

28 February 2022

Department of Planning, Industry and Environment  
Locked Bag 5022 Parramatta NSW 2124

Online submission

## Draft Design and Place SEPP 2021

To whom it may concern

I write in relation to "The draft Design and Place SEPP 2021" exhibition package (draft Design and Place SEPP), prepared by the Department of Planning and Environment (DPE), which has been made available for industry comment until 28<sup>th</sup> February 2022.

The draft Design and Place SEPP exhibited package is **not supported**.

The draft Design and Place SEPP was initially promoted by former Minister Stokes as a means to deliver the rationalisation of the Apartment Design Guide (ADG) to a simple set of guidelines allowing greater flexibility and opportunity for design flexibility. The Urban Taskforce welcomed this initiative.

The currently exhibited draft Design and Place SEPP did not meet expectations. It is a document that, if implemented, would add costs, adversely affect yields and feasibilities, extend assessment timeframes, and introduce fresh uncertainty into the planning system and for future development projects.

Ultimately, the measures that should be applied to this proposed policy change are simple:

- Does it result in increased costs?
- Does it adversely impact affordability?
- Does it create uncertainty?
- Does it result in decreased productivity?

If **yes** to any of these tests, the policy should not be progressed. Unfortunately ... the answers to all these questions is YES!

Regrettably, having many Urban Taskforce members participated, over months, in numerous D&P SEPP working sessions, to improve/ameliorate the regressive draft provisions. Urban Taskforce urges the NSW Government to **completely abandon** the draft Design and Place SEPP.

## **Cost Benefit Analysis: the detailed workings have been hidden**

Urban Taskforce has repeatedly called on NSW Government to release the working detail behind the draft Design and Place SEPP Cost Benefit Analysis (CBA). The full CBA has not been made public.

The only exhibited document in relation to the CBA is a summary, entitled "*Proposed Design and Place State Environmental Planning Policy: Cost Benefit Analysis.*" This document has a lot of introductory content and barely any detail of the on the inputs and assumptions to this analysis.

Despite numerous assurances by DPE that the CBA analysis will be made public we have not seen the underpinning workings of this analysis. As a result, we are unable to review this work and make an informed, constructive and intelligent comment.

The property development industry has very real concerns that there will be significant costs associated with the implementation of the draft Design and Place SEPP. They deserve more than a cursory summary of conclusions for the impact of this draft SEPP.

The CBA is a critical document which needs to explain which costs have been considered, how high are they and who pays those costs. The benefits need to also be clearly explained so industry understands who benefits from every additional dollar spent by a developer. All of this must be presented in a transparent way and every additional cost should be justified.

Housing providers need to be satisfied that the analysis has been undertaken in a robust manner that clearly shows the impact on cost of delivery and yield. For the development community to have the confidence they need to borrow money and make investments in land (or the consolidation of existing land parcels), they need to also have reasonable confidence in the anticipated yield. Certainty is key.

Urban Taskforce and our members **oppose the draft Design and Place SEPP and its implementation** as we cannot see any evidence that the costs and imposts on the property development community have been seriously considered, or justified.

## **Cumulative effect on feasibility**

The draft Design and Place SEPP, if progressed, will have a significant impact and add costs to future developments. For example, the new SEPP includes requirements for provision of public open spaces, tree canopy, storage requirements and requires qualified designers to prepare a design verification statements for development projects which will add costs and extend the time of development, and much more.

Development projects are already subject to considerable fees and charges, some of which may increase this year due to ongoing reforms and policies. Their cumulative effect must be considered for any new policy that has the potential to increase development costs.

Such assessment should consider a number of policies that have either recently been introduced or are currently being finalised. This includes the Local infrastructure contributions reforms, Regional Infrastructure Contributions, the Housing SEPP, the D&BP Act & Regulations, the RAB Act, and others.

In the context of rapidly increasing costs caused by labour and material shortages issues with the construction materials supply chain over the last 12 months, this is not the time to be adding costly and time consuming new processes to the NSW planning system. Construction costs have seen the highest growth on record for NSW over the last 12 months. According to CoreLogic, the costs have risen the fastest since the introduction of the GST.

