

Creating for Generations

14 March 2022

Mr Mick Cassel
Secretary
Department of Planning & Environment

Submitted via the NSW Planning Portal

Re. The draft Design and Place SEPP 2021 – exhibition package

The Property Council is writing regarding the draft *State Environmental Planning Policy (Design and Place) 2021* (DP SEPP) and supporting documents, currently on public exhibition by the Department of Planning and Environment (the Department).

The Property Council's members are the leaders across every asset class of Australia's biggest industry which employs 1.4 million Australians and contributes 13 percent of Gross Domestic Product. Our members shape Australia's cities and towns as the owners, managers of and investors in residential homes, office buildings, hotels, and shopping centres among many other asset types.

We note the Draft *Design and Place State Environmental Planning Policy* exhibition package (DP SEPP) comprises the following documents:

- Design and Place SEPP Overview December 2021
- Draft *State Environmental Planning Policy (Design & Place) 2021*
- Draft Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021
- Draft Environmental Planning and Assessment (Design Principles and Considerations) Direction 2022 (the Ministerial Direction)
- *Proposed Design and Place SEPP Environmental Planning Policy, Cost Benefit Analysis*, 7 December 2021, prepared by Deloitte Access Economics
- Draft Apartment Design Guide 2021
- Draft Urban Design Guide 2021
- Draft Local Government Design Review Panel Manual
- Design and Place SEPP – Sustainability in Residential Buildings (proposed changes to BASIX).

As we have indicated in our previous discussions and correspondence with the Department and former Minister for Planning & Public Spaces, the Hon. Rob Stokes, the Property Council and its members are supportive of the objectives of the DP SEPP to create great places and deliver good design outcomes. These are essential elements to ensuring the long-term success and sustainable growth of our cities and regional areas. We also acknowledge the significant effort, time, and resources that the Department, particularly the NSW Government Architect, have put into the development of the DP SEPP and the comprehensive engagement process with stakeholders.

We support select elements of the DP SEPP proposing changes to the BASIX Sustainability Index tool, details of which are outlined in our attached commentary. We recommend these aspects of the DP SEPP relating to these reforms should be extracted from the DP SEPP and consulted on separately and progressed to finalisation when appropriate.

However, as a package we **do not** support the DP SEPP in its current form. The DP SEPP imposes a substantial regulatory and cost burden upon the property industry and consent authorities, imposing an additional 51 issues for consideration for Development Applications and Rezoning Proposals – a significant regulatory burden which will greatly impact the industry's ability to provide a sustainable long-term supply of housing for the people of NSW, and impose greater workloads upon consent authorities.

Given the NSW economy and the property and construction industry is still recovery from the long-term impacts of the COVID-19 pandemic, now is not the time to introduce policies such as the DP SEPP, which incur additional costs to housing production, undermine investor confidence, and deter investment and development in NSW. The 14-page Cost Benefit Analysis provided is insufficient evidence to justify the \$2.3 billion cost burden set to be imposed upon the development industry and homebuyers should the DP SEPP be implemented.

The Property Council engaged Astrolabe Consulting to undertake a review of the proposed DP SEPP package and provide a report outlining the potential impacts of the DP SEPP upon housing supply and affordability (see full report at Appendix 1). The following summarises the key findings expressed through research and industry engagement:

- The draft DP SEPP reduces yield and will increase costs which will limit short term delivery undermining benefit realisation
- A need to release a detailed Cost Benefit Analysis as part of a Regulation Impact Statement
- The Draft SEPP was meant to allow flexibility, instead, it risks being even more restrictive
- The draft DP SEPP cannot be the only tool relied on for encouraging and creating this shift to net zero.

The Report also found that the draft DP SEPP package failed to investigate or account for the following options and issues:

- Possible incentives to overcome the loss of yield and increase in costs to housing development
- Impact of the DP SEPP upon remote and regional markets
- Resourcing, education and training necessary to support and implement the SEPP

We note Premier Dominic Perrottet has recently highlighted the urgent need to prioritise housing supply and affordability in NSW, stating that 'housing affordability was one of the biggest challenges in a generation'¹ and committing to drive housing affordability and supply. The DP SEPP works directly against these priorities and will hinder the Government's ability to address these issues.

Given the negative impacts of the DP SEPP, we request the Minister for Planning and the Department withdraw the DP SEPP from public exhibition as soon as possible and set it aside. The *Environmental Planning and Assessment Act 1979* gives statutory weight to, and requires the consideration of, draft policies such as the DP SEPP when considering planning proposals and development applications and

¹ 24 October 2021, Dominic Perrottet [says scare campaigns won't stop housing reforms](#), Sydney Morning Herald

even in its draft form the DP SEPP will continue to pose a threat to housing supply and industry confidence.

We are happy to continue engagement and discussions with the Department and Minister for Planning on the DP SEPP package. To discuss these issues further, please contact Annie Manson, NSW Policy Manager on email at amanson@propertycouncil.com.au or phone on 0422 131 741.

Yours sincerely



Luke Achterstraat
NSW Executive Director
Property Council of Australia

Property Council recommendations- Draft DP SEPP 2021 exhibition package

Recommendations:

1. The DP SEPP is withdrawn from public exhibition
2. The aspects of the DP SEPP relating to the reform of the BASIX Building Sustainability Index are extracted and progressed separately
3. The DP SEPP is disseminated and subject to a rigorous and comprehensive review before any aspect of the DP SEPP is progressed further.

Should the DP SEPP proceed to implementation, we provide the following recommendations:

4. The Department should review and reconsider the extent of documentation required to accompany Development Applications and Rezoning Proposals
5. The Department should develop a targeted program of training for stakeholders should be delivered, in particular for consent authorities, to address the existing skillset disparity and resource shortages that challenge the viability of introducing additional assessment metrics and criteria.
6. Clauses 13(1) and 13(2) of the draft DP SEPP be amended to read: 'the consent authority is satisfied that the development *has taken into consideration* the design principles *and DP SEPP aims*' and the prefacing requirement to consider or be satisfied with each design consideration be deleted.
7. The number of additional points of assessment (51) should be reviewed, reduced and consolidated.
8. The DP SEPP should be amended to clarify that it does not apply to modification applications.
9. Cl.38(1)(b) should be amended to delete the 2-year cut of timeframe for existing approved concept plans. The savings provisions should protect existing concept approvals indefinitely and should clearly state that the savings provisions also apply to any subsequent modifications or associated development applications.
10. The Department should provide access to the complete BASIX sandbox tool for both freestanding homes and apartments/townhouses to the property industry and other stakeholders to review and provide meaningful commentary.
11. A scale of improvement below the NABERS 5.5-star rating should be applied to renovations of existing non-residential buildings (for example, an uplift of 1.5-2 stars).
12. We recommend that the Department undertake industry engagement prior to the introduction of the increased energy targets to investigate the possible need to introduce separate energy performance metrics for Build-to-Rent residential projects, to ensure that this new and emerging asset class is not negatively impacted.
13. The Property Council recommends that the NABERS embodied carbon measurement tool, currently under development, is likely become the industry standard in the future and provisions should be put in place for the DP SEPP to reference this framework once it is completed
14. The intent of Cl.57C Draft *EP&A Amendment (Design and Place) 2021* should be clarified and details of the 'online calculator' made available for industry comment and review.
15. We request the Department ensures any metrics used for the measurement of embodied emissions are transparent and to consider how standards can be drafted and applied in consultation with industry to deliver the best possible outcomes for all stakeholders and the environment.

16. The Department should provide more detail around the thermal performance and energy use aspects of the BASIX tool to obtain meaningful industry feedback.
17. The Department should develop transparent reporting of the proposed Merit Assessment Pathway outcomes, including how the process will be verified, enforced, and audited to provide greater certainty to stakeholders and build confidence in the MAP.
18. The Department should undertake consultation with industry to determine the skills, experience and qualifications a 'suitably qualified' person must have to undertake and approve a MAP assessment, as well as develop a list of acceptable energy assessment software products.
19. The Department should continue consulting with industry to develop other methods for assessment that can be recognised by BASIX, for apartments, mixed use development and homes.
20. The Department should undertake a rigorous analysis of the impact of the DP SEPP upon first home buyers.
21. The Department of Planning release the full Deloitte report for public consideration
22. The assumptions and data underlying the CBA should be made publicly available should be subject to a rigorous peer review, as well as by industry participants so that the actual costs to real world developments can be assessed.
23. Further consideration be given to the full range of costs and benefits which are likely to arise from the implementation of the DP SEPP
24. Detailed information be provided as to the calculation of each value of each of the costs and benefits considered in Table 3.1 and 3.2 of the Deloitte CBA modelling.
25. Further consultation be undertaken with industry and stakeholders to gain a clear, accurate and quantifiable picture of the costs and benefits which are likely to arise as a result of the DP SEPP.
26. The Department should prepare a comprehensive 'Better Regulation Statement' as required by Treasury Circular TC 19-02.

Draft Apartment Design Guide 2021

27. The ADG should be amended to remove criteria for building separation distances and guidance should be provided to rely on Council DCP setbacks.
28. The ADG should be amended to retain existing floor to floor height requirements.
29. Objective 1.3.1 should be reviewed to provide clarification on the priority of pedestrian use within through-site links.
30. The wording for 'design guidance' should be reviewed to remove any subjective language that may be misinterpreted.
31. The existing deep soil requirements within the ADG should be retained.
32. The wording of the deep soil area guidance should be reviewed to allow for alternate solutions compliance with the criteria is not reasonably or practically possible.
33. The ADG should be amended to remove numerical bicycle parking requirements and require bicycle parking to be provided and assessed on merit.
34. The Design Guidance should be reviewed for further clarification on the use of common stairs.
35. The natural ventilation requirements should be reviewed to permit controlled mechanical systems where a better outcome is achieved.
36. The communal open space requirements should be reviewed to account for alternate design solutions where compliance with the criteria is not reasonably or practically possible.
37. The ADG should be amended to remove criteria for apartment mix, with mix to be determined based on market demand.

38. The ADG should be amended to remove the criteria for family-friendly apartments and require these apartments are to be provided based on market demand.
39. Solar access criteria should be reviewed to only require 50% of apartments to meet solar access requirements, and/or removal of criteria and enforcement of a merit-based approach.
40. Solar access criteria should be amended to extend the solar access window from 8am to 4pm.
41. Shading and glazing guidance should be revised to remove metric control and provide further clarity.
42. The criteria for natural ventilation to be revised to provide clarity on the design requirements.
43. The guidance on the measurement of natural ventilation should be reviewed.
44. The storage area requirements should be amended to retain the existing requirements within the current ADG.

Draft Urban Design Guide 2021

45. As with the ADG, the terminology used is 'absolute' and facilitates a prescriptive approach to implementing the UDG. We recommend that the terms "minimise" and "Maximise" are replaced throughout the document with language that allows greater flexibility.
46. We recommend that consistent is replaced with "consideration" in order to allow for planners to take advice from design review panels into consideration.
47. Increase the threshold whereby the UDG applies to non-industrial development on sites with an area of 10 hectares or greater AND industrial development to sites that are 10 hectares or greater with a CIV that is \$50 million or more.
48. The establishment of public space networks must involve early planning during the strategic planning process for a site when the planning controls and development contributions for a site are being prepared by the relevant council.
49. Providing green and blue corridors through private land to connect with nearby public land must be coordinated through the strategic planning process (LEP/DCP) for a site.
50. Planning for new areas of open space and recreation facilities need to be integrated into a council's strategic planning process and any land or works required can be zoned through the LEP and funds costed in a contributions plans.
51. Provision of active transport facilities and infrastructure such as local cycle and pedestrian connections should be identified within the planning controls (LEP/DCP) for a site so that any requirements are known early in the development process
52. There should be an automatic process for State Government to step in and look at planning controls along the route of new linear transport projects such as railways, busways, light rail and the like.
53. The identification of freight networks and adequate transport corridors to allow for movement of goods and resources between cities and regions must be planned at the regional level (Regional/District Plans) and any land required to support provision of vital infrastructure must be identified in LEP/DCP and contributions plans.
54. The threshold where the requirement for a 'network of centres' applies must be appropriate to ensure it is relevant and effective.
55. The UDG must acknowledge that the location of land use is often determined when a Strategy Plan is developed for a precinct undergoing change and that the location of key land uses have already been determined.
56. The 'Integration of urban networks with broader context and overcome barriers' should be addressed through the strategic planning process and identified in the LEP/DCP and where land or works are required, a funding source provided in the relevant s7.11 or 7.12 contribution plan.

57. The design guidance to 'address mitigate and respond to risks' should be primarily considered in the strategic planning process (LEP/DCP) and if not suited to managed habitation an alternative land use should be identified in the LEP zoning table.
58. Any design guidance concerning safety and risks must be consistent with other established processes for managing those risks.
59. The strategic planning process must consider impacts on environmental issues such as biodiversity and provide adequate zones, densities and setbacks that reflect the land's capacity to accommodate growth.
60. Planning bodies such as councils and the Department of Planning need to consider the land use zones and densities needed to achieve the criteria for 'walkable neighbourhoods' when Planning Proposals and comprehensive LEP/DCP are being prepared.
61. The status of the design criteria for 'public open space accessibility' needs to be clear, and it should only be regarded and applied as an aspirational goal when assessing a development application.
62. The creation of 'neighbourhoods with vibrant centres' requires coordination of functions of local councils and various State agencies (TfNSW, Sydney Water). The proposed maximum block length for industrial areas should be removed.
63. The requirement for a variety of block sizes is proposed to be based on size, orientation and access arrangements. 'Type of uses' that a site will accommodate (for example warehouses, logistics centres and intermodal-terminals) should also be considered.
64. It is not clear how the design requirements for 'urban environments to be adaptable for future change' will be applied. Further clarification is required.
65. There must be more clarity and certainty provided regarding how the Assessment Guidance in the Urban Design Guide will be implemented.
66. Any targets for provision of certain types of green infrastructure must be appropriate for the site and location. Excessive obligations to provide landscaping should be avoided.
67. The terminology and language used in respect of the tree canopy targets should be reassessed to ensure that a flexible approach is adopted for the achievement of the guide's objectives.
68. The Property Council supports the enhancement of tree canopy in established areas and for new areas undergoing development. The use of numerical targets (expressed as percentage of site area) is not supported and should be reassessed to deliver a more flexible approach to meeting the guide's objectives.
69. The use of numerical targets (expressed as percentage of site area) for the enhancement of urban tree canopy is not supported and should be reassessed to deliver a more flexible approach to meeting the guide's objectives.
70. Acknowledge that high-density residential areas and business centres have limited opportunities to provide deep soil planting and that there must be a flexible approach permitted to achieve the objective.
71. The UDG should be amended to reflect the appropriate process for the identification, planning, acquisition and funding of local and district open spaces.
72. Local councils should be required to contribute towards the delivery of 'sports and active and passive recreation' in conjunction with the development industry.
73. The UDG must consider the barriers and retrofitting solutions to delivering comfortable street and places in established areas that are more constrained than greenfield areas.
74. The UDG must recognise and consider the impediments that limit the ability for the objective of 'landscaped tree-lined streets that integrate services' to be achieved in areas where there are prohibitive costs associated with coordination of relocation of services, difficulty obtaining agency approvals and issues with obtaining agreement from other landowners.

