

Submission – Design and Place State Environmental Planning Policy (SEPP)

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Executive Summary

The NSW Department of Planning and Environment (DPE) is seeking feedback on a draft State Environmental Planning Policy Design and Place (draft SEPP) which seeks to consolidate SEPP 65 – Design Quality of Residential Apartment Developments and BASIX SEPP (Building Sustainability Index), improve sustainability measures across NSW and provide a set of design guidelines to improve the urban design of our neighbourhoods and apartment buildings.

The draft SEPP policy package includes amendments to the Environmental Planning and Assessment Regulation (2000), a new Ministerial Direction for planning proposals, an updated BASIX tool, a revised Apartment Design Guide (ADG), a new Urban Design Guide (UDG) and a manual for Local Government on Design Review Panels (DRP).

The policy package also includes new sustainability requirements for non-residential developments over a certain size and proposes changes to the Standard Instrument and the State Environmental Planning Policy (Exempt and Complying Development Codes) 2009 (Codes SEPP) to address urban heat impact.

Council has reviewed the draft SEPP and provides in-principle support for the intent of the proposed changes. It is noted that there is a clear synergy between the draft SEPP policy package and Council's strategic policy priorities including those identified in the Camden Local Strategic Planning Statement (LSPS), Camden Community Strategic Plan (CSP) and Sustainability Strategy 2020-24.

Council supports the revised ADG and the draft UDG (subject to further detailed considerations) to assist in better design outcomes in neighbourhoods, towns and cities across NSW.

The Western Parkland City is undergoing rapid change, which provides challenges and opportunities for the Camden Local Government Area (LGA), the fastest growing LGA in Australia, and Council appreciates the opportunity to provide comments on the draft SEPP policy package.

This submission highlights the key considerations for Camden LGA and provides 7 overarching comments.

Detailed considerations on each document within the policy package are individually outlined further in this submission and technical corrections and considerations are provided in **Appendix A**.

This document presents Camden Council's formal submission to the draft Design and Place SEPP

Council requests the considerations and recommendations contained in this submission be addressed prior to the finalisation of the draft SEPP policy package.

Introduction

The draft SEPP policy package was placed on public exhibition from 10 December 2021 to 28 February 2022.

The SEPP aims to deliver on the Minister for Planning's State Planning Principles which require new planning instruments to deliver 'well-designed places that enhance quality of life, the environment and the economy'.

The draft SEPP is supported by a comprehensive policy package that includes the following:

- Design & Place – Overview;
- Design & Place - Draft SEPP;
- Design & Place - Draft Regulation Amendment;
- Design & Place - Draft Ministerial Direction;
- Design & Place – Cost Benefit Analysis (Summary);
- Draft Apartment Design Guide;
- Draft Urban Design Guide;
- Draft Local Government Design Review Panel Manual; and
- Sustainability in Residential Buildings (BASIX Overview).

Once finalised, the Draft SEPP will repeal the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.

Council provides in-principle support for the strategic intent of the draft SEPP policy package and welcomes a focus on good urban design outcomes in our neighbourhoods and buildings and increased measures to ensure greater sustainability across NSW. Council is also supportive of guidelines to assist developers in the design of these places and spaces and to assist Council in the assessment of development proposals. The draft Local Government Design Review Panel Manual is also supported and Council looks forward to a consistent approach to the function and management of these panels.

Notwithstanding, the key considerations that impact on the Camden LGA have been identified and are outlined in the 'Key Considerations' section of this submission.

Strategic Context

There is broad consistency between the draft SEPP package and Council's policy and strategy framework including the Greater Sydney Region Plan and Western City District Plans which seek to strengthen the role of design and place making with the aim to improve liveability and sustainability. Other key strategic planning policies for Camden include the Local Strategic Planning Statement (LSPS), Community Strategic Plan (CSP), the Local Housing Strategy (LHS) and the Sustainability Strategy (SS). These are discussed in more detail below.

Local Strategic Planning Statement (LSPS)

Camden's LSPS includes themes of liveability and sustainability that mirror the Greater Sydney Region Plan and the Western City District Plan.

Local Priorities I2, L1 and L4 provide actions aimed at achieving better connectivity, walkability, housing and subdivision design, open and green spaces. Local Priorities S1, S2, S5, and S6 contain actions to achieve more sustainable management and design of

stormwater and natural waterways, increased energy efficiency and reductions in emissions across the community, resilience to extreme weather, including extreme heat and innovation in waste management.

These priorities are in keeping with the objectives and measures proposed to be introduced as part of the draft SEPP package.

Camden Community Strategic Plan (CSP)

The CSP sets out the community's vision for Camden and key directions to achieve this vision. Key direction 1 of the CSP aims to actively manage Camden's growth with a strategy to better achieve a balance between population growth, urban development and the environment (1.1.2). This direction is in keeping with the draft SEPP which also aims to manage and balance growth to ensure better built form outcomes, more liveable and sustainable neighbourhoods as well as better outcomes for the environment in the development process.

Camden Local Housing Strategy (LHS)

The Camden Local Housing Strategy (LHS) was endorsed by Council in October 2021. The LHS sets out Council's vision for housing in the Camden LGA over the next 10 and 20 years. It draws on a body of evidence to create a set of housing priorities and objectives specific to the Camden LGA.

