfactorily compliant with the criteria provided the application demonstrates what other design responses are used to achieve the objective and the design guidance can be used to assist in this.'

'Where compliance with the design criteria results in a reduction of GFA of more than 5% of the nominated FSR for a site, the application can be may still be assessed and determined as satisfactorily compliant with the criteria provided the application demonstrates what other design responses are used to achieve the objective and the design guidance can be used to assist in this.'

As such Mirvac proposes that in addition to the objectives, design criteria and design guidance, a fourth heading be added listing criteria to be achieved if the prescribed design criteria cannot be met. This should be tailored specifically for each section of Parts 3 and 4 in addition to the general statement at the start of the document, to make the assessment process straightforward for consent authorities. An example is provided below, and at **Attachment 3**.

4A Solar and Daylight Access

Objective: List objectives

Design Criteria: List design criteria

Design Guidance: List design guidance

Alternative Criteria: Where Design Criteria cannot be met, demonstrate that the objective is met by way of:

- Site analysis carried out to determine the preferred orientation of the building considering the existing road network and all aspects of residential amenity including solar access, views, noise impacts, heat load, glare, prevailing breezes, privacy and relationships to neighbouring development.
- Subject to site analysis, maximise the number of apartments receiving direct solar access.
- Avoid direct sunlight to east and west facing glazing.
- Minimise the number of south facing apartments.
- Where apartments have a less favourable orientation in terms of solar access (ie south facing), ensure that apartment layouts are designed to optimise access to natural light with consideration given to reduced room depths and increased width of frontage.

A similar approach is adopted by the Victorian planning system which clearly sets out (within the Better Apartment Design Standards) that objectives **must** be met, standards **should** be met and thereby provides a list of decision guidelines that the responsible authority must consider before deciding on an application. Relevantly, for each development standard, the responsible authority must consider:

- any relevant urban design objective, policy or statement set out within the applicable Planning Scheme
- the purpose of the zone
- the urban context report, and
- the design response.

The structure of Victoria's Better Apartment Design Standards clearly requires the responsible authority to consider alternative design solutions and it discourages a slavish approach to the application of numerical design standards.

Table 1 – Response to proposed changes to the ADG


Item	Current Design Criteria	Proposed Design Criteria	Mirvac Response
Deep soil and Landscaping	Minimum 7% of site area	<p>Increase min. deep soil zones as a % of site area:</p> <p><650m² min 14-18%</p> <p>650-1500m² min 14-18%</p> <p>1500-3000m² min 14-18%</p> <p>>3000m² min 21-25%</p> <p>Allow a pro-rata reduction in the targets if retail, commercial and entrances on the ground floor > 85% of the building footprint.</p>	<p>Deep-soil requirements need to take into account existing site constraints. It is not always possible or appropriate to include deep soil zones (such as in dense urban environments where land values are high and boundary to boundary development is commonplace).</p> <p>Consideration also needs to be given to landscaping that can be provided on and within buildings. This includes green roofs and walls, and within communal areas. These alternatives to deep soil planting enhance the thermal efficiency of buildings, reduce the urban heat island effect and soften interfaces with surrounding areas.</p> <p>Mirvac notes that the Victorian Better Apartment Design Standards are drafted in a way that recognises the impracticality of providing deep soil in some urban locations. A performance-based approach is adopted where an “equivalent canopy cover” can be provided if the development cannot provide the deep soil areas and canopy trees specified. Equivalent canopy cover can be achieved by providing either canopy trees or climbers within appropriately sized planter pits, vegetated planters, green roofs or green facades.</p>
Communal open space	Minimum 25% of site area	<p>Replace the area metric with a unit mix / occupancy metric. New specific requirements for communal open space and communal (internal) rooms.</p> <p>Providing covered communal space accessible from the street capable of hosting private/public events/activities:</p> <ul style="list-style-type: none"> • 2.5% of GFA for non-residential uses • Minimum of 250m² for residential developments > 1,000m² 	<p>This is not always achievable and should be considered on a site-specific basis having regard to the area in which the building is located and availability of open space in the locality. For example, a residential tower development in the CBD would become unfeasible. Similarly, Harold Park was developed immediately adjoining 3.7 Hectare of high quality open space, meaning the need for each building within the precinct to provide this quantum of communal open space would not be necessary.</p>