Urban Taskforce members report that the construction costs have dramatically increased for construction of the structure (e.g. concrete), façade (e.g. windows), finishes and fit out (e.g. tiling and carpentry) and services (e.g. plumbing and electrical). The price of containers has risen by 600% (plus) as a result of COVID and other supply chain constraints around the world. The annual increase in the cost of building materials has risen by well over 10%.

The cumulative impact of rising construction costs, increased infrastructure contributions and charges to planning policy (and the instruments thereof) are rendering development of new housing supply unfeasible.

The draft Design and Place SEPP is **not supported** as it does not properly consider the time and costs it will have on development projects within the broader context of the NSW planning system.

### **Extended assessment timeframes**

The Urban Taskforce has serious concerns about the efficacy of the proposed draft Design and Place SEPP and its associated guidelines. Our members advise that the overly prescriptive documents will lead to extensive additional assessment and documentation, adding to DA timeframes and cost.

The draft Design and Place SEPP package has a large number of new prescriptions which will need to be considered, firstly in preparation of the DA by the developer, and then during the assessment process by the relevant authority.

A slower planning system will lead to further deepening the housing affordability crisis by preventing additional supply to reach the market in the shortest time possible.

Extended timeframes translate into holding costs for industry. For residential developers, the holding costs are significant. Urban Taskforce members report that just 3 months of additional approval duration results in tens of thousands of holding costs per unit.

### **Impact on Industrial Development**

The current draft Design and Place SEPP proposes extending design review to industrial developments such as warehouses.

Warehouses have limited architectural options – warehouse, hardstand, car park, perimeter landscaping – and their design is led by functionality and structure. A Design Review Panel cannot add much value other than provide feedback on the façade. It is unclear why this requirement is necessary as the competitive nature of the market already leads to innovative and attractive designs of warehouses.

As there is no real need or value arising from this new proposed process, industry has a real concern that the added layer of assessment which will result in multiple design reviews, additional requirements and uncertainty of the process and extended timeframes.

Urban Taskforce members advise that the combination of Design Review Panel process and the application of the new Urban Design Guide to DAs is estimated to add around a 6 months to the DA preparation thereby adding significant cost both in time expended and in the preparation of numerous iterations of design documentation.

In an ill-conceived attempt to increase green spaces, the Urban Design Guide will result in more land required for development, exacerbating urban sprawl and costs. For example, the new requirement for 15% deep soil and 25% and 35% canopy cover required for industrial and warehouse sites respectively will result in using significantly more land to deliver the warehouses of the same GFA.

Further, Urban Taskforce members advise that the additional deep soil and canopy cover requirements would remove incentive for replacing old contaminated industrial development with cleaner more sustainable warehouse development.

Due to the extension of time caused by the multiple design reviews, associated costs and additional requirements, the draft Design and Place SEPP and the associated guidelines are not supported.

Abandoning the draft SEPP will give the planning system the capacity to better focus on the delivery of approvals, without the additional layering and complexity that the proposed draft Design and Place SEPP would bring.

### **BASIX Higher Standards**

As part of the draft Design and Place SEPP, the Government is also proposing higher BASIX standards.

The Urban Taskforce notes that the CBA for the BASIX Higher Standard is separate from the draft Design and Place SEPP. Just as in the case of the draft Design and Place SEPP, there is no evidence that the BASIX CBA has taken into account the cumulative impact of the draft Design and Place package and all other planning reforms. Further, developers and builders have not been properly engaged during the development of the CBA on the BASIX Higher Standards.

According to DPE's own analysis, this policy will result in an average increase per dwelling of \$7,152 and "an average high-rise apartment unit an additional \$831 to \$953 to satisfy the

higher standards.” Urban Taskforce members have advised that the actual costs will be significantly higher – particularly given the recent spike in the costs of construction inputs, as discussed above.

Industry is unable to objectively verify the actual costs associated with the proposed changes. The updated BASIX sandbox tool has not yet been made available and there is no verifiable way to test the conclusions of the CBA and translate the BASIX Higher Standards into accurate costs for development projects.

