



Draft Design and Place SEPP

April 2021

Executive Summary:

Building better places and spaces in Sydney has been a priority for the Committee for Sydney for more than a decade. We have published numerous papers and submissions on how to make great streets, do density better, and improve our urban landscape and parklands. We have advocated for new approaches to planning that emphasise outcomes over inputs. We have championed better buildings, and the all-important spaces in-between buildings that make a city great – the parks, footpaths, laneways and streets.

We commend the Government for its work in bringing the principles of good design to the forefront when building new places in our city. We welcome the move towards a performance-based planning system and the streamlining of planning, design and land-use regulations. And we support the greater emphasis on Country as a guiding consideration in developing new places and spaces.

We are pleased to support the approach outlined in the Explanation of Intended Effect (EIE), but set out a number of recommendations that we feel would strengthen the SEPP and improve its implementation.

Connecting with Country.

The introduction of Country into our planning system is both welcome and overdue. Bringing Indigenous understanding of both landscape and place is an important step in ensuring new development is inclusive and will prevent much of the damage done to Country by insensitive or ill-informed proposals.

However, more detail is needed on how this is to be achieved. The Connecting with Country Framework should be supported by more detailed practice notes and, where possible, local Indigenous knowledge should be incorporated into local plans and strategies where it is culturally appropriate.

The Committee also believes local Indigenous groups and knowledge holders are suitably resourced to ensure their input into new proposals is timely and effective.

Principles of the SEPP

We support the five principles listed in the draft SEPP. Designing beautiful, inviting, productive, connected, sustainable, greener, resilient and diverse places is a worthy ambition for Sydney.

Mandating these principles as matters for consideration on all new development is the first step to stepping away from prescriptive controls and developing a performance-based planning system. Moving the planning and development system away from a compliance based, tick-a-box system, towards what really matters to our community – better designed, more productive and sustainable neighbourhoods and buildings – is something the Committee has been championing for years. Proposals that cannot demonstrate they are achieving each of the five principles should be rejected.

However, the Committee is concerned how the planning system would transition to this new system, and how the SEPP would be implemented. It is critically important that industry, local government, and the community understand and have confidence in the new system, and that moving from a rule-based, prescriptive system to a performance-based regime does not result in *ad hoc* or inconsistent development. Implementation is key. The new SEPP should be supported by clearly written guides and reworking of the draft Better Placed document, to ensure better understanding in the community of what the final development might look like and to ensure industry understand and can deliver quality proposals.

The Committee believes this transition could be informed by real-world scenario testing of the design principles and how they might have improved or hindered recent developments in Sydney. The Committee and our members are well placed to help the Department with this should the opportunity arise.

Recommendation: The Department work with practitioners and developers to scenario test real world application of the SEPP before it is adopted.

Application of the SEPP

The Committee believes the SEPP should apply across all urban land in NSW, but that there should be some provision to exempt certain precincts where it may provide for perverse or confusing outcomes.

While the three types of development covered by the SEPP – Precincts, Significant Development, and all other developments - are supported, the metrics suggested in the draft SEPP may need some refinement and flexibility. In places such as the Sydney CBD, where a single development could easily fall into each category, it may be difficult to determine which assessment pathway should apply or how the development should be assessed. In these circumstances, considerations might be given to exempting some

local precincts from the SEPP, especially where good local design principles are already in place to ensure good urban outcomes.

We also observe that there may be precincts or other locations where more prescriptive form controls on new buildings are appropriate to create a distinctive sense of place: buildings on high streets or in CBDs that need to meet the ground plane with retail in a consistent way, buildings facing public spaces that need to address the public realm in a consistent way, etc. We think it is essential that the application of the principles in this SEPP not prevent those kinds of form controls as part of LSPSs, precinct plans, or similar planning documents.

Mandating design skills

We support the effort to improve the quality of urban design and landscaping; however, it is critically important that mandating certain qualifications doesn't exclude expertise gained through years of experience and expertise from related fields.

The Committee's members include some of the finest urban designers and landscapers in Sydney; however, their skills and expertise might not be recognised in the draft SEPP because they are architects, or because they achieved their skills through international experience and training, or through allied educational training.

Perhaps as a first step, mandating higher and better design and landscaping skills of the relevant consent authority might be a more effective way to improve quality.

We believe some reasonable path for recognizing equivalent expertise might be needed and some way of recognising existing skills and experience to ensure these are not lost to the planning and development system.

Recommendation:

- Require the relevant planning authority to have suitable qualifications and training in urban design and landscape architecture.
- Provide for recognition of equivalent expertise to ensure existing skills and expertise are not excluded from the planning system.

A place-based approach

This is something the Committee has been advocating for several years. In 2014, the Committee released *Designing Great Places and Spaces: Density Done Well*, which aimed to refocus the development system to not just designing great buildings, but also to also consider the spaces between buildings – the places where the real life of the city happens – the streets, parks, laneways and footpaths.

We called for a new SEPP to focus on the design of place, in much the same way that SEPP 65 focused the system on the design of buildings. We congratulate the government for heeding this call and releasing the draft SEPP. The following comments and



recommendations seek to ensure this SEPP is effective in achieving the five design principles and to ensure a more seamless transition to the new system.

Design evaluation and review

Ensuring Design Review Panels have clearer roles and responsibilities is supported. More importantly, ensuring greater consistency of design recommendations across Sydney is urgently needed. Many of our members report inconsistency between panel recommendations and that not all local panels provide timely or effective advice.