75. The strategic planning process must be the primary mechanism to identify needs for public facilities and plan the delivery and funding of any new infrastructure to provide community services.
76. The UDG must acknowledge the barriers for the delivery of genuine mixed-use developments and how those barriers can be overcome or addressed to allow for true mixed-use centres to be developed.
77. The UDG must acknowledge the role played by market forces in the size and type of lots and dwellings provided in some areas. The role of prescriptive planning controls must also be accepted and the need for greater flexibility to encourage more innovation and diversity.
78. The UDG must acknowledge the importance of development feasibility when the scale of side and rear setbacks is being considered.
79. The UDG must be consistent with the relevant strategic planning process and DA assessment process that applies to significant heritage sites and the consultation role undertaken by heritage bodies (Heritage Council and local councils). It must also acknowledge the cost of preserving and adapting heritage fabric for reuse and how that can impact on project feasibility.
80. The UDG should provide a series of examples of projects that exhibit the intended consideration of heritage issues and avoiding negative impacts.
81. Areas undergoing transition under new planning controls (heights and densities) should recognise that future desired character may not be consistent with existing local character.
82. The UDG should enable flexibility in respect to the application of local planning controls (LEP/DCP) that have not been prepared with a place-based approach.
83. The UDG must enable a flexible approach in respect of certain local planning controls that do not provide for development that is consistent with the objectives of the guide or the SEPP.
84. The UDG should be applied having regard to LEP planning controls and avoiding any unreasonable limitations on development occurring in high and medium density areas.
85. The UDG must clearly identify the requirements in 17.5 are intended as desirable guidelines and not prescriptive targets that must be achieved.
86. The UDG must clearly identify the site coverage standards provided in 17.6 are for guidance purposes only and not to be applied as prescriptive planning controls.
87. The UDG must provide a flexible approach to the requirements for active street frontages to take into account any site-specific characteristics.
88. Measures to minimise embodied carbon in building materials should be developed in consultation with the development industry, having regard to the impacts this may have upon the construction and development process.
89. The application requirements for State Significant Development should be changed to remove the requirement for further justification of a change to an application when the change is not consistent with strategic planning.
90. The UDG should be amended to provide a DA process flowpath for a residential subdivision and clearly indicate where the UDG should be applied in each step of the DA process.
91. Public open space guidelines in Appendix 2 should be removed from the UDG and should form a standalone document that sits within a toolbox for greenfield land release areas.
92. The prescriptive urban tree canopy targets indicated in Appendix 3 of the UDG should be removed and a performance-based approach should be developed to achieve the principles and objectives of the guide.
93. Further consultation on the application of Appendix 4 of the UDG must take place between Transport for NSW and local councils to ensure that the guidelines are fit for purpose and do not lead to any unintended consequences.

1. General Comments

Impact on housing affordability

The DP SEPP clearly prioritises design and sustainability outcomes without sufficient consideration of the impacts housing affordability and supply and the current market conditions that demonstrate significant undersupply and increased pricing of homes across NSW.

The DP SEPP introduces an additional 51 'issues for consideration' for Development Applications (DAs) and Rezoning Proposals, as well as more steps, studies and referrals. It will not only be more expensive to undertake development, but it will also take significantly longer to obtain the necessary approvals. Given that the time taken to currently run the planning process in NSW is the single biggest factor impacting project feasibility, and the NSW planning system is ranked the slowest and most complicated system in Australia², this policy will further impose feasibility constraints residential development in NSW should it be implemented.

The DP SEPP will also introduce significant uncertainty to an already uncertain and lengthy process. These factors contribute to the housing supply equation, which together with cost implications will correlate with a further reduction in housing affordability and shifting of investment away from NSW to other jurisdictions where it is easier and quicker to obtain the approvals to undertake development.

NSW is still in post- COVID economic recovery

Many individuals and businesses are struggling to recover from the impact of the COVID-19 pandemic. The property industry has faced several years of construction lockdowns, worker shortages, supply chain issues and escalating costs for building materials. The impact of the pandemic to the construction industry and resultant loss of jobs, is a challenge that is only beginning to appear. We have seen several well-established organisations and businesses collapse under these pressures, most recently ProBuild³. These impacts will see a decrease in housing supply, worsening affordability and decline in state productivity. The additional cost and uncertainty of the DP SEPP will add further burden to an industry which has already sustained substantial setbacks and still in the process of recovery.

Recommendations:

Recommendation 1: The DP SEPP is withdrawn from public exhibition

Recommendation 2: The aspects of the DP SEPP relating to the reform of the BASIX Building Sustainability Index are extracted and progressed separately

Recommendation 3: The DP SEPP is disseminated and subject to a rigorous and comprehensive review before any aspect of the DP SEPP is progressed further.

Workforce Capabilities and Resourcing

The DP SEPP includes 51 new metrics and criteria for DA's and Rezoning Proposals. Several additional specialist consultants will be required to provide services to support the lodgement of these applications an additional cost incurred by the developer which will add to the cost of housing production.

The Property Council has concerns regarding the ability of consent authorities to assess additional specialist reports in a timely manner. The number, and complexity of the additional requirements for the

² State Development Comparisons: A comparative review of the NSW Planning system, prepared on behalf of NSW Treasury, *Mecone* (July 2019)

³ [Probuild plunged into administration, with \\$5b worth of unfinished projects around Australia](#), *Nine News*, 24 February 2022

lodgement of DA's and Rezoning Proposals will lead to additional delays in determination, or to a more convoluted planning pathways where consent authorities will be requiring applications are withdrawn, rather than negotiating outcomes. We note that the Department of Planning has recently announced the deployment of 'Flying Squads' to assist councils in rural and regional areas who are struggling to find appropriately skilled resources to undertake complex planning assessment and strategic planning.

Should the DP SEPP be implemented, we provide the following recommendations:

Recommendation 4: The Department should review and reconsider the extent of documentation required to accompany Development Applications and Rezoning Proposals

Recommendation 5: The Department should develop a targeted program of training for stakeholders should be delivered, in particular for consent authorities, to address the existing skillset disparity and resource shortages that challenge the viability of introducing additional assessment metrics and criteria.

Additional up-front costs and risk

The DP SEPP will result in significant additional up-front costs for developers, through increased and ongoing referrals to design review panels, the expanded list of items for consideration, consultant expertise required for lodgement, and the lengthy determination timeframes that the DP SEPP will give rise to. Frontloading the design component of a project only shifts this cost to the point of greatest risk in the development process – when pursuing approval through the planning pathway.

Drafting of the *Design and Place State Environment Planning Policy* and associated legislation

The subjectivity of the principles and consideration, and sheer number of additional points of assessment (51) introduced through the DP SEPP are likely to be problematic. The removal of the weight afforded to the five principles within the SEPP, and a rationalised version of the considerations and sub-clauses would help provide a more simplified planning framework, without diluting the aims and objectives of the framework.

The DP SEPP uses strong terminology which is not conducive to allowing proponents and consent authorities to benefit from the flexibility and merits-based assessment that the DP SEPP aims to provide.

Recommendation 6: Clauses 13(1) and 13(2) of the draft DP SEPP be amended to read: 'the consent authority is satisfied that the development *has taken into consideration* the design principles and DP SEPP aims' and the prefacing requirement to consider or be satisfied with each design consideration be deleted.

Recommendation 7: The number of additional points of assessment (51) should be reviewed, reduced and consolidated.

Modification Applications

The DP SEPP should not apply to any modification application no matter when made, only to new development. Modification applications already need to satisfy the "substantially the same" development test and will already comply with the policy through that mechanism.

Recommendation 8: The DP SEPP should be amended to clarify that it does not apply to modification applications.

Staged Development Applications and Savings and Transitional Provisions

Should the DP SEPP proceed to implementation, Property Council strongly recommends that appropriate savings and transitional provisions be introduced to the draft legislation to provide certainty

for projects that have already been assessed and approved. In particular these provisions should be applied to master planned sites with Concept DA (or Part 3A) approvals. The introduction of the draft legislation has the potential to materially impact the feasibility of these long-term approvals, upon which our members have made significant financial investments.

Cl. 38 of the draft SEPP does provide some savings and transitional provisions. However, this is limited to development applications and modifications lodged within 2 years after the original development consent was granted. The lifespan of a masterplan consent is often over 10 years and therefore a 2-year savings and transitional period is insufficient to ensure the long-term success of the project. It is inappropriate to impose the requirements of the Draft SEPP upon existing masterplans. While this may provide some improvement to the quality of the dwellings, this approach gives no consideration to the economic and social implications of retrospectively applying these requirements upon large long-term development consents.

Recommendation 9: Cl.38(1)(b) should be amended to delete the 2-year cut of timeframe for existing approved concept plans. The savings provisions should protect existing concept approvals indefinitely and should clearly state that the savings provisions also apply to any subsequent modifications or associated development applications.

2. BASIX requirements

The Department has integrated several BASIX-related changes into the DP SEPP. These are:

- A new BASIX materials index to assess the embodied greenhouse gas emissions of the material used to build a home.
- Rebuilding and integrating the BASIX tool with the Planning Portal (a sand box version is currently available to test for freestanding homes).
- Updated BASIX methodologies.
- A new '*merit assessment pathway*' by which recognised professionals can complete a sustainability assessment of a proposed development using accredited modelling software and submit it with a development application as an alternative to a BASIX assessment.

Increase in BASIX energy performance standards

The Property Council is generally supportive of increasing BASIX energy performance standards for homes in alignment with the National Construction Code 2022. However, we note that the BASIX tool and resources have not been included in the exhibition package or provided to the industry in order to understand the implications of the proposed changes.

It is difficult to determine what the impacts may be for built form and design without access to the full range of sandbox tools and knowing the full extent of the new requirements. The BASIX sandbox tool for freestanding dwellings is incomplete, there are still many gaps in information and unknowns, and the BASIX sandbox tool for town houses and apartments is yet to be released.

Recommendation 10: The Department should provide access to the complete BASIX sandbox tool for both freestanding homes and apartments/townhouses to the property industry and other stakeholders to review and provide meaningful commentary.

Energy and water standards for non-residential development

The Property Council supports the NSW Government inclusion of NABERS and Green Star as pathways for demonstrating compliance with energy and water use standards for non-residential development. The

notable exclusion of terminology that allows for ‘equivalence’ rather than independently verified outcomes will lead to measurably better outcomes.

The third pathway provided for in the DP SEPP and outlined at **Schedule 1** is the JP1 energy use standard. This is the only enforceable method under the NCC. Targets for JP1 have been added, but as it is currently drafted, it is unclear how these have been determined and no guidance has been provided for how these should be tested and compliance ensured. The units for the JP1 targets make reference to ‘annual hours of operation’. The Property Council is concerned that using this metric is problematic and opens this pathway up to ‘gaming’ and abuse as there is no way to determine the actual hours of operation and no verification process in place to check that projects using this pathway have met the targets.

There is also a lack of clarity regarding the equivalence between the three pathways proposed. If one of these pathways, for example the JP1 method, does not have the same rigor and governance of the Green Star or NABERS pathways, it is likely that a subsection of industry will gravitate towards the least rigorous pathway.

Further, this policy applies equally to new developments and “substantial redevelopment or refurbishments of an existing building” – this is a significant issue for building owners and managers in the non-premium or A-grade. The financial implications of refurbishing a building from a low rating to the mandated 5.5-star rating are significant. A building that currently has a 1.5-star NABERS rating may be discouraged from undertaking renovations that would lift it to a rating below the 5.5-star rating but nonetheless higher than its original rating.

Recommendation 11: A scale of improvement below the 5.5-star rating be applied to existing non-residential buildings (for example, an uplift of 1.5-2 stars).

Build-to-Rent products

We note that ‘Build-to-Rent’ is an up-and-coming development product which is in the process of establishing in the NSW property market. As outlined above, there is a lack of transparency around how the energy score is calculated within the existing tool and whether this methodology will be retained.

Typically, Build-to-Rent residential projects have a significantly larger common area when compared to build-to-sell projects, given the focus on community and shared amenity. To assist in predicting the impact on future Build-to-Rent projects it is important for developers of this product to understand how the common area ratio affects the energy score, i.e., if the score based on a ‘per person’ metric is to be retained. Should this be the case, Build-to-Rent residential projects will generally be penalised when compared to equivalent to build-to-sell projects and may become unfeasible to develop.

Recommendation 12: We recommend that the Department undertake industry engagement prior to the introduction of the increased energy targets to investigate the possible need to introduce separate energy performance metrics for Build-to-Rent residential projects, to ensure that this new and emerging asset class is not negatively impacted.

Embodied energy

Embodied energy requirements will need to be disclosed as part of BASIX certification submitted with development applications, using the supplied ‘online calculator’.

This will require developers to identify, specify and confirm most of their building materials at the DA stage. This is generally not how building projects operate. Most projects will allow the design development

phase to inform the selection and specification of building materials. This requirement may result in the need for additional (otherwise unnecessary) amendments to development consents, and delays to project delivery.