Item	Current Design Criteria	Proposed Design Criteria	Mirvac Response
Building separation for residential towers	9 storeys and above – 24m between habitable rooms.	25 storeys and above – 30m between habitable rooms.	<p>No relevant justification has been provided for the proposed amendment to the current design criteria. Building separation needs to take into account existing site constraints. It will not always be possible to achieve 30m between habitable rooms (such as in dense urban environments) and having to comply will significantly reduce the development potential of many dense urban infill areas.</p> <p>Mirvac opposes any additional prescriptive metrics for building separation. A performance-based approach is preferred, such as the one adopted in Victoria where the state-wide Apartment Design Standards do not prescribe numerical building separation requirements. Rather, emphasis is placed on allowing adequate daylight into new dwellings and limiting overlooking.</p>
Ground floor to ceiling heights	Currently 4m for non-residential uses.	Amended to 4.2m for non-residential uses (habitable rooms only).	Support.
Ground floor activation	Direct street access should be provided for ground-floor apartments.	Require all ground floor units facing a street to have direct access to the street.	Support.
Car parking	Minimum car parking rates in the Guide to Traffic Generating Developments (RTA 2002) or Council rates (whichever is less).	<p>Five options for change:</p> <ol style="list-style-type: none"> 1. Review existing minimum ratios – reduced in specific locations (over supply or 800m of train station). 2. Apply maximum ratios – mandated for new apartments. 3. Unbundling – ownership separated from housing and to be centrally managed. 4. Adaptive travel plan - Developers to reduce car parking numbers where alternatives meet travel demand. 5. Increase car share spaces 	Mirvac does not support a reduction in the maximum car parking rates. Limiting available car spaces reduces housing diversity and alienates buyer groups (particularly young families) who rely on car travel as the primary mode of transport. This should be more flexibly applied to allow sites to respond to market demand for car parking spaces in the locality.

Item	Current Design Criteria	Proposed Design Criteria	Mirvac Response
Solar access	70% of apartments receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter (Sydney Metropolitan Area)	<p>Increase the range of sunlight access hours (subject to design testing and industry feedback).</p> <p>Limit east-west single aspect units and maximise units within 15 degrees of north.</p>	<p>Mirvac strongly supports increasing the range of sunlight access hours for testing as this allows for greater flexibility in designing apartments with desirable access to sunlight.</p> <p>However, Mirvac does not support a limitation on east-west single aspects. There are often compelling reasons to provide single aspect apartments to capture views with high amenity or to design functional apartment buildings in the round. The ADG should not be that rigid as to limit east and west facing single aspect units.</p>
Natural Ventilation	60% of apartments are naturally cross ventilated in the first 9 storeys.	<p>70% of apartments are naturally cross ventilated across all storeys.</p> <p>Require ceiling fans for habitable rooms with 2.7 m ceiling heights.</p> <p>Improve guidance on which units can be included (dual aspect/corner units)</p>	<p>Mirvac has carried out detailed analysis on existing Mirvac projects to assess the impact of these proposed changes.</p> <p>It was found that in a recently approved residential tower in the CBD that the proposed yield would be reduced from 507 apartments to 388 with a loss of over 10,000sqm of NSA due to the proposed cross ventilation requirements. Notably, this project which is located at 505 George Street, won the City of Sydney Design Excellence competition and it has received international acclaim.</p> <p>Due to the significant impact that this will have on the development of high-rise residential towers, Mirvac strongly recommends that this guidance be reconsidered and the ADG be maintained in its current form.</p>

Item	Current Design Criteria	Proposed Design Criteria	Mirvac Response
Private open space (balconies)	Minimum depths: <ul style="list-style-type: none"> • Studio no min. • 1B 2m • 2B min. 2m • 3+B min. 2m 	Minimum depths: <ul style="list-style-type: none"> • Studio units min. 1m • 1-Bed units no change • 2-Bed units min. 2.4m • 3+Bed units min. 2.4m No changes to total areas. <p>Air conditioning condensers and hot water units not to be located on balconies.</p> <p>For towers (9 or more storeys) additional guidance on design of wintergardens.</p>	In is understood that increasing the size of balconies can improve residential amenity outcomes and Mirvac supports this aim in principle. However, a requirement for larger balcony sizes is likely to impact upon GFA and centralised services will lead to additional costs with implications for affordability. <p>Mirvac recommends that this floorspace be excluded from GFA.</p>
Storage	Studio 4m ³ <ul style="list-style-type: none"> • 1B 6m³ • 2B 8m³ • 3B10m³ 50% of the required storage is to be provided within each apartment.	Increase requirements to: <ul style="list-style-type: none"> • Studio units 6 m³ • 1-Bed units 9 m³ • 2-Bed units 12 m³ • 3+ Bed units 15 m³ Decrease the minimum amount to be provided inside the apartment to one third (i.e. the remaining amount can be provided outside the unit). <p>Require internal storage to provide for one storage space outside of bedrooms:</p> <ul style="list-style-type: none"> • Studio–1B: 0.9m deep x 0.9m wide x 2.4m high • 2+B: 0.6m deep x 1.2m wide x 2.4m high 	Mirvac advocates for a flexible approach to storage provision. <p>The ability to achieve this design criteria relies heavily on site specific considerations including ground conditions and excavation.</p> <p>Basements are often constrained in dense urban environments and it will not always be feasible to meet the proposed minimum external storage requirement.</p> <p>The external storage requirement is also likely to compete with ground floor uses, such as bicycle parking or ground floor tenancies, that may produce a more favourable outcome.</p> <p>There will be some instances where internal storage is sufficient and the external storage requirements are not required. The storage criteria should be refined accordingly.</p>