Priority 2 of the LHS centres on *delivering resilient, healthy and connected communities* and sets out under Objective 3 for housing to be well-designed and environmentally sustainable. This is largely consistent with the draft SEPP which also seeks to deliver better designed and more sustainable neighbourhoods.

However, the LHS also acknowledges that one of the key state planning policies influencing the design of new housing across the Camden LGA is the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP). The LHS notes that a review of the Codes SEPP could greatly improve the performance of new suburbs and that Council has been and will continue to advocate for this review. Therefore, it is viewed as a missed opportunity, for the draft SEPP policy package not to include a comprehensive review of the Codes SEPP in regard to design and place. More discussion on the Codes SEPP and housing design in the Camden LGA is discussed further in this submission under the heading Key Issues and Considerations.

Sustainability Strategy 2020-24 (SS)

The draft SEPP package which set out targets for greater energy efficiency, reductions in emissions, increased private and public tree canopy, deep soil, street tree planting and green space connections and retention of natural waterways is supported. This is consistent with a number of the strategies outlined in Camden's Sustainability Strategy 2020-24 including the following:

Creating Sustainable Urban Environments

- 25% increase in tree canopy coverage;
- 30% increase in dwellings with solar installed; and
- 10% decrease in average household water use.

Protecting Our Natural Environments

Improvement in waterway health report card score for priority waterways

Improving Resilience to Climate Change

- Risk/adaptation strategies implemented for 100% of the LGA's extreme and high risks;
- 15% reduction in Camden Council emissions;
- Leading by example;
- 20% reduction in Council energy use per capita;
- 20% increase in renewable energy generated;
- 20% reduction in potable water use per capita at Council facilities; and
- Sustainability criteria included in all tenders.

Key Considerations

1. The broad intent of the reforms is supported

There is a 'line of sight' between the draft SEPP and Council's strategic policy framework. The Greater Sydney Region Plan, Western City District Plan and Camden Local Strategic Planning Statement (LSPS) seek to strengthen the role of design and place making to improve liveability and sustainability outcomes. The draft SEPP is also broadly consistent with Council's Community Strategic Plan (CSP), Local Housing Strategy (LHS) and Sustainability Strategy (SS).

The reform's BASIX, standardising of DRPs and measures to improve sustainability and urban design is supported, including increased thermal comfort, urban tree canopy and deep soil areas and mitigating urban heat impact.

The revised ADG's flexible, family-friendly spaces with greater diversity in apartment mix is supported. An increased focus on design and place in the planning proposal process and the proposed update to the Codes SEPP and Standard Instrument LEP to introduce light roof colours is also supported.

Whilst the intent of the draft SEPP and broader reforms are supported, Council's draft submission identifies a number of issues that require further consideration and/or clarification, as outlined below.

2. Residential subdivision development in planned growth area precincts and urban release areas in Camden should be excluded from assessment against the Urban Design Guide

Camden has a well-developed approach to growth area planning that has evolved in consultation with the community since the inception of the South West Growth Area around 2006.

While the draft SEPP's application of sustainability criteria to growth area planning projects is supported, the value of including all DAs above the 1-hectare threshold for assessment against the Urban Design Guide requirements is questioned. Most development sites of this size in Camden undergo a masterplanning process at the precinct planning / urban release stage. This process largely addresses what the draft UDG is seeking to do.

For growth area precincts and urban release areas, the DPE's priority should be to reform the Codes SEPP (Housing Code) to improve liveability and sustainability outcomes in the delivery of new housing (point 5).

3. Complexity of the NSW planning system

The draft SEPP adds another layer of complexity to an already complex planning system. The draft SEPP is likely to result in additional assessment time for DAs and planning proposals. This is due to increased referrals, additional assessment criteria and increased reporting to the DRP.

The draft SEPP proposes sustainability targets and it is unclear how these have been benchmarked against targets within existing strategic planning documents for Greater Sydney to ensure they are consistent with each other.

4. Inconsistent with Council policy

Some of the proposed design criteria in the draft SEPP is inconsistent with the principles applied in Camden's growth area precincts and urban release areas. For example, the proposed open space provision and minimum public open space criteria is different to the criteria in Council's adopted Spaces and Places Strategy (2020).

It is recommended that DPE further consult with Council concerning the proposed design criteria. The draft SEPP should take into account Council's adopted strategies and policies.

5. Reform of the Codes SEPP (Housing Code)

Aside from the proposed lighter roof colour amendment, the draft SEPP does not reform the Codes SEPP.

In Camden, a significant volume of housing is approved via a Complying Development Certificate (CDC) pathway under the Codes SEPP, with the number of CDCs issued increasing from approximately 648 CDCs in 2019 to 1,019 CDCs in 2021.

The Codes SEPP has limited the number of site-specific designs that prioritise sustainable outcomes. For example, the rear setback and building footprint controls within the Codes SEPP allow limited areas for tree planting.

Council recommends DPE review the controls within the Codes SEPP to improve the liveability and sustainability outcomes, in line with its strategic planning framework.

6. A local government resourcing strategy is needed

The draft SEPP is likely to impact on Council's resources and budget, as it will require additional assessment time and reporting for DAs and planning proposals.

