

BUSINESS SYDNEY

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Department of Planning, Industry and Environment
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To Whom it May Concern,

Response to the draft Design and Place SEPP

Business Sydney is a leading advocate for Sydney as a competitive and global city. A division of Business NSW, formerly NSW Business Chamber, Business Sydney represents over 145 leading corporations. We identify, develop, and promote public policy to drive the economic growth and sustainability of our great City. Who we plan and build our city for, how we deliver great places and spaces, how we protect and enhance our urban environment is core business for Business Sydney.

In that light Business Sydney welcomes the opportunity to comment on the draft Design and Place SEPP. We support the Government's efforts to streamline and simplify the current planning regulations controlling new developments while improving quality and sustainability in NSW. The Chamber is supportive of recent efforts to remove unnecessary 'red-tape' as a way of stimulating the NSW economy and we value the Government's approach to likewise do so with this SEPP.

The consolidation of regulations covering place making, sustainability and design excellence into a single policy document is supported. This should ensure a more consistent approach from government and make it easier for industry and the community to navigate.

These proposed reforms go some way to support the delivery of better places and spaces however there are some sections of the Explanation of Intended Effect (EIE) which should be amended and some other sections which should be reconsidered prior to the Policy being adopted. In outlining the areas for change we have adopted the format laid out in the draft EIE and deal with each in course. We have also included some further considerations which the Department should include in the design and ongoing implementation of the SEPP.

Part 2: Proposed State Environmental Planning Policy (Design and Place)

2.1 Structure of the SEPP

Sydney Business is pleased to see simple language used to explain the SEPP. The format of 'Why', 'How' and 'What' clearly lays out how the SEPP is structured and what it is seeking to achieve.

2.2 Aims of the new SEPP

The aims of the new SEPP, as laid out in the EIE, are mostly supported by Sydney Business. It is pleasing to see the SEPP is seeking to incorporate other Government policies and priorities including the ambition of achieve Net Zero Emissions by 2050. Integrating a whole of government approach to policy has sometimes been missing in previous planning policies.

2.2.1 Connecting with Country

The prioritisation of Country is both laudable and supported. Advancing a genuine and fair relationship between the planning and development systems and Indigenous peoples will help shape the course of urban development to be both more inclusive and to prevent much of the damage done to Country by insensitive or ignorant developments.

However, this aim should be supported with more details about how it can be put into effect. The seven Principles for Action outlined in the draft **Connecting with Country Framework** could be expanded through practise notes and more detailed guidance. Local indigenous groups and organisations may also need extra resources to ensure their input into new development can be provided in a timely manner. It is important that this component of the Design and Place SEPP not be just a box ticking exercise but becomes an integral part of building better places and neighbourhoods.

While it is important that Aboriginal people retain control and ownership over their knowledge and how it is shared, it may be possible to provide an outline of the general themes and considerations of local indigenous knowledge in Local Council **Local Strategic Planning Statements**.

2.3 Principles of the new SEPP

The five Principles of the SEPP listed in the draft EIE are supported. Establishing clear principles or objectives for what new development should be delivering (i.e., outcomes) should help reorient 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.

Ensuring new development proposals and neighbourhoods demonstrate that it is achieving all or most of these Principles is good first step in developing a performance-based planning system and moving away from prescriptive controls.

Business Sydney has no issue with the five Principles outlined in the EIE. Designing places of beauty, that are inviting, productive and connected, sustainable and greener and resilient and diverse are worthy ambitions and are good goals against which all new development should be assessed. If they can't achieve these, they should be rejected.

However, there is room to strengthen them by renaming them 'Objectives' rather than 'Principles' and changing the language from 'Design places...' to 'Deliver places...'. Great Cities don't happen by chance. Achieving great places and neighbourhoods should not be just an aspiration, but a requirement, in NSW.

2.4 Application of the SEPP

Sydney Business agrees that the Design and Place SEPP should apply to all urban land in NSW. We are also broadly supportive of the types of development to which the SEPP will apply – Precincts, Significant Development, and all other developments.

However greater clarity and flexibility is needed as some developments could be difficult to classify and there could be some confusion between which planning pathway should apply. For example, a medium sized commercial office tower would have more than 1000 people working in it, which would designate it as a Precinct under the SEPP. Equally it might occupy a whole block, which would then designate it as Significant Development. Alternatively, it might not occupy a whole block, which would designate it as Other Development. As each designation mandates different treatments and pathways some confusion should be expected. Similarly, further clarification is needed on how Complying Development is treated by the SEPP before it is implemented.