Table 2 – Response to New Design Criteria and Supporting Guidance

Item	Criteria/ Guidance	Mirvac Response
Contribution to place	New objectives to consider connection with Country and contribution to local neighbourhoods and planning aspirations, character and place-making.	Mirvac supports the intent but would like to see the DPIE further details on the process.
Residential Towers	<p>New criteria for residential towers (9 or more storeys):</p> <ul style="list-style-type: none"> • Max GFA of 700m² floor plate <p>Max of 8 units per core per floor</p>	<p>Mirvac strongly opposes constraints on floor plate size as this is extremely limiting for residential tower development and does not allow a design to respond to its site and context.</p> <p>The requirement for ‘slender towers’ should not be a generic objective. There are numerous examples of residential buildings over 9-storeys in height where tower “slenderness” would not have been an appropriate design response.</p> <p>Opera Residences by Tzannes Associates comprises 20 storeys with very large floorplates (refer image below). In this instance, the building massing was an appropriate design response because the building replaced an existing building of similar proportions (with the exception of height) and given the value of the land and the obvious surrounding amenity, it would have produced an inferior development outcome should arbitrary metrics been applied.</p>  <p>Even where slender towers are being delivered, 700m² is extremely limiting. The design for a recently approved residential tower in the CBD was the winner of an international design competition and has floor plates up to 783sqm GFA.</p> <p>There are many examples of award-winning residential towers that would not comply the proposed new floor plate criteria including Moore Park Gardens and the Horizon Apartments.</p>

Item	Criteria/ Guidance	Mirvac Response
Mixed use development	Allocate 40% of ground floor space for non-residential use in R3 and R4 zones and centres.	<p>This is too prescriptive and does not allow for design and use class to respond to demand and the locality.</p> <p>This will limit the ability for terrace product to be delivered at the ground and first floor of apartment buildings as was successfully done at Harold Park. Terraces are larger units with street access which provide an alternative for diverse households including families which value more space and direct street level access.</p> <p>Not all locations with R3 and R4 zoning are suitable for non-residential uses and where there is not sufficient demand, completed retail units will remain unoccupied long after completion.</p> <p>Mirvac strongly recommends that this guide is revised to include a more flexible metric allowing developments to respond to local demand and site-specific requirements.</p>
Bicycle storage	<p>New bicycle parking and mobility storage requirements:</p> <ul style="list-style-type: none"> • Studio/1B – 1 space • 2B – 2 spaces • 3+B – 3 spaces 	<p>Mirvac agrees with the objective to improve bicycle storage provision, where appropriate. Flexibility is required where a site is limited by ground conditions and excavation or where it can be demonstrated that there is limited demand for bicycle storage.</p>
Apartment layouts	Requiring 20% of 2 or more bedroom units to be 'family units' providing a minimum of 12m ² bedrooms for all bedrooms.	<p>The proposed criteria is too prescriptive and does not allow for a range of apartment layouts and sizes to cater to demand for different residents.</p> <p>Mirvac designs apartments with adaptability in mind and there is often a need to re-organise floor plans post approval in response to purchaser preferences. This is achieved through the thoughtful location of load bearing walls and careful arrangement of apartments.</p> <p>Mirvac prefers this market-led approach because it is efficient and tailored to the specific needs of customers.</p> <p>Speculating about the ideal composition of 'family units' is problematic. Large bedrooms may not suit young families who typically value functional living rooms and may be prepared to accept smaller bedrooms for children as a result.</p> <p>It is suggested that the design criteria be further refined to allow bedroom floor area to be transferred to living and dining areas, where this is demonstrated to be necessary or desirable.</p>

Item	Criteria/ Guidance	Mirvac Response
		Further considerations must also be given to the implications on BTR noting that co-working spaces can offer greater amenity when working from home.
Acoustic separation	<p>To support people working from home or studying:</p> <ul style="list-style-type: none"> • 1 and 2Bs – provide 1 acoustically separable area from the main living space • 3+ Bs- provide 2 acoustically separable areas from the main living space. 	<p>Mirvac agrees that there is an opportunity to learn from and respond to trends that have been accelerated by the COVID-19 pandemic. However, any change to the regulatory framework for apartment development must be based on long term empirical evidence.</p> <p>There is concern that the proposed acoustic separation criteria are too reactive and will not suit all residents including a large majority if people who cannot work from home (such as those within the essential services sectors).</p>
Building access and common circulation	<p>Require access and circulation to achieve Liveable Housing Australia silver performance level.</p> <p>Require fire stairs to have hold-open doors and natural light</p>	The requirement for fire stairs to have natural light can have a significant financial impact on high rise apartment design in the CBD for example where façade frontage and views are at a premium. Not only does it take up valuable residential floorspace, but it is questionable whether a resident in a large-scale high-rise tower would use the fire stair for vertical circulation. The requirement should be limited to buildings under 9 storeys.
Build to rent	Include BTR apartment development in the application of this policy	<p>The recently made BTR legislation encourages the flexible application of the ADG with particular reference to the design criteria for private open space, storage and apartment mix.</p> <p>The legislation encourages the flexible application of the ADG because this is critical to the viability of the BTR model and the delivery of more affordable housing in NSW. There is an opportunity to revise the ADG so that it is aligned with this recent legislation and so that it does not create uncertainty in the design and assessment of BTR development.</p> <p>To that end, Mirvac's view is that a the revised ADG should include a separate part addressing Build-To-Rent developments with specific guidance and criteria that differ from the build-to-sell typology. This is further addressed at Section 6.</p>