Council officers will require training in the new technical sustainability documents that are required to be submitted with a DA and additional specialist staff may need to be employed to assist in these assessments.

DPE's contributions reform proposal (subject to a separate report to Council) flags that the open space requirements of the draft SEPP may be funded by a contributions plan (capital works funding) and this is supported. The inability for contribution plans to fund the delivery of community facilities (not only the land for the facility) is inconsistent with the draft SEPP (deliver inviting public space). Funding for whole-of-life asset maintenance and renewal is an

ongoing issue for councils and some capital works projects will need to meet increased design and sustainability standards.

Council's DRP will need to be aligned with the DPE's DRP model. This is likely to create additional work and costs associated with the remuneration of panel members, increased Council staff involvement and increased volumes of DA and planning proposal referrals and reports. DPE is requested to play a greater role in the ongoing establishment and function of the DRP, including conducting an expression of interest (EOI) for membership to the panel and creating a central pool of chairs and experts for councils to select from.

Additional funding sources will need to be identified to meet these funding challenges and a local government resourcing strategy is needed.

7. Meaningful community engagement is needed

The DPE undertook targeted engagement with the development industry and local government during 2021. However, the formal exhibition period has occurred over the Christmas - New Year period, limiting the opportunity for meaningful community engagement. It is unclear if the broader community understand the draft SEPP policy package and its potential implications on development costs and assessment requirements.

This is inconsistent with Council's Community Participation Plan (CPP) and DPE's Community Guide to Planning (December 2020), which recognise early community participation in planning is vital to ensure strategic planning and planning rules are based on community knowledge and views.

Recommendation:

- 1. Remove residential subdivision development in planned growth area precincts and urban release areas from the requirements of the draft UDG;**
- 2. Work with Council to mitigate concerns relating to the impact on assessment times and sustainability targets;**
- 3. Consult further with Council concerning the proposed design criteria;**
- 4. Amend the draft SEPP to ensure it allows for council policy to apply in circumstances where there is an inconsistency;**
- 5. Prioritise the review and reform of the Codes SEPP (Housing Code);**
- 6. Work with Council in the development of an appropriate resourcing strategy to accommodate the draft SEPP;**
- 7. Review the UDG to ensure it is appropriate for the Camden LGA and south west Sydney;**
- 8. Play a greater role in the establishment and function of the DRP including conducting regular EOI's for membership and creating a central pool of Chairs and experts for councils to select from;**
- 9. Consider the financial implications for Council of reporting to the DRP and to propose a funding mechanism for the panel; and**
- 10. Clarify actions undertaken to ensure the proposed changes have been adequately explained to the general community.**

Other Detailed Considerations

1. Comments on Draft State Environmental Planning Policy (Design and Place) 2021 (Design and Place SEPP)

Retaining water in the landscape

Retaining water in the landscape is an important consideration in the long-term health and survival of the tree canopy, especially in Western Sydney where the frequency of extreme heat events is increasing. Retention of water in the landscape should be included as a design consideration in Clause 20 – green infrastructure (p.10) and Clause 21 Design consideration – resource efficiency and emissions reduction (p.10).

Review of Schedule 1 Energy and water use standards for non-residential development

Clause 28 commits to the review of Schedule 2 - *Energy and water use, embodied emissions and thermal performance standards for BASIX* at least once every three years however a similar commitment to the review of Schedule 1 *Energy and water use standards for non-residential development* has not been made. It is recommended that Schedule 1 also undergo regular review to ensure that the standards reflect current technologies.

Climate Zones Map

The Climate Zones Map has not been provided with the consultation documentation. Schedule 2 refers to climate zones and Part 1 refers to climate zones as meaning those shown on the Climate Zone Map. Therefore, it is difficult to determine which zone applies to the Camden LGA. It is also noted the zones do not appear to be consistent with standard climate zones (in which Camden is considered to be zone 6). It is suggested that DPE consult further with Council in regard to climate zones and that the maps be provided prior to the adoption of the SEPP.

Assessing neutral outcome

Division 3 Residential apartment development Clause 30 Objectives of Apartment Design Guide (2)(b)) allows for an alternative design solution to apartment design to have either a neutral or positive design outcome. Concern is noted with the level of difficulty in interpreting and assessing a neutral outcome. This is likely to lead to increased assessment time, additional negotiation with applicants, a further burden on assessment referral staff and result in the standard being applied inconsistently across the state. Therefore, the benefit of allowing a neutral outcome is questioned and it is recommended the clause be amended to allow alternatives that can demonstrate a positive design outcome.

Part 4 Design Review - Clause 34 Application of this Part

Trigger for DRP referral

The 1ha and greater trigger for DRP referral of developments in greenfield areas is viewed as being too low, not appropriate for all development meeting this criterion and likely to generate a significant workload for Council assessment teams. Many rezoned residential landholdings in Camden will meet this criteria and so a large volume of applications will need to be reported to the DRP. As discussed previously in this submission, this will have significant burden on Council resources and on the workload of the DRP.

Therefore, it is recommended that DPE consult further with Council on a more appropriate criteria for referral to the DRP.