Part 3: Design and Place process

3.1.1 Mandating design skills

Improving the quality of urban design and landscaping is supported. However, it is important that the expertise of many existing professionals in these fields are not lost because they lack the necessary qualifications mandated by the SEPP. Many of our cities finest urban designers are architects or have many years working in urban design but are not necessarily qualified as such. Similarly, many of our finest landscaper designers achieved their qualifications through TAFE, apprenticeships, and years of experience. It would be wrong if their expertise and knowledge were lost because they didn't have a landscape architects' degree.

Some developments may not need a landscape architects at all as the project, (such as CBD based office tower) may not have any deep soil plantings.

It is also important that there is a suitable transition to any new regime which mandates certain professional training. There are several skills shortages in the planning and development industry at the moment and time is needed for these shortages to be met by the market.

Perhaps a better way to improve the quality of landscape and urban design is to improve the quality of assessment for new projects and developments. The government should consider mandating the qualifications of the relevant consent authority, be they State or Local Government, to ensure what gets finally approved achieves the objectives of the SEPP. There is some suggestion from our Members that the level of skills and understanding of many consent authorities in these areas are lacking and that this should be addressed as a greater priority.

3.1.2 A place-based approach

This is strongly supported.

3.1.3 Design evaluation and review

Clarifying the role and responsibilities of the Design Review Panels is supported. Ensuring greater consistency and better defining the thresholds for their involvement is overdue.

3.2 Design and Place considerations

Ensuring consistency of requirements and considerations for all developments is supported. While the four requirements (site analysis, precinct structure plan, a design statement, and supporting documents) are supported these should also be clearly referenced within a single document such as a Statement of Environmental Effects.

3.2.2 Mandatory matters for consideration

The Business Sydney supports the 19 proposed matters for consideration but would make the following comments on some of them.

7. Green infrastructure

While giving preference to locally indigenous native plants is supported in principle, often better urban amenity and greater tree canopy is achieved through non-native species. Some flexibility is required here.

10. Density

Increasing urban density is strongly supported. However, clarification is required between which planning policy should be given precedence. The EIE seems to be suggested that the *'density ranges will be determined during the development of the Design and Place SEPP...'*. This suggests that the density provisions in Local Environment Plan will be superseded by the SEPP.

The proposal to retain '*the minimum density capacity of 15 dwellings per hectare*' should be reconsidered. This metric was adopted in 1999 and is now out-dated. Unless there are unique local circumstances, this should be increased to 25 dwellings per hectare or roughly one house per acre.

12. Transport and Parking

This is strongly supported; however, Sydney Business believes greater emphasis should be given to encouraging unbundling of parking and adaptive travel plans including incentives to provide alternatives to private parking.

15. Impacts on vibrant areas

Incorporating 'agent of change' provisions in the SEPP to support our cities nighttime economy is strongly supported.

16. Activation

Ensuring greater activation through mixed-use development is supported but the relationship between the SEPP and other planning strategies and policies needs clarification. This consideration could effectively be used to rezone all R3 and R4 zoned land in NSW to B4 Mixed Use. While in many cases this should be encouraged there are implications for out of centre retail and the Centres hierarchy which may make this unworkable in many parts of the State.

18. Tree canopy

This section is supported but would be further enhanced by a programme of undergrounding overhead wiring on local streets. The biggest barrier to greater urban canopy is the proliferation of overhead utilities which mandate a maximum street tree height of less than 4 metres. NSW is a laggard when it comes to ensuring these utilities are placed underground.

19 Affordable Housing

It is unclear how this consideration will apply outside areas currently covered by affordable housing schemes.

3.3 Guidance

Updating the relevant policies which should be considered as part of the SEPP is supported. It would be good however if all associated documents were more concise, clearly written, and in a consistent format. They should also be consistent with each other to avoid conflicts between policy objectives.

Part 4: Abolition of SEPP 65 and BASIX

Merging these two policies into one document is strongly supported.