5.0 Residential Amenity Feedback

With reference to feedback and options sought by the DPIE for revising current design criteria and guidance to improve flexibility for achieving residential amenity objectives, Mirvac responds as follows.

5.1 Solar Access

Good design considers all environmental, geographical and site-specific opportunities and constraints. A holistic view of residential amenity needs to be taken to ensure the most comprehensively resolved design outcome is achieved.

Solar access should not be assessed in isolation but should be considered along with, and balanced against, other important factors of residential amenity such as views, noise impacts, heat load, glare, prevailing breezes, privacy and relationships to neighbouring development.

Whilst current ADG solar access controls are aimed at reducing the reliance on artificial heating and improving energy efficiency, they have the adverse effect of also increasing the reliance on artificial cooling in summer where west-facing windows are required to achieve solar access compliance in winter. Mandatory criteria should be replaced by a performance-based approach considering solar access in the broader context of residential amenity and not in isolation.

Mirvac suggests the following solar access objective and criteria / guidance.

Objective 4A Solar and Daylight Access

Objective:

- All habitable rooms and private open spaces within apartments are to have good access to natural light to improve energy efficiency.

Criteria / Guidance:

- The site analysis and design response consider all aspects of residential amenity including solar access, views, noise impacts, heat load, glare, prevailing breezes, privacy and relationships to neighbouring development.
- Where practical, orient buildings to ensure the maximum number of apartments possible face within 15 degrees of north.
- Avoid direct sunlight to east and west facing glazing.
- Minimise the number of south facing apartments.
- Where apartments have a less favourable orientation in terms of solar access (ie south facing), ensure that apartment layouts are designed to optimise access to natural light with consideration given to reduced room depths and width of frontages.
- Residents have access to communal space with adequate solar access.

5.2 Natural and Cross Ventilation

Increasing the natural cross ventilation requirement to 70% of units will have significant implications for high rise apartment design if only corner apartments and dual-aspect apartments are considered naturally cross-ventilated.

The diagrams provided below demonstrates that it will be very difficult to meet the cross-ventilation requirement.

Diagrams 1 and 2 in **Figure 2** below illustrates conventional single core floor plates achieving 50% cross ventilation via corner apartments. Under the proposed controls these would be deemed non-compliant.

Diagram 3 achieves greater than 70% cross ventilation but requires two cores which is highly inefficient and unfeasible for a residential high-rise tower due to the additional lifts, fire stairs and building services required.

Diagram 4 achieves 70% through the articulation of the building form. Whilst this option can be achieved with a single core, the suitability of the irregular floor plate depends on site configuration and other factors and is a typology that is unlikely to be suitable to all situations.

Increasing the cross-ventilation requirement will add to building costs due to floor to façade ratios and optimal floorplates will be difficult to achieve when combined with building separation distance requirements. Mirvac suggests that scenario testing be undertaken to determine impacts to GFA. The testing could have regard to existing well regarded and award-winning buildings to determine what the impacts of the amended natural ventilation rules on the design of the building and what the impact on GFA and building cost would be.

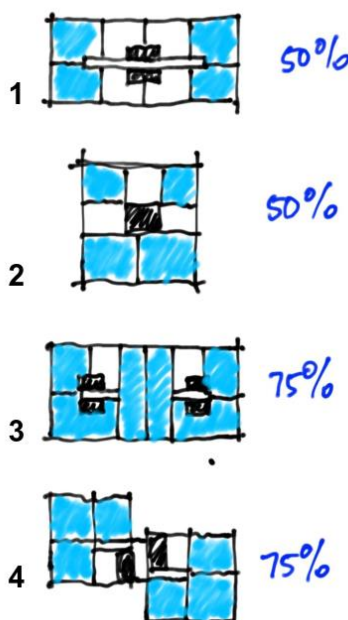


Figure 2 Illustration of cross ventilation (Diagrams 1 – 4)

Mirvac is of the strong view that the current guidelines for cross ventilated apartments are adequate and that the guidance should be broadened to allow for performance-based solutions to be accepted.

Any façade articulation that changes the local wind speed will change the surface pressure and therefore induce natural ventilation through apartments. Alternatively, flow travelling along a façade will expand into a flush opening inducing circulation in the connected volume. The appropriate size and type of openings relative to any façade articulation will control the effectiveness of the potential for natural ventilation. This needs to be considered by consent authorities when assessing applications.