We note that the Draft *EP&A Amendment (Design and Place) 2021* placed on public exhibition as part of the DP SEPP package, outlines in cl.57C a reference to an online calculator 'as in force from time to time'. The intent of this clause should be clarified. We note that the exhibited documents do not include the detail of the proposed calculator and we highlight that the ability for industry stakeholders to comment in detail on the requirements to calculate the embodied energy of development is therefore limited at this stage.

Any proposed increase in stringency will need appropriate notice and transitional arrangements should be made to allow for the industry to prepare itself. The requirement for 5-year renewable energy supply agreement is a good idea in theory, however, it will be difficult to manage unless it is purchased up-front by the developer in line with the design energy model (which does not necessarily match actual energy use by the end consumer). This could become problematic as the actual management of the requirement would be challenging. For example, a five-year term may be too short. In residential developments, there is legislation in place which restricts developers from entering any energy contract for a term longer than three months.

Schedule 2 , Part 4 of the Draft EP&A Amendment provides the standard for embodied emissions for BASIX affected buildings as 12.5 tonnes of carbon dioxide for each occupant of the building for prescribed residential accommodation, and 9.4 tonnes of carbon dioxide for each occupant of the building for residential flat buildings and shop-top housing, While the standard is clear, how it should be measured and assessment is not outlined in the DP SEPP itself. Some information about BASIX Materials Index can be found in the DP SEPP policy overview and the Sustainability in Residential Buildings document. This indicates that the embodied emissions of a dwelling will be calculated by:

- Estimating the volume of different materials used in the home's construction, based on materials selected.
- Applying an emissions factor for that material.

There is no information provided as to who the baseline will be calculated for the index and whether data such as the volume of different materials for a residential building will be known at the Development Approval stage and/or how it will be ensured that proponents are entering any required data accurately. It is also not clear how certifiers and council employees will be resourced and trained to check compliance with these requirements. The lack of information about which materials will or will not be included and which lifecycle assessment environmental product declaration and / or Australian Standards will be applied to the BASIX Materials Index makes it difficult to provide constructive feedback.

The Property Council supports the inclusion of embodied emissions considerations in the DP SEPP but urges the NSW Government to ensure any metrics used are transparent and to consider how the standards can be drafted and applied in consultation with industry and leading experts in this field for the best possible outcomes.

The Property Council notes that the inclusions relating to embodied energy (also described as embodied emissions) as currently drafted in the DP SEPP need further consideration. The data and calculations within the proposed embodied carbon calculator may not be based on the best or full extent of relevant data available. We urge the NSW Government to be transparent about the data and metrics used in the development of the calculator. welcomes the opportunity to work together with DPE, NABERS and other industry and research leaders to develop an industry-aligned approach to calculating and reducing

embodied energy that will be appropriate for inclusion in future iterations of the DP SEPP. The Property Council is aware that there is a NABERS embodied carbon measurement tool currently under development. This tool is likely to become the industry standard in the future and provisions should be put in place for the DP SEPP to reference this framework once it is completed.

Recommendation 13: The Property Council recommends that the NABERS embodied carbon measurement tool, currently under development, is likely become the industry standard in the future and provisions should be put in place for the DP SEPP to reference this framework once it is completed.

Recommendation 14: The intent of Cl.57C Draft *EP&A Amendment (Design and Place) 2021* should be clarified and details of the 'online calculator' made available for industry comment and review.

Recommendation 15: We request the Department ensures any metrics used for the measurement of embodied emissions are transparent and to consider how standards can be drafted and applied in consultation with industry to deliver the best possible outcomes for all stakeholders and the environment.

Thermal performance

The Property Council acknowledges that BASIX is a complex tool and commends efforts to increase targets for thermal performance and improve the alignment of the tool with the National Construction Code. We support the intention to lift requirements within BASIX to align with 7 Star NatHERS and the proposed changes to the National Construction Code 2022.

Greater transparency about how the new energy use calculations differ from the existing calculations would provide more confidence to industry and the community that the changes are substantive. It is also unclear what design and or technology changes are required for dwelling categories to meet the requirements of the new policy, in particular building envelope design, hot water, lighting, air conditioning and renewable energy.

Recommendation 16: The Department should provide more detail around the thermal performance and energy use aspects of the BASIX tool to obtain meaningful industry feedback.

Alternative Merit Assessment pathway

The Merit Assessment Pathway (MAP), a proposed alternate route to compliance, is described by the Department as an alternative to a BASIX assessment. It is understood that the MAP is intended to align with the NCC. We suggest that the MAP should reference the NCC directly if it is to provide genuine alignment.

The Property Council supports the inclusion of the MAP in principle, as it will be particularly helpful and suitable option for more complex mixed-use developments, which will be becoming increasingly common for Class 2 buildings. We urge the Department to ensure that the MAP is transparent, rigorous, and practical method of demonstrating compliance.

It is a concern that the MAP can only be signed off by certain officers within the Department following a review process. This is likely to cause delays and uncertainty making this option unattractive to many builders and developers. A Department commitment to transparent reporting of MAP assessment and outcomes may give industry more confidence in this process.

With regards to energy efficiency and thermal performance, appropriately skilled and qualified practitioners are essential to the delivery of building quality as well as to ensure standards that deliver functionality over the life of a building. The lack of detail regarding governance and guidance for undertaking a BASIX assessment (such as prescribing the skills, experience, and qualifications that a 'suitably qualified' person must possess and acceptable energy assessment software) must be addressed.

Recommendation 17: The Department should develop transparent reporting of the proposed Merit Assessment Pathway outcomes, including how the process will be verified, enforced, and audited to provide greater certainty to stakeholders and build confidence in the MAP.

Recommendation 18: The Department should undertake consultation with industry to determine the skills, experience and qualifications a 'suitably qualified' person must have to undertake and approve a MAP assessment, as well as develop a list of acceptable energy assessment software products.

BASIX and Class 2 Buildings

Many in industry have noted that BASIX is not an adequate fit for Class 2 buildings (generally multi-storey apartments) as the thermal comfort benchmarks are the same as those for single dwellings despite having so much more shared fabric and the relative differences to exposure of the external envelope. In the absence of significant changes to BASIX to address this, more flexibility in applying appropriate methods of assessment is desired.

Recommendation 19: The Department should continue consulting with industry to develop other methods for assessment that can be recognised by BASIX, for apartments, mixed use development and homes.

3. Cost Benefit Analysis

The Property Council remains unconvinced that the costs and benefits outlined in the *Proposed Design and Place SEPP Environmental Planning Policy, Cost Benefit Analysis*, 7 December 2021, prepared by Deloitte Access Economics (the CBA) are a full and fair assessment of the economics impacts of the DP SEPP.

We note the CBA is a 14-page summary of a larger report, however despite requests to see additional detail, including the full Deloitte report and associated datasets and information, no further detail has been given. Providing the full report and accompanying datasets would provide assurance to the industry that the value of the costs and benefits in the CBA have been appropriately determined. In particular, we would like more detail around the value attributed to items which are more difficult to quantify such as 'improved social cohesion' and 'increased walkability and health benefits.'

To maintain the confidence of the industry, stakeholders and wider community, it is essential that these findings are made public to ensure the transparency and rigour of government's policy-making processes.

Impact on new home buyers

In the absence of any further information, it is impossible to recast the cost-benefit analysis to show the impact on developers and new home buyers. However, what is known is that Deloitte CBA has shown the impact of the DP SEPP on *society*. Overwhelmingly, the changes in the DP SEPP will *benefit* the whole of society, but the costs will fall on the development industry, and subsequently new home buyers.

This will result in further disincentives for development in NSW, and additional barriers to home ownership for the people of NSW. First home buyers purchasing new homes will be particularly impacted.

The cost benefit analysis suggests that the DP SEPP will reduce construction costs. Industry participants have suggested that many of the requirements of the DP SEPP and amended Apartment Design Guide (ADG) will increase the construction, design and regulatory costs associated with development projects in NSW. New costs will likely come from increased design consultant costs, increased regulatory and approval timeframes (including more subjective provisions that will make negotiations with approval authorities longer). Some developers have suggested that there will be no savings due to reduced car parking because buyers of houses and apartment value them.

Within the Deloitte CBA table 3.1 shows the quantified cost categories that were considered in their analysis. The table shows the impact of the costs. However, it did not show the incidence of the costs – who bears the impact of these costs.

In analysis commissioned by the Property Council from PPM Economics (Appendix 2) confirmed that these additional costs would be initially borne by developers, which would in due course be passed on to first home buyers in the price of new housing. While the costs will be borne by developers, new home buyers and landowners, the benefits will be attributed to society.

Some of the perceived benefits, such as decreased risk, will depend upon implementation. Where Councils are responsible for the implementation of new policies, they are often interpreted in a manner that restricts yields rather than expands them. Councils are likely to be reluctant to implement the changes that benefit developers/new home buyers/landowners as, in general, they are reluctant to increase their populations due to pressures placed on infrastructure as a result.

It is also reasonable to note that some of the benefits that will be derived by new home buyers may not be affordable, or may not be desired, particularly by first home buyers. While some of these items (such as increased green space aesthetics) may be “nice to have”, they are not essential to a first home buyer who may be faced with save larger deposit to contemplate a purchase. For some first home buyers, it may be enough to push them out of the new home market and concentrate them in the already unaffordable secondary home market.

Recommendation 20: The Department should undertake a rigorous analysis of the impact of the DP SEPP upon first home buyers.

3.1 Costs and benefits included in the study

Table 3.1 and Table 3.2 below summarise the costs and benefits quantified in this analysis.

Table 3.1: Quantified cost categories considered in this analysis

Cost category	Description	Impact category
Higher administrative costs: design review	Additional number of dwellings (for LGAs who do not currently have a design review panel) to undergo design review panel and local council approval process	Build requirements / due diligence
Higher compliance costs (including indigenous engagement)	Additional cost to developer and regulators for complying with regulatory requirements, applied on a per precinct/large site project basis. Not applicable to approved master plans.	Build requirements / due diligence
Construction costs – (estimated from WT)	Higher construction costs from changes to the ADG quantified by WT estimates.	Build requirements / due diligence
Higher construction cost - design	Higher construction costs arising from energy efficiency improvements.	Environment - energy, water and emissions
Higher construction costs - greenspace	Higher construction cost from those initiatives that increase open space requirements and impose higher quality standards. Green infrastructure costs arising from additional tree requirements to improve urban design.	Environment - other
Higher construction costs - noise attenuation	Higher construction cost arising from noise attenuation measures applied to residential developments that are in centres located in the night-time economy.	Environment - other
Cost of public open spaces	Construction cost associated with providing private versus public open spaces to residents.	Environment - other
Cost of car parking	Construction cost change associated with changes to car parking requirements under option 3.	Build requirements / due diligence
Cost of EV car parking provision	Additional construction cost associated with infrastructure to provide 'EV ready' car parks.	Environment – energy, water and emissions

Source: Deloitte Access Economics

Table 3.1: Quantified Cost Categories considered in this analysis

The CBA operates on the assumption that the DP SEPP will result in significantly reduced construction costs. There is no detail provided to support this assumption and the Property Council, through its own research and discussions is of the view that many of the requirements of the DP SEPP and amended ADG will increase the construction, design and regulatory costs associated with development projects in NSW.

Table 3.1:

- does not appear to consider the increased design consultant costs which would likely to be associated with the more stringent design requirements proposed in the DP SEPP across all development types,
- does not appear to consider the increased regulatory and approval timeframes which are likely to result from more stringent design requirements proposed in the DP SEPP across all development types, as well as the flexibility provisions which have potential to make the approval process more subjective and therefore more protracted in terms of timing, and
- Considers a reduction in construction costs resulting from reduced car parking requirements, however in this instance a direct reduction in the sale price of lots without parking has not been considered and is likely to represent a significant cost to development projects.

Table 3.2: Quantified benefit categories considered in this analysis

Benefit category	Description	Impact category
Realised reserve development capacity	Increased yield due to increase in density regulations	Build requirements / due diligence
Reduced developer risk	Reduce uncertainty in building requirements such that the developers can mitigate against unexpected costs/project contingencies during the approval process.	Build requirements / due diligence
Reduced build cost	Reduction in car parking requirements will reduce number of parks built – reducing construction costs.	Environment – energy, water and emissions
Reduced crime	Passive design requirements which seek to improve walkability and connectivity, help reduce crime.	Environment – other
Reduced urban heat island	Reduced urban heat island effect due to additional tree canopy and deep soil requirements.	Environment – other
Improved green space aesthetics	Aesthetic value of additional trees per dwelling on urban realm. This relates only to the aesthetic value of street trees in urban spaces.	Environment – other
Increased walkability and health benefits	Initiatives geared at improving walkability and connectivity will also serve health benefits for residents.	Mobility/Connectivity
Lower operational costs	Improvements to amenity as a result of increased energy efficiency – calculated as a premium for green buildings and associated lower operational costs. Considers the reduction in embodied carbon emissions.	Environment – energy, water and emissions
Reduced greenhouse gas emissions	Reduction in greenhouse gases due to a reduction in residential car spaces. Reduction in greenhouse gasses due to increased walkability.	Environment – energy, water and emissions
Improved social cohesion	Considers the mental health and social interaction benefits for residents from improvements to urban and apartment design.	Social and cultural considerations
Improved connection to place	Increased connection to place with reference to consideration for country and Indigenous engagement.	Social and cultural considerations
Improved private amenity	In comparison to other benefits, this particular benefit captures the impact of four amenity features considered in the study were access to outdoor open space (courtyard or balcony), orientation, cross-ventilation, and open views on apartment prices	Amenity
Energy efficiency benefits	Energy cost savings for residents resulting from additional guidance on energy efficient buildings.	Environment – energy, water and emissions

Source: Deloitte Access Economics

With regards to **Table 3.2: Quantified benefit categories considered in this analysis**; the Property Council provides the following commentary:

- Reduced developer risk is not considered to be a benefit of the proposed DP SEPP as the flexibility provisions are likely to create more subjectivity in the approval process and increase uncertainty and risk across development projects,
- Many of the benefit items are difficult to attribute value to, and no detail has been provided in the CBA as to how the value of these items was quantified and to what extent each benefit item contributes to the overall benefit considered in the summary of the report.

The Property Council makes the following recommendations:

Recommendation 21: The Department of Planning release the full Deloitte report for public consideration

Recommendation 22: The assumptions and data underlying the CBA should be made publicly available should be subject to a rigorous peer review, as well as by industry participants so that the actual costs to real world developments can be assessed.