Recommendation:

- 11. Include retention of water as a design consideration in Clause 20 and 21.**
- 12. Include a provision to ensure that Schedule 1 will also be reviewed at least once every three years.**
- 13. Consult further with Council regarding Climate Zones and that the maps be provided to Council prior to the adoption of the SEPP.**
- 14. Remove the provision for a neutral outcome from Clause 30 (2)(b).**
- 15. Consult further with Council concerning development criteria for referral to the DRP.**

2. Comments on Draft Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021

Assessment Embodied Energy and Net Zero Statement Clauses 57C & 57D

Concern is noted with the complexity of assessing the Embodied Energy and Net zero Statement required to be submitted with a DA under the proposed amendment to Schedule 1 Division 1A (*Documents and information to accompany development applications*) without sufficient resources and training. Further support is sought from DPE regarding the assessment of these specialised documents by Council officers.

Changes to requirements for qualified designer verification at Construction Certificate (CC) and Occupation Certificate (OC) stages

There is concern the existing requirements under the regulation will be eroded with the proposed amendment. The regulation proposes to remove the requirement for a qualified designer to verify the design quality principles have been achieved and transfer this responsibility to the certifier. This raises concern as certifiers are not design quality experts and there is a risk that the objectives of the draft SEPP may not be fully realised.

Recommendation:

- 16. More consideration and support be provided in the assessment of Embodied Energy and Net Zero Statements.**
- 17. Reinstate the requirement for a qualified designer to verify that the design quality principles have been achieved at Construction and Occupation Certificate stages.**

3. Comments on 9.1 Ministerial Direction Draft Environment Planning and Assessment (Design Principles and Considerations) Direction 2022

Timeframe for assessment of Planning Proposals

A new Ministerial Direction that requires consideration of the draft SEPP in the assessment and reporting of planning proposals to the DRP is supported. However, it is noted the reporting

of a planning proposal to the DRP will add time and a further step to the assessment process. This may conflict with the new Environmental Planning Assessment (Statement of Expectations Order) 2021 which sets a 90-day time limit for councils to make a decision on a developer led proposal. It is recommended that DPE work to resolve this conflict to ensure the reporting requirements of the draft SEPP meet timeframe expectations.

Consistency with Local Environmental Plan Making Guideline

DPE released the updated Local Environmental Plan Making Guideline (LEP Guideline) in December 2021. The current guideline does not reflect the additional assessment and reporting requirements proposed under the draft SEPP. It is also recommended that the DPE update the LEP Guideline to reflect the assessment and reporting requirements of the draft SEPP.

Recommendation:

- 18. DPE address potential conflict with its Statement of Expectations Order to ensure the reporting requirements of the draft SEPP meet timeframe expectation.**
- 19. DPE update the LEP Guideline to reflect the assessment and reporting requirements of the draft SEPP.**

4. Comments on the Draft Apartment Design Guide (ADG)

Design criteria for the objectives

Some of the value of the design criteria and guidance has been lost in the revised and condensed ADG. Design criteria for the objectives is viewed as being too narrow and not capturing the full scope of the design guidance provided. Concern is raised that development of a lower standard is required in the design criteria and as a result additional provisions in the design guidance will be ignored. It is recommended the design criteria be further expanded to match the broader design guidance.

Cross ventilation and acoustic measures

The sections on natural cross ventilation and acoustic mitigation measures in the ADG are well defined and explained.

Trees and deep soil

Council is supportive of measures to address urban heat impact and the introduction of criteria for canopy spread and deep soil into the ADG. Greater tree height and canopy spread aids in achieving pedestrian scale, relating development to landscaping, provides shade and reduces the impacts of urban heat.

Concern is noted with the 3m minimum soil depth requirement. This standard is viewed as being too low as it will constrain tree species selection within front setback areas and reduce the use of species with greater mature height and canopy spread.

It is recommended the ADG provide an appendix of small, medium, and large tree species with details of mature canopy spread.

The removal of deep soil locations within communal open space will impact on cool refuges and is likely to result in more podium style communal open spaces. This is viewed as being

contrary to the objectives of the draft SEPP and the SEPP's measures to improve sustainability. It is recommended the ADG be updated to reinstate the requirement for deep soil to be integrated within communal open space areas.

Communal Spaces

To address urban heat and extreme weather, the minimum area of open space should continue to be provided at ground level with additional areas to be permitted on rooftops.

Consideration of extreme weather events should be included in the design of communal open space areas (including rooftop spaces) and internal communal space and provisions to design areas for thermal refuge should be considered.

These spaces should be designed to ensure equitable access for all occupants.

Apartment Mix and Family Friendly Flexible Design

Council supports inclusion of criteria to ensure a diverse apartment mix and supports greater flexibility for Council to determine appropriate apartment mix based on local housing strategies and local community needs.

Support is also provided for the introduction of new design criteria for more flexible and family friendly spaces and apartments. To further enhance these measures, it is recommended that additional design criteria be introduced to ensure communal spaces also considers family friendly and flexible design.

Building Articulation and Roof design.

The revised ADG currently lacks design guidance or design criteria for roof design. More guidance should be provided in terms of identifying minimum areas for solar panels and provisions to support variations in roof form.