6.0 Build to Rent (BTR)

The EIE notes that the ADG will be revised over time to combine all housing design guidance into a single design guide to be used with the Housing Diversity SEPP and D&P SEPP. It is not clear however in the EIE if this applies to BTR housing (pg. 80 (A30)) notwithstanding the provisions of the recently amended Affordable Rental Housing SEPP (ARHSEPP) to not only allow BTR, but to specifically seek flexibility in the application of the ADG.

Given the unique nature of BTR housing, and the long-standing incorrect use of the ADG by consent authorities (as previously raised), it would be unreasonable and damaging to apply the ADG as currently practiced to BTR housing. Specific concern of the revised ADG is the likely reduction of building efficiency, lower densities and thus an increase in overall costs, which will create a greater financial hurdle for BTR projects.

This guidance should inherently be structured like the ADG, with an overall objective with multiple ways of achieving the same outcome, and consent authorities should be mandated to implement the guidance in a flexible manner responding to specific design solutions.

Key elements to be considered in this guidance may include:

- Providing flexibility in the mix of apartment typologies, allowing for market driven responses.
- Establishing an objective for 'communal amenity/facilities', with flexibility to deliver this amenity in a range of forms and specific to the locational context of a site.
- Establishing principles for apartment sizes and private open space, holistically considering the development as a whole and enabling more efficient apartments where greater amenity is provided on the whole (i.e. cumulative approach to private and communal open space).
- Establishing principles for car parking rates which recognise the different parking demands between renters and owner occupiers. Mirvac BTR is supportive of a maximum rate in lieu of a minimum rate if a robust Green Travel Plan is provided which includes car share fleet EV charges, bicycle and scooter parking and appropriate proximity to public transport.

Notwithstanding this recommendation, we have provided comments against the proposed amendments to the proposed design criteria of the revised ADG at **Section 4**.

Mirvac would also welcome the opportunity to contribute to the development of new design guidance for BTR housing.

7.0 Picket & Co

Picket & Co is a Mirvac-backed venture offering a low-cost housing solution that reinvents the traditional boarding house. Picket & Co offers lower rentals compared to other offerings in the private rental market, which is made possible due to the density incentives and minimum room sizes currently available to boarding houses under the ARHSEPP. The goal of Picket & Co is to create a new asset class which can deliver over 2,000 low-cost rental homes for key workers and young Australians by 2030.

Picket & Co recommends:

- That the development standards for housing typologies to be adopted into the incoming Housing Diversity SEPP (including boarding houses and co-living) are expressly excluded from the D&P SEPP until such time as they can be addressed in separate Design Codes prepared in co-operation with industry, to ensure ongoing viability of the sector.

- Forming a co-living and boarding house working group, including key industry players, to provide input into the Housing Diversity SEPP and D&P SEPP to explore appropriate standards for co-living and boarding houses and communicate impact on adjacent legislation that can be detrimental to target outcomes.
- Finalising the NSW Housing Strategy and Housing Diversity SEPP before finalising specific Design Guidance for co-living and boarding houses in the D&P SEPP.
- Supporting the private sector in providing low-cost rental housing via the recommendations put forward in the Housing Diversity SEPP that support private operators in the provision of low-cost housing.

We also wish to express our desire to work with the Government Architect of NSW (GANSW) to draft additional guidance for co-living and boarding houses, to appropriately include design requirements for this bespoke and specialised asset class.

8.0 BASIX

We strongly support and the promotion of sustainable development and prioritising minimising human impacts on natural systems to support the Government's Net Zero Plan to reach net zero emissions by 2050. Mirvac is deeply committed to sustainable development and operates under a sustainability strategy, "*This Changes Everything*". The strategy sets out clear targets for waste minimisation and biodiversity.

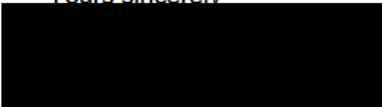
9.0 Conclusion

We would like to thank the Department for the opportunity to make a submission on these very important changes to the NSW planning framework. The following key comments have been made in relation to the D&P SEPP EIE:

- Mirvac supports the principles proposed to be established by the D&P SEPP and the more flexible application of a revised ADG to enable place-led and performance-based outcomes.
- Mirvac opposes the incorporation of any prescriptive considerations within the D&P SEPP because this will prevent the policy from being used as a principle-based guidance document.
- Mirvac opposes the introduction of any additional prescriptive metrics within the revised ADG (with reference to requirements for deep soil, communal open space, building separation, natural ventilation, max floorplate sizes) because they will preclude alternative design responses and add complexity to the planning system.
- Mirvac suggests that the ADG be restructured to clarify that a duty is imposed on the consent authority to flexibly applying the design criteria where alternative design responses can demonstrate that objectives are met.
- Mirvac recommends that specific design guidance be developed to guide and proactively facilitate BTR housing.
- Picket & Co recommends that housing typologies included within the incoming Housing Diversity SEPP be excluded from the D&P SEPP and that appropriate standards and guidance for these housing typologies be developed with input from key stakeholders.