Recommendation 23: Further consideration be given to the full range of costs and benefits which are likely to arise from the implementation of the DP SEPP

Recommendation 24: Detailed information be provided as to the calculation of each value of each of the costs and benefits considered in Table 3.1 and 3.2 of the Deloitte CBA modelling.

Recommendation 25: Further consultation be undertaken with industry and stakeholders to gain a clear, accurate and quantifiable picture of the costs and benefits which are likely to arise as a result of the DP SEPP.

Section 3.2 of the CBA outlines the results of the analysis and suggests that the implementation of the DP SEPP will generate a \$980 million benefit across NSW. However, the results shown in Table 3.3 are vague and no justification of the claimed benefit has been provided in the report.

In addition, the results of the CBA refer to only one scenario, however Section 2.6 of the report claims that a total of four options had been tested to fully understand the impacts of the proposed DP SEPP. As no results for the other scenarios have been provided, there is no way for stakeholders or the community to make an informed assessment as to the costs and benefits of each option and which scenario would provide the best outcome to NSW.

It would be useful for industry to review and understand the findings of the CBA for all four options to enable a full and informed assessment of the impacts of the proposed DP SEPP.

In summary, while the CBA provides an indication of the possible costs and benefits of a single regulatory scenario, there are significant shortfalls in relation to the detail, case studies, assumptions and data which support the analysis, as well as a lack of clarity regarding the finds of the CBA itself. Further information could be provided in relation to the CBA and additional consultation with stakeholders and the community should take place to ensure that a comprehensive and accurate assessment is made in relation to the costs and benefits of the implementation of the proposed DP SEPP. Until such time as this is completed and further information provided, it is considered that the CBA exhibited alongside the DP SEPP is insufficient to justify the implementation of the proposed DP SEPP.

Compliance with Treasury Circular TC 19-02

We note that the Cost Benefit Analysis provided fails to demonstrate compliance with [Treasury Circular TC 19-02, issued 22 January 2019](#). This Circular requires the following:

- *A Better Regulation Statement is required for all significant new and amending regulatory proposals, and must be published online on the agency's website*
- *The impacts of the proposal must be identified and justified through quantitative and qualitative analysis of all available data. The level of analysis should be proportionate to the significance of the proposal*

The 14-page Cost Benefit Analysis Summary does not constitute a 'Better Regulation Statement', and in particular this document is not 'proportionate to the significance of the proposal.' Given the DP SEPP will incur an additional \$2.3 billion of cost on the development industry and new homebuyers, the provided 14-page document is insufficient analysis and information to justify this.

Failure to comply with the requirements outlined above is an oversight that undermines the confidence of the industry, stakeholders, and the community that the NSW Government is giving adequate consideration of the social and economic impacts of regulatory changes.

Recommendation 26: The Department should prepare a comprehensive 'Better Regulation Statement' as required by Treasury Circular TC 19-02.

4. Detailed commentary

Detailed commentary is provided below for the:

- Draft *Design and Place (State Environmental Planning Policy) 2021*
- Draft *Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021*
- Draft *Apartment Design Guide 2021*
- Draft *Urban Design Guide 2021*
- Draft *Local Government Design Review Panel Manual 2021*.

Draft Design and Place (State Environmental Planning Policy) 2021

Clause	Suggested Wording/Change	Reason
6 Meaning of ‘urban design development’ (1) In this Policy, urban design development means the following development – (a) Development on land that is not in an industrial zone that has a site area greater than 1 hectare (b) Development on land in an industrial zone that has – i. Capital investment value of \$30 million or more, and ii. A site area greater than 1 hectare, (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.	6 Meaning of ‘urban design development’ (1) In this Policy, urban design development means the following development – (a) Development on land that is not in an industrial zone that has a site area greater than 1 hectare (b) Development on land in an industrial zone that has – i. Capital investment value of \$30 million or more, and ii. A site area greater than 1 hectare, (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, and that DCP or masterplan does not yet exist and is yet to be prepared.	Paragraph (c) of the definition of “urban design development” because it could capture developments that are not new i.e. developments where the relevant planning instrument requires a DCP or master plan but that DCP or master plan already exists. It should be limited to only new developments where a DCP or master plan is required that DCP/master plan is yet to come.
7 Meaning of ‘non-residential development’ In this Policy, non-residential development means development for the following purposes – (a) The erection of office premises with a net lettable area of at least 1,000 square metres (prescribed office premises), (b) The erection of retail premises with a gross lettable area of at least 5,000 square metres (prescribed retail premises) (c) The erection of hotel or motel accommodation with at least 100 rooms (prescribed hotel or motel accommodation)		The definition of ‘non-residential development’ outlined in cl.7 could capture any development declared to be State Significant Development under the <i>State Environment Planning Policy (State and Regional Development)</i> (noting the exemptions listed in cl.8(2)).

<ul style="list-style-type: none"> - State significant development that does not include development for residential purposes (<i>non-residential state significant development</i>) 	<p>This has hugely broad reach which is most likely not intended</p>
<p>8 Land to which Policy applies</p> <p>(1) This Policy applies to the State, except as otherwise provided by this section.</p> <p>(2) This Policy does not apply to the following:</p> <ul style="list-style-type: none"> (a) development on land wholly in any of the following zones: <ul style="list-style-type: none"> (i) Zones RU1 Primary Production, RU2 Rural Landscape, RU3 Forestry or RU4 Primary Production Small Lots, (ii) Zone IN3 Heavy Industrial (iii) Zones E1 National Parks and Nature Reserves, E2 Environmental Conservation or E3 Environmental Management (iv) Zones W1 Natural Waterways, W2 Recreational Waterways or W3 Working Waterways. (b) development that is permitted with or without consent or exempt or complying development under – <ul style="list-style-type: none"> (i) <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>, or (ii) <i>State Environmental Planning Policy (Mining, Petroleum Production and Extractive industries) 2007</i>, (c) Development of a kind specified in <i>State Environmental Planning Policy (State and Regional Development) 2011</i>, Schedule 1, clauses 1-10, 18 and 20-25 regardless of the capital investment value of the development, (d) development involving only- <ul style="list-style-type: none"> (i) minor subdivision within the meaning of the <i>Environmental Planning and Assessment Regulation 2000</i>, clause 256I, or (ii) a strata subdivision (iii) the subdivision involving less than 1 hectare of land. (e) development involving the erection of less than 24 or less class 1a buildings under the <i>Building Code of Australia</i>, or of a class 7a or 10 building, if the buildings do not form part of mixed used development to which this Policy applies. <p>(3) Part 3, Division 3 applies to the development specified in subsection (2)(a), (c)(i), (e) and (g) if the development is BASIX affected development.</p>	<p>The exemptions in clause 8(2)(c) to a range of development types under the SRD SEPP seem unevenly applied, for example, the SEPP will not apply to development for the purpose of “Chemical, manufacturing and related industries” or “Port facilities and wharf or boating facilities”.</p> <p>However, it will apply to development for the purpose of “Other manufacturing industries”, “Air transport facilities” and “Rail and related transport facilities”</p>
<p>12 Design principles and design considerations</p> <p>(1) The principles for design in New South Wales are the following:</p> <ul style="list-style-type: none"> (a) To deliver beauty and amenity to create a sense of belonging for people, 	<p>The ‘Design Principles’ and Design Considerations in cl.2 will be incredibly limiting and difficult to achieve with many types of development.</p>

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the consent authority must take into account the design considerations for each design principles.	(2) In determining whether development is consistent with the design principles, the consent authority must take into account the design considerations for each design principles.	
14 Design Consideration – overall design quality The consent authority must consider whether overall –	14 Design Consideration – overall design quality The consent authority must take into consideration the <u>proposed development's consistency with the following design objectives and criteria.</u>	Requiring the consent authority to consider whether 'overall' the development achieves certain criteria may require a new test to be applied. This could be better phrased to require consideration of the proposed development's consistency with design objectives and criteria.
16 Design Consideration – culture, character and heritage The consent authority must consider whether – (a) The development detracts from the desired character of the area...	16 Design consideration – culture, character and heritage The consent authority must consider whether: (a) The development detracts from the desired character of the area	'The desired character of the area' is difficult to define and open ended. A consent authority with an anti-growth agenda could easily use this clause to prevent or delay development.
17 Design consideration – public spaces and public life The consent authority must be satisfied of the following -	17 Design consideration – public spaces and public life The consent authority <u>must give adequate regard to the following:</u>	The current wording is too limiting and should be changed to allow exceptions where necessary.
19 Design consideration – sustainable transport and walkability The consent authority must consider whether the development – (a) Contributes to minimising car trips and car travel distances by- i. Supporting access to public transport, and ii. Minimising private car parking, and (b) Minimises the impact of car parking on public space, and (c) Supports increased opportunities for walking and cycling by integrating or improving connections to existing walking and cycling networks, and (d) Provides bicycle parking and end of trip facilities, and (e) Supports the installation of infrastructure for charging electric vehicles.		This clause should be made specifically clear that the proponents of individual development proposals are not responsible for upgrading or providing infrastructure to meet the design criteria and objectives which require elements outside of the site. For example, offsite power to support electric vehicles, cycle paths to provide connectivity, open space to improve green infrastructure.
21 Design consideration – resource efficiency and emissions reduction	21 Design consideration – resource efficiency and emissions reduction	The wording 'minimise' and 'maximise' is very onerous. 'Reasonable feasible measures

<p>The consent authority must consider whether the development –</p> <p>(a) For urban design development involving subdivision – minimises, and excludes as far as practicable, the use of on-site gas for cooking, heating and hot water, and</p> <p>(b) Is designed to minimise waste from associated demolition, construction and during the ongoing use of the development, including by the choice and reuse of building materials, and</p> <p>(c) Minimises greenhouse gas emissions, as part of the goal of achieving net zero emissions by 2050, including by incorporating the following:</p> <p>I. Passive design,</p> <p>II. Energy efficiency</p> <p>III. The use of renewable energy, and</p> <p>(d) Uses water sensitive urban design and maximises water re-use.</p>	<p>The consent authority must consider whether the development –</p> <p>(a) for urban design development involving subdivision – <u>takes reasonable feasible measures to minimise</u>, and excludes as far as practicable, the use of on-site gas for cooking, heating and hot water, and</p> <p>(b) <u>Takes reasonable feasible measures to minimise</u> waste from associated demolition, construction and during the ongoing use of the development, including by the choice and reuse of building materials, and</p> <p>(c) <u>Takes reasonable feasible measures to minimise</u> greenhouse gas emissions, as part of the goal of achieving net zero emissions by 2050, including by incorporating the following:</p> <p>i. Passive design,</p> <p>ii. Energy efficiency</p> <p>iii. The use of renewable energy, and</p> <p>(d) Uses water sensitive urban design and <u>uses reasonable feasible measures to maximise</u> water re-use.</p>	<p>to minimise/ maximise' is considered more reasonable.</p> <p>A clear definition for 'net zero' should also be provided in the DP SEPP.</p>
<p>22 Design consideration – resilience and adapting to change</p> <p>The consent authority must be satisfied that the development is resilient to natural hazards by-</p>	<p>22 Design consideration – resilience and adapting to change</p> <p>The consent authority <u>give adequate regard to the proposed development's consistency with the following criteria:</u></p>	<p>There are likely to be circumstances where it is unnecessary for a development to incorporate measures to avoid or reduce exposure to natural hazards, unless this is very broadly defined.</p>
<p>24 Objectives of Urban Design Guide</p>		<p>No comment.</p>
<p>25 Development control plans for urban design development</p>		<p>This clause should be revised to make it absolutely clear that</p>

<div><div><div>(1) Development consent must not be granted to urban design development unless a development control plan applies to the land on which the development is to be carried out.</div><div>(2) A development control is not required if the development involves alterations to an existing building only.</div></div></div>		<div><div>this does not require a site specific DCP in all instances. This clause has the effect of requiring a development control plan be prepared for all non-industrial development of greater than 1 hectare.</div><div>We consider one hectare to be an inappropriate scale of development to impose this requirement upon. Additional criteria should apply so that other types of development (not just non-industrial) are exempt from this.</div><div>We note the exemption in section 4.23 of the EPA Act allows a concept plan in place of a DCP in certain circumstances, which may reduce some of the adverse impacts of this requirement.</div></div>
<div><div><div><div><div><div>32 Non-discretionary development standards for residential apartment development</div><div><div><div>(1) This section identifies development standards for particular matters relating to residential apartment development.</div><div>(2) If the standards are complied with, the consent authority cannot require more onerous standards for the matters</div><div>(3) The following are non-discretionary development standards:<div><div><div>(a) The car parking for the building must be equal to, or greater than, the lesser of<div><div>i. The recommended minimum amount of car parking specified in the Apartment Design Guide, or</div><div>ii. The minimum amount of car parking required under an applicable environmental planning instrument or development control plan.</div></div></div><div>(b) The internal area of each apartment must be equal to, or greater than, the recommended minimum internal area for the relevant apartment type specified in the Apartment Design Guide</div><div>(c) The ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in the Apartment Design Guide.</div></div></div></div></div></div></div></div></div></div></div>		<div><div>Cl.32(3) imposes a non-discretionary development standard that car parking is to be equal to or greater than certain minimum standards.</div><div>However, cl.19(a)(ii) requires the consent authority to consider whether the development minimises private car parking. These two requirements are not inherently incompatible but more guidance on how much additional car parking above the minimums can be provided before the development is not taken to minimise private car parking would provide clarity and prevent confusion.</div></div>
<div><div><div>Part 4 Design Review</div><div>34 Application of Part</div></div></div>	<div><div><div>Part 4 Design Review</div><div>34 Application of Part</div></div></div>	<div><div>Often development is carried out by parties on behalf of the</div></div>