Urban Taskforce appreciates the time it takes to develop complex tools such as the BASIX tool. However, it is unclear why this policy is rushed when the preparations and testing have not yet been completed.

Proceeding with the BASIX Higher Standards without verifying the assumed costs to developers and builders carries significant risk to the feasibility of development projects, causing a negative impact on housing supply.

The Urban Taskforce is concerned about the likely negative impact on feasibility and increased uncertainty over the actual impact to development projects. We recommend that the BASIX Higher Standards **are postponed** to allow time for the verification of the estimated costs impact through industry testing of the revised Sandbox tool, fulsome consultation and engagement between government and industry to take its course.

### **Missed opportunity**

In addition to the significant flaws and deficiencies of the draft Design and Place SEPP document suite, there are a lot of missed opportunities that could have been considered in the drafting process.

Some of those missed opportunities would have increased the housing diversity, spread the burden of the additional costs and provide incentives so that there are more affordable housing options in NSW. Examples of this include:

#### *Remove apartment size*

The current draft of the Apartment Design Guide proposes no change to the minimum apartment sizes. The same requirements apply as the ADG 2015.

In order to achieve greater housing diversity and affordable housing options, a new Apartment Design Guide should remove or reduce the minimum unit size requirements. This would be more in line with international or even Victorian standards where smaller more affordable units are permissible.

Urban Taskforce has previously supported the removal of minimum apartment sizes and unit mix prescriptions as these run counter to housing affordability and choice.

### *Spreading the cost of the Urban Design Guide*

All costs associated with the new Urban Design Guide will ultimately be paid by new homeowners. New homebuyers are already expected to pay record-high price for homes in Sydney and regional NSW.

As noted above, Urban Taskforce members also have significant concerns about the implications of the new Urban Design Guide on greenfield development and funding requirements of providing green space and places. If these costs and responsibilities are not reasonably shared by government(s) and developers, the burden of these costs will be unreasonably borne by the new home buyer.

Urban Taskforce supports the establishment of an enhanced green canopy – but this will benefit all of Sydney. It is reasonable that those who have already bought homes where canopy has not been required (or has been destroyed) to also contribute the revitalisation of the lungs of the city.

### *Incentives are necessary, not just additional costs*

If the Government is genuinely committed to encouraging optimum sustainability outcomes, development incentives should also be explored. Without incentives, furthering sustainability outcomes becomes an additional cost, impacting the affordability of new homes.

In the interests of sustainable and feasible building outcomes, any proposed changes to BASIX could have been extended to specifically include incentivising adaptive re-use of existing buildings by allowing for additional floor space and height where the existing building envelope is primarily retained.

### **The way forward**

The exhibited draft Design and Place SEPP will increase the costs of delivering new development and will seriously impact the industry's capacity to create much needed new jobs and homes. A likely consequence is the exacerbation of the existing housing affordability crisis and/or other States and Territories flourishing - at NSW's expense - by presenting more attractive investment opportunities and more affordable homes for new home purchasers.

Accordingly, the Urban Taskforce and our industry members call for the **complete abandonment draft Design and Place SEPP**.

Postponing the Design and Place SEPP is not an option preferred by the Urban Taskforce because it creates uncertainty on what might happen in the future. At present, developers are continually needing to re-visit project feasibilities and programming due to changes in planning processes, requirements, fees, charges, timeframes and building related costs. The very existence of the Draft SEPP has and will have the effect of "spooking the industry" so critical to ensuring a pipeline of housing supply.

If the draft SEPP is not abandoned, the looming threat of its implementation may influence decisions by the private sector investors to finance projects. Similarly, in the absence of clear legal

direction to the contrary, some NSW councils may consider the draft Design and Place SEPP as part of the assessment processes in anticipation of its future implementation.

Should the draft Design and Place SEPP be completely abandoned, industry would welcome the opportunity to work with DPE on what was initially planned – a cut down version of the draft SEPP, the removal of prescription, reduction of unnecessary costs and assessment timeframes and, as a result, increased certainty for developers.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tom Forrest', with a large, sweeping flourish extending to the right.

**Tom Forrest**  
Chief Executive Officer