Design and Place considerations

Ensuring all development proposals are presented in a consistent format is supported. Where possible, the four requirements should also be clearly referenced within a single document, such as a Statement of Environmental Effects to make it easier for the public to access and understand.

Mandatory matters for consideration

The Committee supports the 19 matters for consideration. However, the following matters may need some refinement and clarification.

1. Cultural and built heritage:

This is strongly supported. Some Committee members have expressed concern that the move away from a rules-based system may see some existing heritage protections watered down. This should not be allowed to happen. We welcome heritage being listed as the first matter which must be considered in all new development.

5. Street design:

Including the design of streets into the SEPP was a key move identified in the Committee's Density Done Well Paper. We believe the SEPP should also consider and prioritise the importance of laneways and through-site links when considering the design of new precincts.

7. Green infrastructure:

The Committee supports the mandating of a minimum 2:1 replacement ratio for trees removed by new development. We also support the requirement for new proposals to enhance local biodiversity, but believe there needs to be some balance between the role trees play in supporting native ecosystems and the need to address the heat island effect. Improving urban amenity and promoting greater tree canopy is often better achieved through non-native tree species and some local flexibility should be allowed where this can be demonstrated.

10 Density:

Increasing urban density is strongly supported. However, clarification is required between which planning policies should be given precedence; in particular, where there is conflict between the SEPP and the density provisions in a Local Environment Plan. We also believe that in most cases a minimum density of 15 dwellings per hectare is unacceptably low for a place like Sydney.

12. Transport and Parking:

The Committee welcomes the move to encourage the unbundling of parking and adaptive travel plans in new developments. We also believe the maximum parking requirements of the SEPP should be reviewed annually as new forms of transport systems and technology emerge.

15 Impacts on vibrant areas:

Incorporating 'agent of change' provisions in the SEPP is welcome and should be extended to other activities and places where noise might be an issue. In particular, where new developments may be impacted by major freight assets, including ports, intermodal terminals, and port-related infrastructure.

16 Activation:

The Committee welcomes the encouragement of greater mixed-use in new residential development. We strongly support the principle that, wherever possible, street facing developments must have active uses.

Some clarification may be needed on how this matter for consideration can be incorporated in new LEPs, and, in some cases, flexibility may be needed to ensure new developments do not promote 'out of centre' retail or impact on a neighbourhood's town centre. In general, best planning practice will be to require ground floor retail on shopping streets and in town centres, but not everywhere in a community.

19 Affordable housing:

Encouraging the provision of affordable housing as a key objective of the SEPP is welcome. Extending the requirement to provide affordable housing as a portion of the uplift in new developments in areas outside current affordable housing schemes is also welcome. That said, the economics of providing affordable housing is a topic that extends far beyond the scope of the Design and Place SEPP. Our expectation is that there would be a rigorous land economics study and extensive consultation process specifically on changes to affordable housing requirements before locking in new rules. In addition, some clarity might be needed on how the SEPP will apply to new housing formats such as Built-to-Rent and Co-Living.

Updating and merging SEPP 65 and BASIX

Both SEPP65 and BASIX were landmark reforms and placed NSW at the forefront of both design and sustainability of urban environments. They are policies that have been

replicated in cities across the world. However, 20 years later, they need to be updated and refined.

In 2021, BASIX now sets a very low bar in sustainability and energy efficiency, and the Committee welcomes the intention to encourage new development to seek higher performance standards and to allow more flexibility to encourage innovation and new technology.

Likewise, the quality of design for new residential flat buildings can be improved beyond the metrics and inputs outlined in SEPP 65. We welcome greater flexibility in how the principles of good design are applied and the removal of some of the inconsistencies and perverse outcomes that can arise when these principles clash.

We support merging these two policies into one document. The Committee believes this will help ensure good design does not conflict with sustainability. Incorporating both into a single Design SEPP will also assist in making sure the design of good buildings does not undermine the amenity and function of places and spaces.

Finally, the Committee commends the government for seeking to reduce the number of policy documents and strategies. The NSW planning system is complex and difficult to navigate or understand, especially for the wider community. It need not be like this.

Relationship with other planning instruments

This area needs much more clarification before the SEPP is reexhibited and becomes a matter for consideration in new proposals. How the SEPP relates to existing LEPs, DCPs and other planning policies needs to be carefully thought through, and which policy takes priority will need careful consideration. An articulation of the hierarchy of plans and policies may be required through a practise note.

Conclusion

The draft Design and Place SEPP is an ambitious policy reform. It builds on our state's long tradition of providing leadership and innovation when it comes to building great cities. It advances our thinking on how urban environments can support the creativity and ingenuity of our fellow citizens, ensure our cities are inclusive and accommodating for all, and that they are productive, efficient and sustainable.

However, the success or otherwise of the SEPP will ultimately be determined by how it is implemented and how effectively it is applied. Major reforms can be disruptive and confusing. There are often unforeseen consequences for even the most well-intentioned change. As our society emerges from the pandemic it is particularly important that we get this right.

Here the Committee can help. Our members would welcome the opportunity to work with the government on testing the many assumptions in the policy and undertaking real-life scenario planning to ensure the principles in the SEPP can be delivered on the ground. Many of our members and councils have intimate knowledge of how different



**Committee
for
Sydney**

T: + 61 2 8320 6750
E: committee@sydney.org.au
PO Box R323
Royal Exchange NSW 1225
ABN: 30 332 296 773

planning changes may impact on financial feasibility, urban amenity and local community and environmental considerations.

Thank you for the extraordinary effort that has gone into this document, and for the opportunity to comment on it.

Kind regards,

Gabriel Metcalf
CEO
The Committee for Sydney