<p>(1) This Part applies to the following development</p> <p>(a) State significant development to which this Policy applies,</p> <p>(b) Development with a capital investment value of more than \$30 million</p> <p>(c) Development with a capital investment value of between \$5 million and \$30 million if the development will be carried out by a council or the Crown.</p>	<p>(1) This Part applies to the following development</p> <p>(a) State significant development to which this Policy applies,</p> <p>(b) Development with a capital investment value of more than \$30 million</p> <p>(c) Development with a capital investment value of between \$5 million and \$30 million if the development will be carried out by <u>or on behalf of</u> a council or the Crown.</p>	<p>Council or the Crown. The original wording is too limiting and should be expanded to reflect this.</p>
<p>34 Application of Part</p> <p>(2) This Part does not apply to development specified in subsection (1)(c) if the consent authority is satisfied that the development will not have a significant impact on the public domain.</p>		<p>Clause 34(2) requires a consideration of whether a development will have “significant impact on the public domain” however there does not appear to be any guidance on what would constitute a “significant impact”, nor is there clarity on the extent of “the public domain”.</p>
<p>38 Savings and transitional provisions</p> <p>(1) This Policy does not apply to the following-</p> <p>(a) A development application lodged but not finally determined before the commencement date,</p> <p>(b) A development application that is part of a concept development application if the development application is lodged within 2 years after the development consent was granted to the concept development application,</p> <p>(c) An application for modification of a development consent under the Act, section 4.55 or 4.56 that is-</p> <p>i. Lodged or not finally determined before the commencement date, or</p> <p>ii. Lodged within 2 years after the original development consent was granted, regardless of when the development application for the original development consent was lodged or determined.</p> <p>(2) In this section –</p> <p>Commencement date means the date on which this Policy commences.</p>		<p>Currently developments which have been granted a concept approval, are only exempt from the SEPP if subsequent DA’s and Modifications are <i>lodged within 2 years after the development consent was granted.</i></p> <p>This will cause substantial problems for developers who have concept approval but are planning to roll the project out in stages through flow-on Development Applications, often over a period of up to 10 years.</p>

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

Current	Suggested Change	Issue
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<p>57C Embodied Energy</p> <p>(1) A development application for development to which the <i>State Environmental Planning Policy (Design and Place) 2021</i> applies must:</p> <p>(a) Disclose the amount of embodied emissions attributable to the development using the <u>calculator published on the NSW planning portal as in force from time to time.</u></p>	<p>We note that the Draft <i>EP&A Amendment (Design and Place)</i> provides cl.57C refers to an online calculator 'as in force from time to time'.</p> <p>The intent of this clause should be clarified. We note that the exhibited documents do not include the detail of the proposed calculator and we highlight that the ability for industry stakeholders to comment in detail on the requirements to calculate the embodied energy of development is therefore limited at this stage.</p>
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Draft Apartment Design Guide 2021

Draft Apartment Design Guide 2021	
Proposed Changes	Commentary
Part 1 Designing for the site	
1.1 Site and context analysis (previously 3A, 1A, 1B and 1C)	
Combines sections relating to surrounding context and apartment building types to establish a single point for guidance on site and context analysis.	The Property Council supports the amalgamation of these sections to provide succinct guidance for site and context analysis.
1.2 Built form and siting (previously 2A, 2B, 2C, 2D, 2E, 2F, 2G, 2H, 3B and 4C)	
Combines sections relating to built form design and siting to provide criteria in a succinct way.	The Property Council supports the amalgamation of these sections, however, does not support the guidance for building separation and floor to floor heights.
Alternative design responses are provided where criteria are not able to be met.	
Recommended floor to floor heights for ground and first floor uses of mixed-use development included.	The building separation distances have been retained and formerly made criteria within the draft ADG. This is not supported by the Property Council. The separation distances are not considered appropriate as they disregard setback controls within Council DCPs that Councils have devised based on their locality, to inform the most appropriate building footprints. The ADG separation distances require extended setbacks, and in our member's experience, these distances

	<p>are applied rigidly, regardless of a lack of evident privacy impacts.</p> <p>The Property Council requests that the separation distances be removed, and that Council DCPs take precedence.</p> <p>Notwithstanding the above, the Council does acknowledge and support the incorporation of alternative design response provisions relating to building separation and setbacks, and although the separation distances are not supported, the guidance to provide alternative responses is.</p> <p>The guidance increases floor to floor heights from 4m to 4.2m for Ground Floor non-residential uses, and from 3.3m to 4m for first floor residential use. Council members have noted that these increases in conjunction with other guidance on building height, will have significant yield impacts in regards to the viability of a development.</p> <p>As such, it is requested that the existing floor to floor heights be retained.</p> <p>Recommendation 27: The ADG should be amended to remove criteria for building separation distances and guidance should be provided to rely on Council DCP setbacks.</p> <p>Recommendation 28: The ADG should be amended to retain existing floor to floor height requirements.</p>
<p>1.3 Site access and address (previously 3C, 3G and 3H)</p>	
<p>Combines sections relating to pedestrian and vehicle access to a site.</p> <p>Alternative design responses are provided where criteria is not able to be met.</p>	<p>The Property Council supports the amalgamation of these sections to provide succinct guidance for site access.</p> <p>The Council requests Objective 1.3.1 to be clarified, as in its current form, it prioritises both walking and cycling within pedestrian links. It is recommended that pedestrian prioritisation is clarified, whilst still cycle use is still permitted.</p> <p>Further revision is requested in the language of design guidance of the section, specifically where reference is made to a site being 'sufficiently sized' to provide through site links. This language is highly subjective and may lead to the potential misapplication by the relevant Consent</p>

	<p>Authorities. Furthermore, it is not considered appropriate to rely entirely on a sites area for the provision and design of through-site links, and site specific characteristics and constraints should be considered.</p> <p>The Property Council fully supports and encourages the incorporation of alternative design response provisions relating to street entries.</p> <p>Recommendation 29: Objective 1.3.1 should be reviewed to provide clarification on the priority of pedestrian use within through-site links.</p> <p>Recommendation 30: The wording for ‘design guidance’ should be reviewed to remove any subjective language that may be misinterpreted.</p>
1.4 Relationship to the street (previously 3C, 4L, 4S and 4T)	
Combines sections relating to street frontages and how development address and interact with the public domain.	The Property Council supports the amalgamation of these sections to provide succinct guidance for the public domain interface and street activation.
1.5 Green infrastructure (previously 3E, 4O and 4P)	
<p>Combines sections relating to landscaping, tree planting, and deep soil area.</p> <p>Changes are proposed in regard to deep soil area, tree size identification and tree planting rates.</p> <p>Deep soil requirements have been made as design criteria and increased to 10% for sites with an area <1500m³ and 15% for sites with an area >1500m³, with 3m minimum dimensions. Minimum canopy areas have also been introduced to require 15% for sites <1500m³ and 20% for sites >1500m³.</p>	<p>The Property Council fully supports the amalgamation of these sections to provide succinct guidance for green infrastructure.</p> <p>The Property Council supports maximising deep soil area, however the changes to the deep soil area requirements are not supported and are considered to be unattainable blanket requirements which are applied rigorously regardless of site-specific constraints. The new requirements only apply to two broad site area categories and require increased deep soil area, up to 8% more than the current provisions.</p> <p>The design guidance within this section promotes consideration of deep soil areas across boundaries to allow tree canopies of large trees. The Council requests that clarification be included to allow for the calculable tree canopy to be inclusive of canopy cover across boundaries. The guidance for retaining trees on a site requires building envelopes, basements, and driveways to be located in order to maximise the number of existing trees to be retained. The Council</p>

	<p>acknowledges and supports the importance of retaining site significant trees, however, note that the guidance language used is too simplistic, and does not nominate tree size, native species or ecological value, and does not allow for well-justified site-specific considerations. It is requested that the design guidance be amended to recognise that under certain circumstances tree removal is necessary and may be appropriately offset.</p> <p>The Property Council does support the guidance which acknowledges that some sites are incapable of meeting the deep soil requirements. It is however requested that the language of the guidance be amended to state 'not reasonably or practically possible', as the deep soil provision will always be possible, but the result may render a site unviable.</p> <p>Recommendation 31: The existing deep soil requirements within the ADG should be retained.</p> <p>Recommendation 32: The wording of the deep soil area guidance should be reviewed to allow for alternate solutions compliance with the criteria is not reasonably or practically possible.</p>
1.6 Parking (previously 3J and 3H)	
<p>New bicycle parking requirements for residential and commercial uses.</p> <p>Alternative design responses are provided where criteria are not able to be met.</p>	<p>The bicycle parking rates provided are not supported by the Property Council. It is not considered appropriate that a minimum parking rate be applied on a broad, one size fits all scale, where the nature of a development, its location and other site and locality characteristics are not taken into consideration.</p> <p>The Property Council fully supports and encourages the incorporation of alternative design response provisions relating to parking.</p> <p>Recommendation 33: The ADG should be amended to remove numerical bicycle parking requirements and require bicycle parking to be provided and assessed on merit.</p>
Part 2 Building Design	
2.1 Common circulation (previously 4F)	

New provisions have been included which require common circulation spaces to achieve minimum natural ventilation and solar access requirements.

Alternative design responses are provided where criteria are not able to be met.

The design guidance for common stairs encourages that common stairs including fire stairs, are capable of daily use. **The Property Council does not consider this to be a suitable solution in high-rise towers, nor is a transition from a fire enclosed stair to a hybrid arrangement at the lower levels as is suggested.** The draft change has potential to confuse the primary function of the fire stair to safely direct residents to open space. Therefore, it is recommended that the guidance is clear in its application to low rise development.

The Property Council does not support the natural ventilation and solar access requirements proposed for common circulation spaces. The location of common circulation spaces is secondary to the location of apartments to ensure residential amenity, and in some cases achieving quality ventilation and daylight access to these spaces is not attainable. The guidance requires at least two sources of natural ventilation to common circulation spaces. This requirement will have significant impacts on floorplate efficiencies, cost, and overall housing affordability. In relation to the ventilation of apartment building lobbies, natural ventilation via operable windows is not considered appropriate due to environmental conditions, the extent of attendance within a lobby compared to a dwelling, and pressurisation issues and wind noise created by naturally ventilated lobbies in taller buildings. Furthermore, natural ventilation would also necessitate the windows to automatically close in the event of a fire to ensure there is no interference with smoke hazard management.

The Property Council's preferred method for naturally ventilating lobbies in larger apartment buildings is via controlled mechanical systems that deliver a superior outcome and avoids the additional challenges and detrimental effects inherent to providing operable windows.

As such, the need for 2 or more sources of natural ventilation to common circulation space is not supported by the Council.

Recommendation 34: The Design Guidance should be reviewed for further clarification on the use of common stairs.

	Recommendation 35: The natural ventilation requirements should be reviewed to permit controlled mechanical systems where a better outcome is achieved.
2.2 Communal spaces (previously 3D and 4F)	
The communal open space criteria require 8m ² per dwelling, up to 25% of the site area.	<p>The Property Council does not support the communal open space area requirements. Communal open space should be relative to the size of a site and take into consideration other site constraints and characteristics in relation to the densely urban areas, the need for roof plant, equipment and solar panels, the provision of private open space, proximity to public open spaces etc. whilst also considering development feasibility. The provision of communal open space should not be a definitive numerical control, and rather should give weight to other aspects of a development.</p> <p>As such, it is requested that the guidance be amended to require communal open space only where practically possible.</p> <p>Recommendation 36: The communal open space requirements should be reviewed to account for alternate design solutions where compliance with the criteria is not reasonably or practically possible.</p>
2.3 Apartment mix and diversity (previously 4K and 4Q)	
<p>New provisions have been incorporated which place numerical requirements on apartment mix, including the provision of family friendly apartments.</p> <p>For a development with more than 20 dwellings, a minimum of 3 different dwelling type is required, with no less than 10% of dwellings are one type, and no more than 50% of dwellings are studios or 1-bedroom units.</p> <p>The guidance requests that 20% of 2-, 3- and 4-bedroom apartments as family-friendly apartments to accommodate the needs of families with children.</p> <p>Alternative design responses are provided where criteria is not able to be met.</p>	<p>Whilst the Property Council supports the need for housing diversity, it does not support numerical requirements placed on developments of greater than 20 dwellings. As further stated within this section of the guide, the apartment mix of a development should be determined on market demands and the needs of the community, and a standard dwelling mix should not be rigidly applied across the state.</p> <p>The same can be said for the new family friendly apartment provisions, which should not be applied broadly, and rather encouraged based on demand. Furthermore, the guidance is considered to be overly prescriptive, and assume that existing 2-, 3- and 4-bedroom apartments do not cater for families, families can afford larger apartments at additional cost, and that families only wish to</p>

	<p>reside in lower levels of a building, and not where better outlook and solar access is provided.</p> <p>The Property Council recommends revision of the guidance to acknowledge that where family apartments are to be provided, they are not required to be limited only to the lower levels of a building, since lift access and rooftop open space can equally and equitably cater to family units.</p> <p>Recommendation 37: The ADG should be amended to remove criteria for apartment mix, with mix to be determined based on market demand.</p> <p>Recommendation 38: The ADG should be amended to remove the criteria for family-friendly apartments and require these apartments are to be provided based on market demand.</p>
2.4 Apartment configuration (previously 4C and 4D)	
<p>Minimum living area requirement introduced.</p> <p>Alternative design responses are provided where criteria are not able to be met.</p>	<p>The Property Council supports and encourages the incorporation of alternative design response provisions relating to apartment configuration.</p>
2.5 Private open space and balconies (previously 4E)	
<p>Additional design guidance is provided, including in relation to wintergardens and protected balconies.</p> <p>Alternative design responses are provided where criteria are not able to be met.</p>	<p>The Property Council supports and encourages the incorporation of alternative design response provisions relating to private open space and balconies.</p>
2.6 Sunlight, daylight, shade and thermal comfort (previously 3B, 4A and 4U)	
<p>Alternative design responses are provided where criteria are not able to be met.</p> <p>The time interval for sunlight access has been extended by one hour (between 8am and 3pm) for sites where potential sunlight access is limited by site constraints.</p> <p>Where the solid material on an apartment facade in an individual aspect is 70% or more, no additional shading is required for glazing on that aspect. Performance glazing is no longer acceptable.</p>	<p>The Property Council supports and encourages the incorporation of alternative design response provisions relating to solar access and shading control as it recognises that site specific factors may prevent the guidance being met.</p> <p>Despite this, the Property Council does not support the requirement for 70% of apartments to achieve the solar access requirements. This provision, as proven by previous developments in which Council members have been involved, significantly impacts the mix and location of apartments whereby additional 1-bedroom apartments are</p>