Mirvac looks forward to further contributing throughout the process and would welcome the opportunity for discussion.

Yours sincerely



Stuart Penklis
Head of Residential

Attachment 1: PCA Submission to Draft Greener Places Design Guide




Australia's property industry

Creating for Generations

Property Council of Australia
ABN 13 00847 4422

Level 1, 11 Barrack Street
Sydney NSW 2000

T. +61 2 9033 1900
E. nsw@propertycouncil.com.au

propertycouncil.com.au
 [@propertycouncil](https://twitter.com/propertycouncil)

28 August 2020

Ms Abbie Galvin
Government Architect
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Email – government.architect@planning.nsw.gov.au

Dear Ms Galvin

Greener Places – Design Guide

The Property Council welcomes the opportunity to provide the Department of Planning, Industry and Environment (Department) with comments on the draft Greener Places – Design Guide.

As Australia's peak representative of the property and construction industry, the Property Council's members include investors, owners, managers and developers of property across all asset classes. We are pleased to provide the attached comments to the Department regarding the proposed design guide.

Greener Places represents a significant opportunity to bring together guidance for the planning, design and delivery of green infrastructure within NSW's urban areas. The Property Council generally supports the aims, intent and overall purpose of this design framework. However, we do question the intended process for implementation of parts of the Greener Places Design Guide. We have some concerns that parts of the design guide will add further complexity and regulation to the current planning framework that applies to the development of housing in NSW. In the current COVID-19 induced recession it is critical that processes are streamlined and no further regulatory burden placed on business at this time.

Within these general comments, we are pleased to provide the attached comments to the Department on the draft Greener Place Design Guide.

Should you have any questions regarding the content of this submission please contact Troy Loveday, NSW Policy Manager, or [REDACTED] or [REDACTED]

Yours sincerely

A black rectangular box redacting the signature of Belinda Ngo.

Belinda Ngo
Acting NSW Executive Director
Property Council of Australia

PROSPERITY | JOBS | STRONG COMMUNITIES

Submission to the Office of the NSW Government Architect

Draft Greener Places – Design Guide

28 August 2020

1.0 Introduction & General Comments

The release of Greener Places Design Guide by the Government Architect has come at a unique time for NSW. COVID-19 has increased the community's appreciation and awareness of both quality and quantity of open space and space available for recreational activity. An opportunity to harness that awareness to improve the way we plan, design and deliver our open spaces is available.

We support the Government's view of Green infrastructure as being a critical element of the city just like our transport network and other important infrastructure. The aims of the design framework, to create a healthier, more liveable and sustainable urban environment by facilitating better community access to useable open space, are generally supported.

The draft design guide provides useful direction for decision makers around the planning and delivery of Green Infrastructure. However, we note that there is a risk that it will add further complexity to the planning system at a time when streamlining of processes is business critical.

The selection of the three components (open space for recreation, urban tree canopy and connecting bushland and waterways) for inclusion in the draft guide is appropriate.

We anticipate the draft Design Guide will formalise much of the planning for green space that in the past has traditionally been very ad hoc and inconsistent. It is very important that the guide's implementation is clear and efficient. Further information about how the draft Design Guide will be implemented is required.

2.0 Section One - Open Space for Recreation

2.1 Planning for recreation opportunities

Open space for recreation is a very broad concept that includes, but not limited to, natural areas, foreshore areas, informal parklands, sports grounds and facilities such as netball courts, children's playgrounds, formal gardens and linear walking tracks and cycleways. The planning and delivery of these facilities are normally managed by local councils and with some areas developed by the State Government. It is unclear if local councils will be required to use Greener Places as part of their strategic planning for recreation and open space.

The draft Design Guide proposes a shift away from spatial standard and percentages of land area towards a more performance-based approach. We generally support this change as it accurately reflects how people use and access different types of open space and accounts for the need to provide a greater level of accessibility to open space in high density areas.

Capacity guidance is provided for brownfield sites and redevelopment areas in section 1.6 of the draft Design Guide. We are concerned the application of a capacity threshold is too prescriptive and would be difficult to apply. This may not necessarily lead to better open space outcomes. Ideally the draft Design Guide should provide some analysis on how these thresholds were determined and some case studies that could demonstrate their application and suitability, particularly relevant to urban renewal contexts.

It is also unclear how the capacity thresholds would be applied where higher densities are proposed, and delivery of new open space may be constrained. Further clarification is needed on how the thresholds would be applied, particularly where they cannot be achieved by individual developments. Consideration is also needed on how the application of a capacity threshold would impact precinct planning, including the implication for wider development contributions framework and recovered open space acquisition costs. Greener Places should become a vehicle for resolving a complicated issue associated with housing supply rather than restrict it.

Given the policy position adopted by the draft guide is to remove the application of a spatial standard to open space planning, any consideration of capacity should be made on a case by case basis. This would need to be informed by survey data on actual and intended usage of open space and analysis of how open space is likely to be used by future occupants of new communities. Greener Places should become a tool to provide guidance on how this could occur and how it would be assessed.