Water

Rainwater use

Additional design guidance is required in the ADG for rainwater use (see 3.2 p. 89). It is recommended the following criteria be included:

- Rainwater tanks to be situated in accessible locations, to assist with maintenance and re-use awareness.
- Rainwater signs marked on all internal and external connection points that rainwater is diverted to.

Passive irrigation

Consider including in 3.2 (p. 89) additional design guidance in the ADG to promote the design and construction of green roofs and green walls so they are passively irrigated by rainwater or grey water from the apartment building.

Green Infrastructure – Green Roofs and Walls

There is opportunity to achieve greater sustainability outcomes through plant species selection for green walls and roofs. Design criteria could include the provision for plant selection of pollinating species as well as edible species suitable for a community garden.

Recommendation:

20. Expand the design criteria in the ADG to match the broader design guidance.
21. Increase the 3m deep soil zone to ensure suitable canopy trees species can be planted.
22. The ADG provide an appendix of small, medium, and large tree species with details of mature canopy spreads.
23. Ensure that a requirement for deep soil be provided with communal open space.
24. Ensure the minimum area requirement for communal open space is provided at ground level.
25. Include design criteria for communal open space areas (including rooftop spaces) and internal communal spaces that considers extreme weather events and the provision of areas for thermal refuge.
26. Ensure design criteria for communal spaces includes universal access for all occupants.
27. Consider family friendly and flexible design criteria in communal spaces.
28. Consider design criteria to create thermal refuges in communal spaces.
29. Introduce design criteria for roof form and solar panels.
30. Include additional design criteria for rainwater tanks in relation to placement and signage.
31. Consider passive irrigation of green wall and roofs.
32. Introduce design guidance for plant species selection for green walls and roofs that includes a preference for pollinating and edible varieties.

5. Comments on Draft Urban Design Guide (UDG)

General

Council is supportive of measures to improve urban design across the various development types, masterplans, DCP's and public open space.

Format and User friendliness

Concern is raised regarding the format of the UDG and user friendliness. Some of the language in the UDG is vague, design guidance is inconsistent, and the text is not supported by enough illustrations and diagrams.

In comparison, the new ADG provides a clear robust structure, with easily defined principles and criteria, making it easy to interpret for design and assessment purposes.

It is recommended that the UDG be in a similar format to the ADG and that additional diagrams and illustrations are used to assist in interpretation.

Tree canopy and Deep Soil targets

The detailed instruction on canopy cover and deep soil zones provided in Objective 10 is useful and will assist in meeting Council and NSW targets to increase canopy within the Camden LGA. That said, tree canopy and green cover targets are too low to meet the NSW goal of net zero emissions by 2050 and its recommended the targets be reviewed against this goal.

More consideration on how tree canopy and deep soil zones can be achieved on private lots during the subdivision stage is recommended. DPE should also consider potential legal mechanisms to ensure the tree will be planted and retained for the life of the development.

Street design

The street designs provided in Appendix 4 *Street Dwell Space* provides minimal reference to operational requirements for subdivisions/urban development. This is viewed as a missed opportunity to not consider these requirements as streets and developments must meet both operational and design outcomes to be functional.

It is recommended a requirement of operational considerations and functionality of streets be included as a consideration in the UDG for street design. Currently there is no mention of the requirement for ongoing waste collection, street sweeping, removalist vehicles and the like.

Street tree placement should be considered in relation to services including water, power and waste collection. This should be listed as a design consideration in the UDG.

A good example of where this has been achieved is in the ADG. It is suggested that the UDG be updated in line with the ADG in this regard.

Design criteria needs to respond to different development densities

Changes in development density (low to higher density) creates a 'step-change' in the built-form outcome and streetscape character that is achieved. The UDG should consider how it can achieve its objectives to mitigate urban heat impact and achieve urban tree canopy targets in response to different development densities and character.

Sustainable Transport and Walkability

The UDG promotes sustainable transport and walkability. Council is supportive of this and promotes that these principles relate to new infrastructure and connections for walking and cycling be included in new developments.

Alternative Solutions

The UDG also provides for alternative solutions. More advice on how to interpret and ensure that an acceptable alternative solution is achieved is needed. For example, objective 7 provides design criteria however if it were not to be complied with, there are 17 items of design guidance that are provided for consideration. Is the expectation that a development should comply with all 17 items of design guidance or a lesser amount?

The UDG includes both alternative design solutions and design guidance. It is unclear what the distinction is between these therefore it is recommended these be merged for simplicity.

Recommendation:

- 33. Revise the UDG to ensure it is consistent with the format of the ADG and include more illustrations and diagrams.**
- 34. Revise tree canopy, deep soil and vegetation cover targets to ensure they are in line with the NSW goal of net zero emissions by 2050.**
- 35. Further consider measures to retain tree canopy and deep soil zones on private lots at subdivision stage.**
- 36. Consider potential legal mechanisms to retain trees after subdivision approval.**
- 37. Include operational consideration of streets in the design criteria.**
- 38. Consider water, power and waste services in the design criteria for street tree placement.**
- 39. The UDG should consider how it can achieve its objectives to mitigate urban heat impact and achieve urban tree canopy targets in response to different development densities and character.**
- 40. DPE to work with Council to resolve inconsistencies in design criteria and existing Council policy.**
- 41. Provided further clarification on compliance with design guidance.**
- 42. Comprehensively review the UDG to ensure that all design criteria and benchmarks meet the overall objectives of the DP SEPP and the UDG.**

6. Comments on the Draft Design Review Panel Manual for Local Government

The manual suggests that post-consent DRP input can be secured via conditions (page 10). Such a condition would need to be specific and targeted and not a fundamental revisiting of the development given that development consent has already been granted. It is also questioned if such a condition would be legal under the current wording of Clause 161 of the Regulations which state that a Certifier can approve (in lieu of Council) “any matter that relates to the external finish of a building”.