	<p>provided at the northern elevations to achieve compliance with the 70% requirement. As a result of this, the larger 2- and 3-bedroom apartments, are located on southern elevations, and the amenity in these apartments is quite poor, despite the development complying with the solar access requirements. Whilst the alternative design solutions seem like they offer flexibility in meeting the criteria, the experience of members is that consent authorities are inflexible and rigidly apply the criteria, disregarding unit spread across north and south facing apartments.</p> <p>As such, the Property Council consider an overall better development outcome would be if the solar access requirements were not so rigidly applied and that great consideration is taken of site constraints and the design of the development in terms of apartment mix and layout. A more suitable solar access arrangement would be for 50% of apartments to achieve the minimum requirement, and for this to be applied as a guideline rather than a strict control.</p> <p>Furthermore, the Property Council believes that it needs to be made abundantly clear that a more even unit-mix across north facing and south facing aspects is desirable and can in some circumstances prevail over strict numerical compliance.</p> <p>The Property Council supports the increased timeframe for solar access, however, are of the opinion that the time interval for solar access requirements should be further extended to 4pm to better represent true solar exposure to apartment users. The extension to 4pm would facilitate better design outcomes, whilst also reducing negotiation during DA assessment, with a caveat to allow consent authorities to require compliance with 3pm if there were adverse impacts on neighbouring properties.</p> <p>The Property Council considers the draft criteria for shading to present a highly specific and blunt requirement whereby a façade with 30% glazing requires no sunshade, yet one with 31% is subject to the criteria. This definitive metric may result in sub-optimal design outcomes, and more specifically may limit the design potential for apartment buildings in densely urban locations, since it requires building envelopes to be covered</p>
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	<p>in external shading devices. It is understood that this is further covered in the appendices but the Council request that clarity provided within this section through rewording of the guidance.</p> <p>Recommendation 39: Solar access criteria should be reviewed to only require 50% of apartments to meet solar access requirements, and/or removal of criteria and enforcement of a merit-based approach.</p> <p>Recommendation 40: Solar access criteria should be amended to extend the solar access window from 8am to 4pm.</p> <p>Recommendation 41: Shading and glazing guidance should be revised to remove metric control and provide further clarity.</p>
2.7 Natural ventilation (previously 4B, 4J and 4U)	
<p>Guidance on calculations provided.</p> <p>Alternative design responses are provided where criteria are not able to be met.</p>	<p>The criteria for natural ventilation remains unchanged with respect to the requirement for 60% of naturally cross ventilated apartments within the first 9 storeys. It is suggested this criteria is further clarified by stating that these 9 storeys are above ground level to mitigate consent authorities who may otherwise take the view that cross ventilation criteria should apply to the first nine residential storeys in a mixed use development. A more appropriate response would be applying natural cross ventilation requirements to the first 25m of a building's height above ground level rather than by storeys since the different impacts of wind relate to height, rather than storeys.</p> <p>The Property Council consider that the guidance for natural ventilation and the calculation of equivalent open area (EOA) is onerous and once the impact of flyscreens has been taken into account (the applicability of this is questionable in high rise apartments), this will result in excessive areas of operable windows in the façade to provide the resultant EOA. The alternative of louvered windows, whilst effective in meeting this, is unlikely to provide the required weather tightness and will not therefore satisfy BCA requirements under the Design and Building Practitioners Act (D&BP Act). The D&BP Act specifies that only awning windows are deemed compliant.</p>

	<p>Furthermore, Property Council consider the 225 degree metric is fundamentally flawed. Diagram 1 in Figure A4.2.2 on page A24 shows an inset window at the back of the balcony with a wind exposure angle labelled 'B3'. The B3 angle is approximately 90 degrees however if the window were to be at the balustrade of the balcony the exposure angle would be 180 degrees while the apartment layout would be unchanged (other than the deletion of the balcony). Since cross ventilation requires the window to be open, the location of the window is irrelevant as the window (or barrier) effectively does not exist once it is open. As such the method measurement does not make sense in certain circumstances since airflow through the apartment will be the same regardless of where the open balcony window is located - whether it be out at the edge of the balcony or further back within the apartment where the angle would be even more acute.</p> <p>The Property Council supports and encourages the incorporation of alternative design response provisions relating to natural ventilation and cross-ventilation.</p> <p>Recommendation 42: The criteria for natural ventilation to be revised to provide clarity on the design requirements.</p> <p>Recommendation 43: The guidance on the measurement of natural ventilation should reviewed.</p>
2.8 Acoustic privacy, noise and pollution (previously 4H and 4J)	
<p>General restructure and additional guidance.</p> <p>Alternative design responses are provided where criteria are not able to be met.</p>	The Property Council supports and encourages the incorporation of alternative design response provisions relating to acoustic privacy.
2.9 Visual amenity (previously 3F)	
<p>General restructure and additional guidance.</p> <p>Alternative design responses are provided where criteria are not able to be met.</p>	The Property Council supports and encourages the incorporation of alternative design response provisions relating to visual amenity.
2.10 Storage (previously 4G)	
<p>External storage volumes are increased to require an additional 2m³ for each dwelling type.</p> <p>Alternative design responses are provided where criteria are not able to be met for certain developments.</p>	The additional storage area required will have a significant impact on the size of basements, where the majority of external storage is located within apartment developments. To require an increase to basement storage would subsequently increase the construction costs of a

	development which would be passed on to purchasers and adversely further impact affordability. It is recommended that the storage area requirements be retained as per the current ADG. Recommendation 44: The storage area requirements should be amended to retain the existing requirements within the current ADG.
2.11 Building articulation (previously 4M, 4N and 4R)	
Combines sections relating to building facades, roof design and adaptive reuse.	The Property Council supports this section of the draft ADG.
Part 3 Environmental considerations	
3.1 Energy efficiency	
General restructure and additional guidance.	The Property Council supports this section of the draft ADG.
3.2 Water	
Specific rainwater tank sizes, recycled water required.	The requirement to retain and reuse rainwater is something already required under BASIX and any adjustment to it should be reflected in that.
3.3 Waste	
General restructure and additional guidance.	The Property Council supports this section of the draft ADG.
3.4 Materials and maintenance	
General restructure and additional guidance.	The Property Council supports this section of the draft ADG.

Draft Urban Design Guide 2021

Draft Urban Design Guide 2021
General Comments on the Draft Urban Design Guide 2021
<p>The draft Urban Design Guide (UDG) is a good document, and we recommend it should be supported subject to changes outlined in this submission. Across NSW there is a need for better understanding of urban design and how development responds to the unique character of a place and the nature of a development proposal. A single guide that attempts to combine these must provide a very strategic and flexible approach and avoid focussing on fine-grained details. Consideration should be given to moving parts of the UDG into the regional plans covering regional NSW and the greater Sydney region with a very specific place-based focus.</p> <p>The UDG has clearly been prepared as a guide and we support that approach. Our concerns primarily relate to the way the guide may be applied during the assessment of development applications under Section 4.15 of the Environmental Planning and Assessment Act 1979. The Apartment Design Guide (and the Residential Flat Design Code prior to the change in name) has been an issue for almost 20 years. It is critical that the terminology used throughout the UDG provides clarity to ensure it is correctly applied and makes a positive contribution to the design of our cities, neighbourhoods, and places.</p>

Consistency with the guide's objectives should be an assessment consideration and not become a pre-condition of consent that objectives must be met. The language used through the guide should provide for a clear understanding of the objective's purpose and what outcome should be delivered.

Several the objectives have been expressed vaguely. It is our view that the objectives need to be qualities and quantities and have a performance nature so that the proposal can be tested against the objective.

Finally, the application of the guide should be limited to preparation of strategy documents for precincts undergoing change, new DCPs, Concept development applications and large SSD applications where there are opportunities to apply its objectives. Application of the guide to single development applications (such as a single warehouse building on a large 10 hectare site) would be difficult and delay the assessment process for very little benefit.

Issue	Commentary
About this guide	
Application of the Urban Design Guide	<p>The Property Council acknowledges the draft UDG has been prepared as a guidance tool that will, if used appropriately, contribute to better design outcomes. It should provide designers and other practitioners with a set of common language for assessment of themes and development of concepts.</p> <p>We are concerned that the UDG may be incorrectly applied and used as another code during the assessment of development applications and contribute to significant delays in the assessment process. We believe the document should not be used as an assessment tool but rather be a guide for designers and appoint of reference for Design Review Panels on development applications for certain sites.</p> <p>Recommendation 45: As with the ADG, we consider the terminology used is 'absolute' and facilitate a prescriptive approach to implementing the guide. We recommend that the terms "minimise" and "Maximise" are replaced throughout the document with language that allows greater flexibility.</p> <p>The requirement for stand-alone Design Verification Statements (DVS) is onerous given the intended purpose of the UDG is to serve as a guide. The EP&A Amendment sets out that the DVS must "explain how the design is consistent with the design review panel advice". The use of the word "consistent" has the effect of removing flexibility that consent authorities may have otherwise had regard to design panel advice.</p>

	Recommendation 46: We recommend that consistent is replaced with “consideration” in order to allow for planners to take advice from design review panels into consideration.
<p>Urban Design Development</p> <p>The SEPP defines Urban Design Development as the following development types:</p> <ul style="list-style-type: none"> (a) development on land that is not in an industrial zone that has a site area greater than 1 hectare (10,000m²), (b) development of land in an industrial zone that has a CIV of \$30 million or more, and the site area is greater than 1 hectare (c) development in relation to which an EPI requires a DCP or masterplan to be prepared for the land before development consent may be granted for development 	<p>The Property Council supports the proposed thresholds for application of the UDG as they relate to commercial, retail and residential development – being a site area of 10 hectares or greater.</p> <p>The proposed threshold for industrial development being development with a CIV of \$30 million and a site area over 1 hectare should be increased to apply to developments on land over 10 hectares and a CIV in excess of \$50 million.</p> <p>Recommendation 47: Increase the threshold whereby the UDG applies to non-industrial development on sites with an area of 10 hectares or greater AND industrial development to sites that are 10 hectares or greater with a CIV that is \$50 million or more.</p>
Part 1 A Place-based approach	
1.1 Importance of Place in urban design	The Property Council recognises and supports the role of place in urban design. The place-based approach of the DP SEPP is supported.
1.2 Public space as an urban design outcome	The Property Council is supportive of the formal recognition given to public space through the UDG. It is appropriate for larger developments (Master Planned communities, urban renewal precincts, larger subdivisions) to consider new public spaces within the site and relationship with existing public spaces around the site.
1.3 Components of successful places	The identification of five key components that collectively provide a framework for the UDG's objectives. The Property Council supports the classification of the assessment criteria into these five groupings.
Part 2 Objectives for good urban design	
<p>URBAN STRUCTURE</p> <p>Urban structure is the arrangement of green and blue networks, public open spaces, paths of movement, pedestrian permeability and cycling infrastructure integrated into the pattern of blocks and streets that connects activity centres and public transport nodes to form urban neighbourhoods.</p>	
Objective 1 – Projects start with nature, culture and public space	
Design Guidance	

1.1 Base design decisions on comprehensive place analysis, strategic planning priorities and the site's contextual opportunities and constraints.	The Property Council supports the use of a site analysis and reference to the region's strategic plans to inform high-level design decisions. The need for this process in the planning of large urban design development is appropriate.
1.2 Identify, integrate and support the topography and landscape of the site in the structure of renewed or new places.	The Property Council supports the intention to consider landscape and topography in the site planning of large greenfield and urban renewal sites. The identification of significant areas of biodiversity and opportunities for waterway rehabilitation where large sites are concerned is a logical process early in the design phase.
1.3 Identify and protect significant Aboriginal heritage and environmental values (tangible and intangible)	The Property Council supports the identification and protection of known Aboriginal heritage.
1.4 Establish connected public space networks that integrate and support natural features.	<p>The Property Council supports the establishment of public space networks in larger developments in principle. Where possible these should be identified through the strategic planning process for the site and any land required for acquisition or dedication should be identified and quantified up front and taken into consideration as part of the infrastructure contributions process. The need for dedication of public spaces to local authorities should be identified and early</p> <p>Recommendation 48: The establishment of public space networks must involve early planning during the strategic planning process for a site when the planning controls and development contributions for a site are being prepared by the relevant council.</p>
1.5 Provide an integrated and connected blue and green infrastructure network.	<p>The Property Council supports the provision of an integrated and connected blue and green infrastructure network. In the development process, there are limited opportunities for identification of land required for blue and green corridors. Ideally, these should be factors that are considered by a planning proposal authority when it reviews any planning proposal for the land or updates its comprehensive LEP for a LGA.</p> <p>Recommendation 49: Providing green and blue corridors through private land to connect with nearby public land must be coordinated through the strategic planning process (LEP/DCP) for a site.</p>

<p>1.6 Integrate a high quality public open space network into the urban structure to provide a forum for public life.</p>	<p>The Property Council supports the integration of a high-quality open space network into the urban structure and we consider the appropriate process for planning for new or upgrade open space facilities is as part of a Council's LSPS, Recreation & Open Space Strategy and through its Section 7.11 and Section 7.12 Plans. Avoiding the need for requests for land for new open space to be dedicated at the Development Application stage which is costly and contributes to long application processing times.</p> <p>Recommendation 50: Planning for new areas of open space and recreation facilities need to be integrated into a council's strategic planning process and any land or works required can be zoned through the LEP and funds costed in a contributions plans.</p>
<p>1.7 Integrate a water cycle management strategy at the neighbourhood scale.</p>	<p>The Property Council supports neighbourhood level water management strategies. The planning for water capture, storage and reuse in the development of large master planned sites is appropriate. Coordination of site landscaping and water management is acceptable.</p>
<p>Objective 2 – District and local routes provide transport choice and accessibility</p>	
<p>2.1 Align with existing and planned transport networks.</p>	<p>The Property Council supports the alignment with existing and planned transport networks as outlined in the design guidance. The identification of existing and planned transport nodes and routes (especially large transport infrastructure projects) as part of the site planning of large precincts that are captured by the urban design development category is appropriate.</p>
<p>2.2 Provide a diversity of transport modes and prioritise active and public transport connections.</p>	<p>The Property Council supports the provision of diverse transport modes for larger developments in accessible locations. Where active transport is an appropriate mode for local and regional journeys provision of infrastructure and facilities to encourage its take up should be required.</p> <p>Recommendation 52: Provision of active transport facilities and infrastructure such as local cycle and pedestrian connections should be identified within the planning controls (LEP/DCP) for a site so that any requirements are known early in the development process.</p>