2.2 Criteria

On pages 16 to 19 of the draft Design Guide there are 6 criteria provided to guide the performance outcomes for green spaces. These include important considerations such as accessibility, quantity, quality and diversity. We consider these to be appropriate benchmarks for the determination of successful recreation opportunities.

Most of the criteria provide performance indicators that will help to determine the successful provision of recreation opportunities. In some cases quantitative performance indicators are applied and other criteria rely on qualitative indicators. Using a combination of quantitative and qualitative criteria represents an appropriate approach when used primarily as a guide to help inform merit-based outcomes.

A range of performance indicators are provided for Criteria 1 - Accessibility and Connectivity, including access to local, district and regional open space. While these are useful indicators of performance, they should be regarded as inspirational, as strict compliance is not always achievable. Given Sydney's geography, public transport network and other factors, the indicators applying to district and regional parks may not be able to be met all the time.

The size and shape of open space is an important consideration to determine its maximum capacity and the range of uses that it can support. The proposed performance indicators are generally appropriate, however we would suggest the minimum area for district sports precincts should be reduced from >10 hectares to >5 hectares and to enable multiple sports fields and courts to meet local demands. As an example, multipurpose playing fields are an effective way to meet local demand whilst not requiring the same amount of area.

The table on page 23 of the draft Design Guide provides ideal capacity thresholds for existing open space. Many of the capacity thresholds recommended appear to be appropriate but we would welcome greater consideration of alternative open space opportunities to address facilities at or near capacity. As there are many precincts within Greater Sydney undergoing urban renewal, there will be increasing pressure placed on existing green spaces and fewer opportunities to develop new spaces. The draft Design Guide should acknowledge this constraint and provide guidance about the types of acceptable alternatives to address this issue.

3.0 Section Two - Urban Tree Canopy

We support the Premier's Priority to increase the urban tree canopy in Sydney and the environmental and amenity benefits of improving urban tree canopy are widely accepted.

3.1 Improving the approach

We strongly recommend that the canopy targets should be considered aspirational only and should not become numerical requirements embedded into the planning system through Local Environmental Plans or Development Control Plans.

Measurement of the targets should not be assessed on a site by site basis rather the tree canopy measure should be determined at a precinct, local government area level and District level. It is unclear whether the targets will be applied to individual developments (private or public) and enforced through the development assessment framework.

While there is some capacity to accommodate increased tree canopy cover within private residential developments, canopy cover should be focused on the public domain (council footpaths and parks) where the benefits of pedestrian amenity and reduced heat island effect are maximised through shading of hard surfaces such as footpaths and road pavements. These opportunities can be enhanced, in some cases, by providing reduced road pavement widths and wider landscaped verges with potential for additional canopy.

The application of a canopy target should have consideration for the following matters including bushfire risk and selection of appropriate tree species close to housing. Greater Sydney has substantial areas of land that has been mapped as bushfire prone. Initiatives to increase tree cover in these areas should be regarded as being subject to fuel loads and capacity to manage resilience to greater bushfire hazards.

4.0 Section Three - Bushland and Waterways

Bushland and waterways play a very important role in our larger cities, particularly Sydney, Wollongong and Newcastle. They contribute to supporting biodiversity which is highly valued by communities. Initiatives intended to protect and improve the quality of bushland and waterways are welcome and should be developed in consultation with stakeholders.

Key components of this section of the draft Design Guide are; urban habitat, planning for connectivity and the introduction of strategic urban biodiversity frameworks. Each of these is considered below:

4.1 Urban habitat

Within the draft Design Guide urban habitat includes not just areas of urban bushland and urban waterways which support the most endemic species, but also the built environment where some endemic Australian and non-Australian species can exist and at time flourish in areas such as parks, and gardens, green roofs, along street verges, in artificial wetlands and in ponds.

Land use and planning controls for areas adjacent to urban bushland and waterways should encourage connection between these habitat areas but there must be clear and defined guidance regarding what is required.

4.2 Strategic urban biodiversity frameworks

The draft Design Guide has suggested that Strategic Urban Biodiversity Frameworks (SUBFs) could replace existing local government biodiversity strategies by integrating into a council's LSPS and LEP/DCP. A SUBF could provide a link to a LEP map identifying core, transition and habitat connection areas. We support this in principle, however greater detail on how they would operate and the potential implications for development on private land would need to be better understood.

The draft Design Guide provides five recommendations for State agencies and local councils when assessing urban habitat needs. These recommendations do not prevent LEP and DCP amendments reflecting the outcomes of a SUBF but there would need to be clear and well-defined parameters around to what extent they would impact on development proposals and the use of land.