Part 5: Relationship with other Planning instruments

Further clarification is needed on how the SEPP relates with other planning policies. While the EIE suggests that all existing LEP's and DCP's will remain unchanged this may mean the SEPP is not applied until all LEPs are updated. Despite the requirement to do so, this is rarely within the five-year time frame.

Rewriting and updating the Better Placed policy is welcome.

Part 6: Planning pathways

These sections seem mostly logical however, as mentioned earlier it is critically important that the relevant planning authority has the necessary skills and expertise to apply the SEPP professionally and in a timely manner. Likewise, if the views, skills, and knowledge of indigenous people are to be incorporated in new development then the relevant aboriginal communities and organisations may need extra resources and funding.

Further considerations:

Sydney Business welcomes the opportunity to comment on the draft SEPP and we hope the points we raise in this submission inform the Departments deliberations as it prepares the final SEPP for exhibition later this year.

Pre-implementation planning

We think the implementation of this SEPP, though welcome, needs to be carefully planned. As the NSW economy emerges from the pandemic induced recession it is important that changes in public policy supports recovering industries and does not unduly undermine economic activity.

Implementing the SEPP may disrupt industry significantly as it adapts to the new regulatory environment. Likewise, there are likely to be aspects of the SEPP which may impact financial feasibility as well as some unforeseen impacts on project delivery. Business Sydney believes it would be worthwhile for the Department to publish its own in-house feasibility assessments it undertook in preparing the SEPP and EIE so industry can get a sense of the likely of the impacts on future projects.

Alternatively, Business Sydney and our members would welcome the opportunity to work with the relevant agencies on real world scenario planning of a mix of developments to assess the workability of the draft SEPP and to identify any unforeseen implications or problems before the policy is implemented.

Good policy is intelligent policy

If the SEPP is successful it will lead to better neighbourhoods and buildings being developed in an affordable and timely manner. To ensure this happens the Policy needs an ongoing process of review and testing. This should be tested more frequently than the standard five-year review suggested in the EIE. Business Sydney believes that ongoing, six monthly, stress test of the SEPP should be conducted with industry stakeholders and practitioners to ensure the Policy is achieving its objectives.

An open book assessment of how the SEPP is working in practise is the best way to identify any unforeseen problems and should make the SEPP a more learning (intelligent) and adaptable policy. Incorporating a process of continuous review of the SEPP by both Government and industry practitioners is the best way to drive good design and the development of better places and spaces.

Conclusion: Moving to a Performance-based planning system

Moving the planning assessment process from rules-based system, (as currently exists in policies like DCPs, BASIX and the Apartment Design Guide), to a performance-based system is a welcome step and should be replicated across the planning system. For too long our planning and land use systems focused only on inputs, (such as Zoning, DCP's, Character statements, etc) in the hope that that this will lead to better outputs (better designed neighbourhoods, greener places, etc.). They rarely do.

This focus on compliance and 'box-ticking' is not delivering the places and spaces our citizens were promised by the planning and development system. Worse still, our traditional reaction to poor urban outcomes is to require more boxes to be ticked for each development and precinct, in vain hope that this will result in a different outcome. It won't. The proliferation of regulations and the relentless growth in complexity of our planning system, is undermining our cities, towns, and neighbourhoods. It is making much of our city unaffordable, drab, and ugly. Worse still it is alienating our citizens who are losing faith in the system which is meant to make their lives better.

Indeed, most of the great places and neighbourhoods Sydneysiders are most proud of were almost all built before the implementation of our current planning system was developed. That we have built so few great neighbourhoods in the post war period is an indictment of the planning and development system in NSW.

This SEPP is the first clear step in rectifying this and the first clear step in reorienting the planning system away from input controls to a focus on better urban outcomes. Please don't let this be the only step. Similar 'input' controls in the planning system need reform or removal. Our excessively complex system of zones should be reduced and a greater reliance on performance standards and the more flexible mixed use encouraged. Alternative policy measures should be explored to deliver better places and to make great places, including direct investment by governments and greater collaboration between industry and community. Great Cities and great places don't happen by chance, and they don't happen with ever growing complexity and regulation. Business Sydney would welcome the opportunity to work with the Department on the implementation of the Design and Place SEPP and its ongoing refinement.

Should you have any questions about this submission or would like to discuss in more detail, please feel free to contact me at David.Borger@businesswesternsydney.com

Yours sincerely,



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on behalf of Business Sydney