<p>2.3 Locate and integrate development with highly accessible public transport.</p>	<p>The Property Council considers it is appropriate to locate development and provide opportunities for growth near new transport infrastructure. When decisions are made to provide new transport infrastructure such as railways, busways, light rail and cycleways there should also be a trigger for the State Government to step in and review the land use planning controls in the precincts surrounding the new infrastructure as has been the case along the route of the North West Metro and the CBD Metro stations between North Sydney and Waterloo. We support the intention to locate commercial centres and transport interchanges on public transport routes.</p> <p>Recommendation 52: There should be an automatic process for State Government to step in and look at planning controls along the route of new linear transport projects such as railways, busways, light rail and the like.</p>
<p>2.4 Ensure movement networks consider the existing conditions and environment.</p>	<p>The Property Council supports this design guidance. The consideration of existing movement routes and corridors in the planning of new neighbourhoods or sites is essential.</p>
<p>2.5 Provide for efficient movement of goods to minimise the impact on places.</p>	<p>The Property Council supports the inclusion of freight movement into the strategic planning of large master planned sites. This is particularly important for land that is located near employment precincts (WSEA, Mamre Road, Port Botany etc), inter-modal terminals and highway corridors that provide vital infrastructure for the movement of goods and resources.</p> <p>Recommendation 53: The identification of freight networks and adequate transport corridors to allow for movement of goods and resources between cities and regions must be planned at the regional level (Regional/District Plans) and any land required to support provision of vital infrastructure must be identified in LEP/DCP and contributions plans.</p>
<p>Objective 3 – Compact and diverse neighbourhoods connect to good amenity</p>	
<p>3.1 Provide a network of centres that supports a compact urban form.</p>	<p>The Property Council supports the design guidance to provide a network of centres that supports a compact urban form in principle. The UDG has identified an important planning concept that should be required at the regional and precinct level rather than at an individual site level. Many developments on large sites will generally only provide a single centre that will</p>

	<p>support new dwellings. This is more relevant for planning authorities preparing strategic plans for precincts such as the Western Sydney Aerotropolis or an Activation Precinct (eg Wagga Wagga or Parkes) than it is for single developers undertaking urban renewal of a single site.</p> <p>Recommendation 54: The threshold where the requirement for a 'network of centres' applies must be appropriate to ensure it is relevant and effective.</p>
3.2 Ensure key land uses are well-sited and integrated for amenity, safety and productivity.	<p>The Property Council supports the intention to manage the location of key land uses to provide for amenity, safety and productivity. Often many large sites are subject to Precinct Master Plans (such as the Greater Macarthur 2040, Crows Nest St Leonards Plan 2036 and French Forest 2041 Place Strategy) and these determine the location of key land uses. When a landowner prepares a DA for a site the location of uses and zones have already determined.</p> <p>Recommendation 55: The UDG must acknowledge that the location of land use is often determined when a Strategy Plan is developed for a precinct undergoing change and that the location of key land uses have already been determined.</p>
3.3 Provide mixed and diverse neighbourhoods with high amenity.	<p>The Property Council supports efforts outlined in the UDG to encourage a diversity of housing types and tenures. We also support the locating of increased density in areas of high amenity close to activity centres and transport hubs. It is important that these objectives are not stifled by other planning policies and controls.</p>
3.4 Connect and integrate urban networks with the broader context and overcome barriers.	<p>The Property Council supports the intention to connect and integrate urban networks with broader context and overcome barriers.</p> <p>Recommendation 56: The 'Integration of urban networks with broader context and overcome barriers' should be addressed through the strategic planning process and identified in the LEP/DCP and where land or works are required, a funding source provided in the relevant s7.11 or 7.12 contribution plan.</p>
3.5 Provide a compact urban footprint that minimises impact on adjacent productive sites.	<p>The Property Council acknowledges that urban densities and compact urban footprint are relevant to both urban renewal areas and greenfield locations. This design guidance is significant and must be given a weighting that reflects its importance.</p>

Objective 4 – Place-based risks are mitigated, and ecological values are sustained to ensure resilient communities	
4.1 Address, mitigate and respond to risks	<p>The Property Council supports the implementation of a strategic process to consider the risks associated with natural hazards including assessing risk of flood, bushfire, coastal hazards, etc. Ideally land that is not suited to intense development is identified during the strategic planning process and set aside for less intense uses such as open space and conservation.</p> <p>Recommendation 57: The design guidance to ‘address mitigate and respond to risks’ should be primarily considered in the strategic planning process (LEP/DCP) and if not suited to managed habitation an alternative land use should be identified in the LEP zoning table.</p>
4.2 Ensure safety and resilience underpin new communities	<p>The Property Council is concerned that this design guidance could encourage inappropriate types of development in areas of high risk. The EP&A Act provides established processes to manage risks such as flooding, bushfire, coastal hazards and it is important that the UDG is consistent with those processes.</p> <p>Recommendation 58: Any design guidance concerning safety and risks must be consistent with other established processes for managing those risks.</p>
4.3 Protect natural ecology as a system	<p>The Property Council supports the protection of natural ecology and it is important the new developments, particularly those located near sensitive habitats avoid adverse impacts on biodiversity. As with other design criteria in this section, it is important that any land rezoned for urban development has been through a detailed assessment of environmental impacts during the rezoning process and the relevant LEP or other zoning instrument provides zones for development and zones for conservation (C1, C2 or RE1).</p> <p>Recommendation 59: The strategic planning process must consider impacts on environmental issues such as biodiversity and provide adequate zones, densities and setbacks the reflect the land’s capacity to accommodate growth.</p>
MOVEMENT AND CONNECTION	

Objective 5 – Walkable neighbourhoods are vibrant and productive																			
Design Criteria																			
<u>Walkable neighbourhoods</u> All homes are within 15 to 20 minutes' walk of a collection of local shops, a primary school, public transport, a supermarket or grocery store	<p>The Property Council agrees that all new homes should be within 15 to 20 minutes' walk of essential services. It is important that when land use zoning for large sites and precincts is being considered that there are the required zonings to facilitate the placement of shops, schools and public transport nodes.</p> <p>Recommendation 60: Planning bodies such as councils and the Department of Planning need to consider the land use zones and densities needed to achieve the criteria for ‘walkable neighbourhoods’ when Planning Proposals and comprehensive LEP/DCP are being prepared.</p>																		
<u>Public open space accessibility</u> Access to public open space is provided as follows:	<p>The Property Council supports the concept that all new residential developments should be located close to open space to meet the needs of future residents. Providing a small park or local park for larger urban design developments can be within the control of a land developer and these are sometimes the responsibility of the developer (funded through local Infrastructure contributions, a Special Infrastructure Contribution or dedication of land as Works in Kind). In most cases, providing walking access to a district park (1.6km) or a regional park (within 5km) is not within the control of a land developer. It is imperative that this criterion is treated as an inspirational goal and not a development standard that can be applied in the assessment of a development application.</p> <p>Recommendation 61: The status of the design criteria for ‘public open space accessibility’ needs to be clear, and it should only be regarded and applied as an aspirational goal when assessing a development application.</p>																		
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Design Guidance																			
5.1 Deliver neighbourhoods with a vibrant centre	<p>The Property Council supports the creation of neighbourhoods with vibrant centres. Many of our members have been involved with the development of liveable and desirable neighbourhoods across Sydney and NSW. As an intended outcome, this design guidance is very important. It is critical that the implementation of this is well managed by local councils and State agencies responsible for delivery of infrastructure.</p>																		

	Recommendation 62: The creation of 'neighbourhoods with vibrant centres' requires coordination of functions of local councils and various State agencies (TfNSW, Sydney Water).
5.2 Support the local night-time economy and provide more varied, well-integrated entertainment uses	The Property Council supports the protection of established entertainment facilities and the provision of facilities within open space areas for outdoor cultural and community activities.
Objective 6 – Block patterns and fine grain street network define legible, permeable neighbourhoods	
<i>Design criteria</i>	
<u>Walkable block lengths</u> Maximum block lengths for industrial areas are between 220-250 metres. Maximum block length for residential and mixed-use development is 160m-220 metres.	<p>The Property Council understands the intention of walkable block lengths is to provide a fine-grained street network which is desirable in business and residential areas where walking any cycling are essential modes for movement and a highly permeable street network contributes to amenity and vibrancy.</p> <p>However, the UDG proposes mandating a numerical distance for block length in industrial zones which is a concern for our members. In many industrial and logistics precincts larger block lengths are necessary to support large warehouse developments and parking for freight vehicles. We do not support this aspect of the UDG.</p> <p>Recommendation 63: The proposed maximum block length for industrial areas should be removed.</p>
<i>Assessment Guidance</i>	
A variety of blocks (sizes, orientations and access arrangements are provided)	The requirement for a variety of blocks (based on their size, orientations and access arrangements) is supported and should be considered having regard to site topography, solar orientation and natural vegetation.
<i>Design Guidance</i>	
6.1 Provide a street network with a legible hierarchy.	The Property Council supports the provision of a street network with a legible hierarchy that can be delivered with a new residential and mixed-use subdivision.
6.2 Create a fine-grain street layout that facilitates ease of access to key destinations.	The Property Council agrees that the creation of a fine-grained street network facilitates good accessibility to destinations for residents. Many of our members have delivered award winning new communities that display

	these attributes and are offer high amenity to the occupants.
6.3 Provide a diversity of block patterns to suit a variety of uses	<p>The requirement for a variety of blocks (based on their size, orientations and access arrangements) is supported and should be considered having regard to site topography, solar orientation and natural vegetation.</p> <p>Recommendation 64: The requirement for a variety of block sizes is proposed to be based on size, orientation and access arrangements. 'Type of uses' that a site will accommodation (for example warehouses, logistics centres and intermodal-terminals) should also be considered.</p>
6.4 Design urban environments to be adaptable for future change.	<p>The Property Council in-principle supports new urban areas being designed to be adaptable for future changes. As can be seen from the redevelopment of former industrial areas such as Green Square, Rhodes and Macquarie Park, it can be difficult to achieve a new fine-grained unless redevelopment of the precinct is coordinated and adjoining sites are developed together. It is not clear what is expected from the owner of a site redeveloping their land. In many cases trying to retrofit an existing precinct for future changes is not feasible or practical.</p> <p>Recommendation 65: It is not clear how the design requirements for 'urban environments to be adaptable for future change' will be applied. Further clarification is required.</p>
Objective 7 – Walking and cycling is prioritised, safe and comfortable for people of all abilities	
<i>Design Criteria</i>	
<p><u>Mid-block connections</u> Mid-block connections and through-site links for pedestrians are provided no more than 130m apart within walking catchments of key destinations such as centres, public open spaces, transport nodes and schools.</p> <p>Dedicated footpaths are provided on both sides of street carriageways (excluding shared accessways).</p>	<p>The Property Council acknowledges the benefits that are gained from mid-block pedestrian connections, and we support the identification of places where they should be encouraged.</p>
<i>Design Guidance</i>	
7.1 Provide fine-grained pedestrian permeability	The Property Council supports this outcome particularly in residential and mixed-use precincts and close to transport corridors.

7.2 Provide pedestrian priority and amenity	The Property Council agrees that redeveloped precincts should generally encourage the prioritisation of pedestrian movement above cars but there will be areas where vehicle access is essential and will need to be maintained such as close to transport nodes for buses and taxis, servicing facilities for shops and offices and close to retail centres for the collection of bulky goods.
7.3 Provide low-traffic and slow-traffic streets	The Property Council acknowledges that there are certain streets in residential precincts that should be low-traffic and/or slow-traffic. These streets can be designed and engineered to encourage outdoor lifestyle activity such as dining, markets and passive recreation.
7.4 Integrate safe cycling	The Property Council encourages active transport in locations where it contributes to a healthy lifestyle and reduction in traffic congestion. The planning and design of new residential and mixed-use centres precincts should consider opportunities for safe cycling.
Objective 8 – Parking is minimised, adaptable and integrated	
Assessment Guidance	
<ul style="list-style-type: none"> - Car parking is minimised, - Where feasible, maximum parking rates are encouraged in setting development controls - All parking controls and outcomes are aligned with the place vision, - Electric vehicles are supported through charging infrastructure 	<p>The Property Council generally supports these requirements being applied to <i>Urban Design Development</i> through the strategic planning process (LEP/DCP controls) and when development applications are reviewed. It is important that there is flexibility in the implementation of these criteria from planning officers and determining authorities. It is not clear how this guidance will be implemented in the assessment of a proposal.</p> <p>Recommendation 66: There must be more clarity and certainty provided regarding how the Assessment Guidance in the Urban Design Guide will be implemented.</p>
Design Guidance	
8.1 Integrate parking into urban form	The Property Council supports efforts to better integrate parking into urban form. There are many examples across Sydney and other areas of NSW where our members have provided innovative design and management solutions to manage the visual impacts of the carparking.
8.2 Minimise parking, manage demand and explore strategies to accommodate new technologies	The Property Council supports the consideration of the types of actions identified in this design guidance to better manage on and off-street carparking in centres and close to transport nodes.