DRPs being required to explain how a planning control non-compliance results in a better outcome is supported in principle. However, the volume of applicable planning controls that could be varied based on DRP advice is problematic (page 14). This is even more so at pre-DA stage where all planning control non-compliances have not been identified as no detailed assessment has been completed by Council officers. This requirement could be relaxed to relate only to SEPP and LEP controls such as building height or to key planning controls including building height and setbacks to make it more realistically achievable as part of the DRP advice.

It is also recommended that assessment planners are involved in post-DRP session discussions described on page 24 of the guide.

Recommendation:

43. Further consideration be given to the DRP providing post-consent input of the DRP via conditions of consent.
44. Soften the requirement for DRPs to explain how a planning control non-compliance results in a better outcome to relate only to EPI controls.
45. Introduce a requirement for assessment planners to be involved in post-DRP session discussions.

7. Comments on the Sustainability in Residential Buildings – Design and Place SEPP

General

The exposure to high temperatures and heat stress at the urban scale is a frequent cause of reduced health and well-being in an urban environment. Urban overheating is causing serious energy and environmental problems. Changes in land-uses have the potential to double the temperature increases caused by climate change in urban environments. Climate change is also projected to increase temperatures in Sydney with maximum temperatures projected to increase by 0.7°C by 2030.

Urban heat and heatwaves are significant and growing issues for Western Sydney (WSROC Urban Heat Planning Toolkit 2021). In accordance with Actions and Priorities stated within the 'A Metropolis of Three Cities' and the 'Western City District Plan', addressing urban heat is critical in the planning and delivery of new suburbs in Western Sydney.

To address the impact of climate change and higher urban temperatures, several mitigation measures need to be undertaken including reform of the Codes SEPP in conjunction with amending BASIX (which the D&P SEPP is undertaking).

Council officers are supportive of the proposed changes to BASIX and agree that they improve the level of thermal comfort, resource efficiency and operating cost for owners and occupiers. Specifically, Council is supportive of the following measures:

- Applicable to new homes and renovations over \$50,000;
- Increased standards for energy and thermal performance;
- New requirement for embodied carbon emissions;
- Updating the BASIX Tool;
- The cost benefit analysis;
- The benefits to occupants including better designed homes, lower running costs and increased thermal comfort;
- Materials index; and
- The merit assessment pathway.

Materials Index

The materials index provided should also consider the ongoing maintenance of certain materials and their treatments including cement render and painted timber. These types of materials usually require more regular and ongoing maintenance. This adds additional cost and introduces additional emissions into the life cycle of the building.

Recommendation:

- 46. Ensure that the Materials Index considers the ongoing maintenance of certain materials and the increased emissions throughout the life cycle of the building.**

8. Comments on the Non-Residential Sustainability Standards

Council is generally supportive of introducing new sustainability standards for non-residential development.

9. Comments on Amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2009 (Codes SEPP) and Standard Instrument—Principal Local Environmental Plan (2006) (Standard Instrument LEP)

Council is supportive of development standards for lighter roof colours and alternative technologies to mitigate urban heat impact to be inserted into the Standard Instrument LEP and the following parts in the Codes SEPP:

- Part 3 Housing Code;
- Part 3A Rural Housing Code;
- Part 3B Low Rise Housing Diversity Code;
- Part 3C Greenfield Housing Code;
- Part 3D Inland Housing Code; and
- Part 5A Commercial and Industrial (New Buildings and Additions) Code

Recommendation:

- 47. The development standards for lighter roof colours and alternative technologies to mitigate urban heat impact be inserted into the Standard Instrument LEP and in the Codes SEPP.**

Conclusion

This submission supports the broad intent of the draft SEPP and notes the 'line of sight' between the draft SEPP and Council's key land use planning, and community and sustainability strategies.

This submission has outlined considerations and recommendations to address key concerns and has sought further clarification on several proposed provisions.

Concerns include residential subdivision development in planned growth area precincts and urban release areas should be excluded from the UDG, adds complexity to the NSW planning system, some UDG design criteria are inconsistent with Council policy, reform of the Codes

SEPP is needed, a local government resourcing strategy is needed, Council's DRP will need to align with DPE's DRP model and meaningful community engagement is needed.

Additional guidance has been requested on several items within the policy package and some changes have been recommended to ensure the draft SEPP will meet the expectations of our community.

Council would welcome an opportunity to discuss our submission with DPE.