The draft guide correctly states that a range of legislative instruments, policies and strategies already exist for the protection of urban bushland and waterways, which include the following policies and plans;

- *State Environmental Planning Policy No 19 – Bushland in Urban Areas,*
- *State Environmental Planning Policy (Coastal Management) 2018,*
- *State Environmental Planning Policy (Koala Habitat Protection) 2019,*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011,*
- *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017,*
- *Sydney Regional Plan No 20 – Hawkesbury-Nepean River,*
- *Sydney Regional Plan (Sydney Harbour Catchment) 2005 and*
- *Greater Metropolitan Regional Plan No 2 – Georges River Catchment.*

The Department should consider how these plans and policies be reviewed and further consolidated. This would potentially eliminate another area of complexity and duplication within the planning system. A reduction of planning red tape could achieve a better green infrastructure and biodiversity outcome by developing a simpler and more consistent policy framework.

5.0 Next Steps

The Property Council welcomes the opportunity to contribute to the Greener Places draft Design Guide produced by the Government Architect's office. We have considerable interest in the proposed Design and Place State Environmental Planning Policy and would like to know more about how the two documents will be integrated.

Development of performance indicators for open space and recreation areas and tree canopy cover has been a positive initiative that we support. However, we would welcome further clarification about the implementation tools that will be employed to deliver the performance outcomes.

We look forward to further engagement with the Government Architect Office regarding the design requirements set out in the Greener Places document.

Contacts

Belinda Ngo

Acting NSW Executive Director

Property Council of Australia

Mobile: [REDACTED]

Email: [REDACTED]

Troy Loveday

NSW Policy Manager

Property Council of Australia

Mobile: [REDACTED]

Email: [REDACTED]

Attachment 2: Mirvac endorsement of PCA Submission to Draft Greener Places Design Guide



28 August 2020

Secretary
Mr Jim Betts
Department of Planning, Industry and Environment,
Locked Bag 5022,
Parramatta NSW 2124

Dear Mr Betts,


RE: Draft Greener Places Design Guide

Thank you for the opportunity of making a submission on the Draft Greener Places Design Guide.

Mirvac provided input into the submission made by the Property Council of Australia dated 28 August 2020 and by this letter, endorse the submission made.

We would welcome the opportunity of discussing our feedback on the Draft Greener Places Design Guide in further detail if suitable.

Yours sincerely,


Adrian Checchin
Development Director

Attachment 3: Mirvac proposed Apartment Design Guide Structure

Existing ADG Structure:

<p>Objective 4A-1</p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</p>
<p>Design criteria</p> <ol style="list-style-type: none"> 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas 2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter 3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter
<p>Design guidance</p> <p>The design maximises north aspect and the number of single aspect south facing apartments is minimised</p> <p>Single aspect, single storey apartments should have a northerly or easterly aspect</p> <p>Living areas are best located to the north and service areas to the south and west of apartments</p> <p>To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used:</p> <ul style="list-style-type: none"> • dual aspect apartments • shallow apartment layouts • two storey and mezzanine level apartments • bay windows <p>To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes</p>

Achieving the design criteria may not be possible on some sites. This includes:

- where greater residential amenity can be achieved along a busy road or rail line by orientating the living rooms away from the noise source
- on south facing sloping sites
- where significant views are oriented away from the desired aspect for direct sunlight

Design drawings need to demonstrate how site constraints and orientation preclude meeting the design criteria and how the development meets the objective

Take this out of 'Design Guidance' and give it its own section:

Proposed ADG Structure:

<p>Objective 4A-1</p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space</p>
<p>Design criteria</p> <ol style="list-style-type: none"> 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas 2. In all other areas, living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9 am and 3 pm at mid winter 3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter
<p>Design guidance</p> <p>The design maximises north aspect and the number of single aspect south facing apartments is minimised</p> <p>Single aspect, single storey apartments should have a northerly or easterly aspect</p> <p>Living areas are best located to the north and service areas to the south and west of apartments</p> <p>To optimise the direct sunlight to habitable rooms and balconies a number of the following design features are used:</p> <ul style="list-style-type: none"> • dual aspect apartments • shallow apartment layouts • two storey and mezzanine level apartments • bay windows <p>To maximise the benefit to residents of direct sunlight within living rooms and private open spaces, a minimum of 1m² of direct sunlight, measured at 1m above floor level, is achieved for at least 15 minutes</p>
<p>Alternative design criteria</p> <p>Achieving the design criteria may not be possible on some sites. In the instance where design criteria cannot be met, demonstrate that the objective is met by way of:</p> <ul style="list-style-type: none"> • Site analysis carried out to determine the preferred orientation of the building considering all aspects of residential amenity including solar access, views, noise impacts, heat load, glare, prevailing breezes, privacy and relationships to neighbouring development. • Subject to site analysis, maximise the number of apartments receiving direct solar access • Avoid direct sunlight to east and west facing glazing. • Minimise the number of south facing apartments. • Where apartments have a less favourable orientation in terms of solar access (ie. south facing), ensure that apartment layouts are designed to optimise access to natural light with consideration given to reduced room depths and increased width of frontage. • Where apartments have less favourable orientation in terms of solar access ensure that residents are given access to a communal space with adequate access to sunlight