Recommendations

This submission has outlined Council officers' key concerns and recommendations for DPE's consideration. A summary of the recommendations provided throughout this submission is provided here:

Key Considerations

1. Remove residential subdivision development in planned growth area precincts and urban release areas from the requirements of the draft UDG;
2. Work with Council to mitigate concerns relating to the impact on assessment times and sustainability targets;
3. Consult further with Council concerning the proposed design criteria;
4. Amend the draft SEPP to ensure it allows for council policy to apply in circumstances where there is an inconsistency;
5. Prioritise the review and reform of the Codes SEPP (Housing Code);
6. Work with Council in the development of an appropriate resourcing strategy to accommodate the draft SEPP;
7. Review the UDG to ensure it is appropriate for the Camden LGA and south west Sydney;
8. Play a greater role in the establishment and function of the DRP including conducting regular EOI's for membership and creating a central pool of Chairs and experts for councils to select from;
9. Consider the financial implications for Council of reporting to the DRP and to propose a funding mechanism for the panel; and
10. Clarify actions undertaken to ensure the proposed changes have been adequately explained to the general community.

Comments on the Draft State Environmental Planning Policy (Design and Place) 2021 (Design and Place SEPP)

11. Include retention of water as a design consideration in Clause 20 and 21.
12. Include a provision to ensure that Schedule 1 will also be reviewed at least once every three years.
13. Consult further with Council regarding Climate Zones and that the maps be provided to Council prior to the adoption of the SEPP.
14. Remove the provision for a neutral outcome from Clause 30 (2)(b).
15. Consult further with Council concerning development criteria for referral to the DRP.

Comments on the Draft Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021

16. More consideration and support be provided in the assessment of Embodied Energy and Net Zero Statements.

17. Reinstate the requirement for a qualified designer to verify that the design quality principles have been achieved at Construction and Occupation Certificate stages.

Comments on 9.1 Ministerial Direction Draft Environment Planning and Assessment (Design Principles and Considerations) Direction 2022

18. DPE address potential conflict with its Statement of Expectations Order to ensure the reporting requirements of the draft SEPP meet timeframe expectation.
19. DPE update the LEP Guideline to reflect the assessment and reporting requirements of the draft SEPP.

Comments on Draft Apartment Design Guide (ADG)

20. Expand the design criteria in the ADG to match the broader design guidance.
21. Increase the 3m deep soil zone to ensure suitable canopy trees species can be planted.
22. The ADG provide an appendix of small, medium, and large tree species with details of mature canopy spreads.
23. Ensure that a requirement for deep soil be provided with communal open space.
24. Ensure the minimum area requirement for communal open space is provided at ground level.
25. Include design criteria for communal open space areas (including rooftop spaces) and internal communal spaces that considers extreme weather events and the provision of areas for thermal refuge.
26. Ensure design criteria for communal spaces includes universal access for all occupants.
27. Consider family friendly and flexible design criteria in communal spaces.
28. Consider design criteria to create thermal refuges in communal spaces.
29. Introduce design criteria for roof form and solar panels.
30. Include additional design criteria for rainwater tanks in relation to placement and signage.
31. Consider passive irrigation of green wall and roofs.
32. Introduce design guidance for plant species selection for green walls and roofs that includes a preference for pollinating and edible varieties.

Comments on Draft Urban Design Guide (UDG)

33. Revise the UDG to ensure it is consistent with the format of the ADG and include more illustrations and diagrams.
34. Revise tree canopy, deep soil and vegetation cover targets to ensure they are in line with the NSW goal of net zero emissions by 2050.
35. Further consider measures to retain tree canopy and deep soil zones on private lots at subdivision stage.
36. Consider potential legal mechanisms to retain trees after subdivision approval.
37. Include operational consideration of streets in the design criteria.
38. Consider water, power and waste services in the design criteria for street tree placement.
39. The UDG should consider how it can achieve its objectives to mitigate urban heat impact and achieve urban tree canopy targets in response to different development densities and character.
40. DPE to work with Council to resolve inconsistencies in design criteria and existing Council policy.
41. Provided further clarification on compliance with design guidance.

42. Comprehensively review the UDG to ensure that all design criteria and benchmarks meet the overall objectives of the DP SEPP and the UDG.

Comments on Draft Design Review Panel Manual for Local Government

43. Further consideration be given to the DRP providing post-consent input of the DRP via conditions of consent.
44. Soften the requirement for DRPs to explain how a planning control non-compliance results in a better outcome to relate only to EPI controls.
45. Introduce a requirement for assessment planners to be involved in post-DRP session discussions.

Comments on Sustainability in Residential Buildings – Design and Place SEPP

46. Ensure that the Materials Index considers the ongoing maintenance of certain materials and the increased emissions throughout the life cycle of the building.

Comments on Amendments to State Environmental Planning Policy (Exempt and Complying Development Codes) 2009 (Codes SEPP) and the Standard Instrument Local Environment Plan (SI)

47. The development standards for lighter roof colours and alternative technologies to mitigate urban heat impact be inserted into the Standard Instrument LEP and in the Codes SEPP.



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Appendix A

Technical Corrections and Considerations

Submission on Design and Place State Environmental Planning Policy March 2022



Technical Corrections and Considerations

The table below provides details on technical corrections required to the Draft Design and Place SEPP policy package. This table accompanies Council’s submission on the draft Design and Place SEPP.

Clause/Section	Correction required	Explanation
Draft State Environmental Planning Policy (Design and Place) 2021 (Design and Place SEPP)		
Clause 6(1)(c) development in relation to which an environmental planning instrument requires a development control plan or master plan to be prepared for the land before development consent may be granted for the development	This Clause nominates development, that an EPI requires a DCP to be prepared for, as ‘urban design development’. This is problematic as Clause 6.3 of the Camden LEP, as well as Appendix 1, Clause 6.6 of the Growth SEPP require the preparation of DCPs prior to granting consent to development on certain land. This seems to have the effect of making all development on such land ‘urban design development’ even if it does not meet the rest of the clause 6’s criteria (which is excessive).	This issue should be clarified with DPE.
Clause 21(b) Design consideration—resource efficiency and emissions reduction	This clause implies that demolition waste, including potential and likely asbestos waste material should be re-used on site. The clause should be re-worded to exclude dangerous waste materials like asbestos, lead etc.	To avoid unintended implications
Clause 22 Design consideration—resilience and adapting to change	Clause 22 refers to resilience and adapting to change, to make the intent of this clause clearer, it is suggested the word ‘climate’ is included in the clause to read resilience and adapting to climate change.	Improve messaging
Clause 23(1)(b) Design consideration—optimal and diverse land uses	Guidance on lot widths should be provided or provided in bands. For example, whilst 9m, 9.1m and 9.4m technically offers different widths and diversity those widths do not result in different housing products or change to urban	To promote diversity in housing

Clause/Section	Correction required	Explanation
	form to create diversity in residential accommodation.	
Draft Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021		
Clauses 99(3)(a) and (b) Condition relating to charging facilities for electric vehicles	The requirements in these clauses appear to overlap with each other and could be clearer. It is assumed that Clause 99(3)(a) relates to only making electric vehicle charging possible in all spaces, whereas Clause 99(3)(b) relates to installing the charging infrastructure in certain spaces.	To improve clarity
Clause 99(7)(a) Condition relating to charging facilities for electric vehicles	The wording of this clause is viewed as being vague and so work should be done to make this clause more precise as to what the minimum requirement is particularly as it is a prescribed condition.	To improve clarity
Clause 268D(3) Functions of design review panels	This clause requires the DRP to provide advice within “14 days of a request”. The plain reading would suggest that if a proponent lodges a Pre-DA for DRP advice the response is required within 14 days of lodgement. This timeframe does not align with the timeline identified in the DRP Manual (page 11). Clause 268D (3) is considered unnecessary as subclause (8)(b) already requires the DRP to exercise its functions in accordance with the LG DRP Manual. It is recommended that clause 268D (3) be deleted.	To improve consistency
Apartment Design Guide		
Figure 3.2.1 Onsite water management using fit-for-purpose principles Item 9 Infiltration to water table	Item 9 is not appropriate for all landscapes considering acid sulphate soils, areas of high salinity or clay soils. This may be misleading so should have a note specifying this design is only suitable for some areas.	To avoid unintended implications
Tree canopy objectives	To achieve consistency in the design and assessment of street/through-site links between the UDG and ADG,	To achieve consistency between the UDG and ADG.

Clause/Section	Correction required	Explanation
	reference should be made to the natural system and tree canopy objectives of the UDG p.47-58. This could be incorporated to the text for instance on p.21 of the ADG.	
Urban Design Guide		
UDG Format	The UDG includes both alternative design solutions and design guidance. It is unclear what the distinction is between these as they are both similar. Therefore, it is recommended these be merged for simplicity.	To improve interpretation of the UDG
Part 2, Design Guidance 1.7 Water-sensitive urban design”	Include “vegetated” in front of “water-sensitive urban design”	To improve clarity and avoid confusion with WSUD – which is non engineered.
Part 2, Design Guidance 11.2 <i>“Use water-sensitive design and ‘soft’ engineering such as swales, permeable surfaces and continuous soil networks to minimise the need for large-scale engineered water-management infrastructure.”</i>	Include the word “urban” before the word “design”.	To improve consistency
Part 2, Design Guidance 11.2 <i>“Where large structures are necessary, such as retention basins, design these to add amenity to the subdivision and be multifunctional, cost-effective, and require only straightforward maintenance that does not place an inappropriate burden on future residents.”</i>	Consider adding to end of sentence “or the managing authority.”	To improve clarity
Objective 5, Design Guidance 5.2 Support the local night-time economy and provide more varied, well-integrated entertainment uses	The four night-time economy time periods do not relate to the three criteria (day, evening and night) of the Noise Policy for Industry 2017.	To comply with existing standards
Objective 17, Design Guidance 17.7 Use materials that are appropriate for the local area and will reduce urban heat.	Include reference to Objective 4 (place-based risks are mitigated and ecological values sustained to ensure resilient communities) to provide further guidance.	To improve clarity and consistency.
Objective 17, Design Guidance 17.7 Use materials that are appropriate for	Design guidance 17.7 (p. 79) refers to incorporating materials with a low albedo	Correct error

Clause/Section	Correction required	Explanation
the local area and will reduce urban heat	(hotter in temperature) and light roof colours to reduce urban heat. This should refer to high albedo (cooler in temperature).	



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