8.3 Consolidate access to parking and minimise conflicts.	The Property Council supports consolidated access to parking as a desirable outcome where it is feasible, and landowners can reach agreement to consolidate vehicle entry points.
8.4 Screen above-ground parking	The Property Council supports the provision of above-ground carparking that is hidden from view by active land uses such as retailing and other commercial uses.
8.5 Make parking more adaptable and sustainable.	The Property Council accepts that there is merit in consideration being given to investigating how above-ground carparking areas can be easily retrofitted for adaption to other land uses.
NATURAL SYSTEM	
Objective 9 – Landscape features and microclimates enhance human health and biodiversity	
Assessment Guidance	
<ul style="list-style-type: none"> - The proposal demonstrates adequate amenity and human comfort can be achieved. - Public open spaces include features to support human comfort and mitigate against negative sensory experiences. 	The Property Council acknowledges the importance that natural areas support human health and amenity. The application of these guidance requirements during an assessment process can be very subjective and difficult to quantify. Our concern is that these could be used by planning authorities as reasons to reject a particular development that it does not support.
Design Guidance	
9.1 Use green infrastructure to improve human health and biodiversity.	<p>The Property Council understands the importance of green infrastructure in new developments and most planning instruments (LEP/DCP) provide for minimum landscaped areas and deep soil planting areas to achieve this outcome. Many of our members have delivered award winning developments that have displayed design excellence that has included innovative and attractive green infrastructure. Our concern is that there must be flexibility offered in the way that this is achieved as this is an issue where one size does not fit all and the implementation of green infrastructure targets should be appropriate.</p> <p>Recommendation 67: Any targets for provision of certain types of green infrastructure must be appropriate for the site and location. Excessive obligations to provide landscaping should be avoided.</p>
9.2 Use nature to provide delight.	The Property Council notes the guidance to use nature to provide delight and accepts the benefits delivered in terms of human health

	and amenity from access to nature and wilderness areas.
Objective 10 – Tree canopy supports sustainable, liveable and cool neighbourhoods	
<i>Design Criteria</i>	
<p><u>Tree canopy targets</u> Urban tree canopy is enhanced and supported in accordance with the benchmarks provided on pages 50 and 51.</p> <ul style="list-style-type: none"> (a) Public open space tree canopy targets (Minimum 45% canopy cover) (b) Street tree canopy targets (between 40% and 50%) (c) Large development tree canopy targets (between 35 and 45% canopy cover) (d) Development category canopy targets (varies between 25% and 35%) 	<p>The Property Council generally supports the need for better tree canopy coverage in urban areas. History has shown that many areas development in the 1970s and 1980s were provided with very low tree cover and that has contributed to the heat island effect that many areas experience in the summer months. The identification of numerical targets in the UDG will establish a requirement to fully comply with those targets with no consideration of the unique character of a place and its capacity to meet the targets.</p> <p>Recommendation 68: The terminology and language used in respect of the tree canopy targets should be reassessed to ensure that a flexible approach is adopted for the achievement of the guide's objectives.</p>
<i>Design Guidance</i>	
10.1 Enhance urban tree canopy	<p>The Property Council supports the enhancement of tree canopy in established areas and for new areas undergoing development. The use of numerical targets (expressed as percentage of site area) is not supported and should be reassessed to deliver a more flexible approach to meeting the guide's objectives.</p> <p>Recommendation 70: The use of numerical targets (expressed as percentage of site area) for the enhancement of urban tree canopy is not supported and should be reassessed to deliver a more flexible approach to meeting the guide's objectives.</p>
10.2 Support urban tree canopy with deep soil	<p>The Property Council acknowledges the benefits of deep soil planting to support tree growth. In most low and medium density areas providing deep-soil areas for tree canopy is easily achieved. In high-density areas there must be some recognition that deep-soil planting areas may be smaller and limited to certain parts of a site such as around the periphery. The guide should acknowledge the limits on providing deep-soil planting areas in high density residential areas and business centres.</p>

	Recommendation 71: Acknowledge that high-density residential areas and business centres have limited opportunities to provide deep soil planting and that there must be a flexible approach permitted to achieve the objective.
10.3 Provide an interconnected soil network	The Property Council notes the benefits of an interconnected soil network across a site or larger precinct.
10.4 Place trees to allow for maximum canopy growth	The Property Council supports the planning of site landscaping to deliver maximum tree canopy coverage.
10.5 Ensure a diversity of street types enable tree planting	The Property Council supports consistency in tree canopy specifications for street trees provided in new precincts and large redevelopment sites. These requirements must be coordinated with the relevant local council to ensure that they are consistent with local character requirements.
Objective 11 – Water is retained and water quality improved in urban places	
Assessment Guidance	
<ul style="list-style-type: none"> - Water is retained in place to support urban tree cover and contribute to reducing the urban heat-island effect - Water (particularly run-off and stormwater) is retained on site or managed within the neighbourhood. 	The Property Council supports initiatives such as Water Sensitive Urban Design (WSUD) and Our members have delivered many award-winning development projects that exhibit the highest quality water retention and re-use systems.
Design Guidance	
11.1 Retain water in the landscape and contribute to urban cooling	The Property Council supports initiatives to retain water in the landscape.
11.2 Reduce water consumption, reduce stormwater run-off and improve water quality.	The Property Council supports initiatives to reduce water consumption and stormwater run-off in urban environments such as those indicted in the UDG.
PUBLIC SPACE	
Objective 12 – Public open space is high-quality, varied and adaptable.	
Design Criteria	
<u>Public open space provision</u> For development over 5ha, deliver a minimum of 15% of the net developable land (NDL) as freely accessible public open space, with the majority of this as dedicated RE1 zoned land (small, local, district and linear parks) Regional open spaces are excluded from this 15% calculation. For all development, deliver open spaces of varying sizes within walking distance of all residents and workers as follows:	The Property Council generally supports the benefits of access to open space and appropriate outdoor areas, this has been particularly evident during the COVID-19 pandemic. However, we do not support a blanket requirement for 15% of a site to be dedicated to the local authority for open space. There should be a requirement for open space to be identified during the strategic planning process

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<p><u>Solar access and shading for public open space</u></p> <ul style="list-style-type: none">- 50% of the public open space, including public squares and plazas has sunlight access for a minimum of 4 hours between 9am and 3pm on 21 June, demonstrated by shadow diagrams.- 20% of the public open space, and public squares and plazas, is protected from direct sunlight on 21 December, to provide protection against ultraviolet radiation.- Public open space is protected from adverse wind conditions, wherever possible.	<p>The Property Council supports the identification of benchmark sun/shade targets for important public spaces such as open space and squares and plazas in urban centres.</p>																				
<p>Design Guidance</p>																					
<p>12.1 Locate public open space to be visible and connected.</p>	<p>The Property Council supports the design guidance intended to enable open space to be more visible and connected.</p>																				
<p>12.2 Design public open spaces that are safe and accessible for all people.</p>	<p>The Property Council supports the design guidance intended to enable open spaces to be safer and more accessible for all people.</p>																				
<p>12.3 Provide for landscaping and enhance tree canopy in public open space.</p>	<p>The Property Council supports the design guidance intended to enable better landscaping and tree canopy to be provided in open space areas.</p>																				
<p>12.4 Provide for sports and active and passive recreation.</p>	<p>The Property Council supports the design guidance intended to provide for sporting and active/passive recreation areas. As local councils prepare local recreation needs strategies to meet their LSPS requirements, it is important for councils to identify locations for open space</p>																				

	<p>and to develop funding mechanisms that allow for open space infrastructure to be delivered for local communities.</p> <p>Recommendation 73: Local councils should be required to contribute towards the delivery of 'sports and active and passive recreation' in conjunction with the development industry.</p>
12.5 Provide flexible, adaptable and resilient public open space.	<p>The Property Council supports the provision of flexible, adaptable and resilient open space areas. We recognise that there is a role for local councils and State government to implement this design guidance in consultation with the development industry when land is being dedicated for open space.</p>
12.6 Develop design measures to protect public open space.	<p>The Property Council agrees that open space should be designed to provide protection for users from natural elements such as overshadowing and wind.</p>
Objective 13 – Streets are safe, active and attractive spaces for people	
Design Criteria	
Sufficient 'dwell space' is provided for activities, pedestrians, landscape and buffers in accordance with the local council requirements or as set out in Appendix 4: Street dwell space – whichever is the greater.	<p>The Property Council generally supports the concept of providing 'dwell space' in public areas.</p>
Design Guidance	
13.1 Provide varied street types that respond to street hierarchy and place qualities.	<p>The Property Council supports the provision of varied street types that are a direct response to land use, the nature of development and the differing characteristics of a place.</p>
13.2 Create comfortable streets that are visually pleasing and designed to encourage social interaction.	<p>The Property Council supports the concept of comfortable streets that provide high amenity.</p> <p>The design guidance is considered to be appropriate for some contexts such as greenfield areas. However, but it does not readily adapt to the retrofit of an established area that is undergoing transformation where there may be site constraints or other factors such and noise sources (road/rail), hazards (overland flooding).</p> <p>These elements may challenge the creation of the type of public places that the UDG is seeking to achieve.</p> <p>Recommendation 74: The UDG must consider the barriers and retrofitting solutions to delivering comfortable street and places in</p>

	established areas that are more constrained than greenfield areas.
13.3 Provide landscaped tree-lined streets that integrate services	<p>The Property Council generally supports the concept of providing tree-lined streets that are integrated with above and below ground utility services. The difficulty in many existing areas in Sydney and other parts of NSW is the prohibitive cost and barriers to achieving the objective. In many cases where this type of outcome has been attempted, there have been issues identified with altering the location of services, agreement of utility providers, overcoming objections from State agencies (former RMS and Sydney Trains) and coordinating other affected landowners.</p> <p>Recommendation 75: The UDG must recognise and consider the impediments that limit the ability for the objective of 'landscaped tree-lined streets that integrate services' to be achieved in areas where there are prohibitive costs associated with coordination of relocation of services, difficulty obtaining agency approvals and issues with obtaining agreement from other landowners.</p>
13.4 Create streets which are safe, walkable and accessible.	The Property Council supports design guidance which aims to create streets which are safe, walkable and accessible.
13.5 Design active and defined streets	The Property Council supports design guidance for <i>active and defined streets</i> and recognises the role of urban design professionals to provide input into the design of precinct masterplans and landscaping strategies to achieve the outcome.
Objective 14 – Public facilities are located in key public places, supporting community and place identity	
Assessment Guidance	
<ul style="list-style-type: none"> - Specialist analysis of existing and future demographic needs has been undertaken and supports the proposal – using relevant best practice benchmarks, council strategies and guidance. - Public facilities meet the needs of the existing and proposed community (which may differ by option) and are aligned with relevant strategic plans. 	The Property Council acknowledges that the planning and delivery of public facilities is an important element of the delivery of new communities and that local councils (with State government assistance) are well placed to identify the types and locations of new public facilities.

- Public facilities are co-located with complementary uses and have direct and active interfaces with the public realm.	
Design Guidance	
14.1 Identify public facilities to meet the needs of the community.	<p>The Property Council appreciates there when new communities are developed there will be additional demand placed on existing public facilities. Often the strategic planning process will be appropriate planning mechanism to identify additional needs for public facilities, where surplus capacity exists, where there is a need to augment the facilities or develop new public facilities. The strategic planning process and identify land that is required for facilities (and ensure that the land is reserved through the LEP) and provide for a funding mechanism to coordinate the efficient delivery of enabling and building works.</p> <p>Recommendation 76: The strategic planning process must be the primary mechanism to identify needs for public facilities and plan the delivery and funding of any new infrastructure to provide community services.</p>
14.2 Provide public facilities that are connected and safe.	The Property Council agrees that public facilities must be well-connected (to open space, waterways and natural systems) and safe for users.
14.3 Co-locate public facilities so they activate the public realm.	The Property Council supports the concept of locating public facilities with other complementary uses such as parks, town squares and plazas. Where practical the location of schools and public facilities should be shared.
14.4 Make public facilities visible civic spaces.	The Property Council supports design guidance to make public facilities visible civic spaces.
BUILT FORM	
Objective 15 – The lot layout supports green neighbourhoods and a diversity of built form and uses	
Assessment Guidance	
<ul style="list-style-type: none"> - A mix of lot types and sizes is provided that supports a range of building types, - A mix of lots within each residential block is provided - A mix of building types is provided. 	The Property Council supports the concept of diversity of lot types, building types and tenues within urban areas and where practical all developments should aim towards consistency with these guidelines.
Design Guidance	
15.1 Design lots to support desired character and topography	The Property Council supports the concept of designing lots to reflect desired character and

	topography. The factors identified in the UDG are relevant for the design of low-density residential subdivisions and larger urban renewal precincts with higher densities.
15.2 Support mixed use.	<p>The Property Council supports the establishment of mixed-use buildings in precincts where the planning controls allow them. Often the challenges for providing genuine mixed-use developments aren't design related but determined by other factors that include planning controls, feasibility and location.</p> <p>Recommendation 77: The UDG must acknowledge the barriers for the delivery of genuine mixed-use developments and how those barriers can be overcome or addressed to allow for true mixed-use centres to be developed.</p>
15.3 Provide a mix and diversity of lots and buildings.	<p>The Property Council supports the concept of providing a mix of lots and dwelling types to allow for more housing diversity. There needs to be some recognition of the role of the market in determining the size and type of lots and houses that are produced in some areas. Prescriptive planning controls can also have a significant impact on the delivery of housing in some locations.</p> <p>Recommendation 78: The UDG must acknowledge the role played by market forces in the size and type of lots and dwellings provided in some areas. The role of prescriptive planning controls must also be accepted and the need for greater flexibility to encourage more innovation and diversity.</p>
15.4 Provide setbacks that support green cover and tree canopy.	<p>The Property Council accepts that provision of landscaping and tree canopy are desirable features of neighbourhoods. The scale of side and rear setbacks allowing for provision of deep soil landscaping and tree canopy must be considered in terms of the other planning controls applying to the land so that development feasibility is not severely impacted.</p> <p>Recommendation 79: The UDG must acknowledge the importance of development feasibility when the scale of side and rear setbacks is being considered.</p>
Objective 16 – There is a strong sense of place structured around heritage and culture.	

Assessment Guidance	
<ul style="list-style-type: none"> - Adaptive reuse of heritage buildings is considered. - Historical street patterns are considered and reinstated where possible. - Solar access is adequately protected. 	<p>The Property Council generally supports the concepts for protecting heritage and culturally significant places. Many of our members have delivered award-winning projects that have involved the restoration and adaptive reuse of significant heritage items and landscapes.</p> <p>This guidance needs to be clearer in the fact that it relates items that are listed heritage only. The subjectivity around opinions on what is and should be heritage cause concern and uncertainty around how this may be applied. The heritage registers and process has been set up to ensure that due consideration is given to what is and is not heritage. The language is reasonable in its flexible principal-based application.</p>
Design Guidance	
<p>16.1 Retain and integrate elements of history to enhance the place.</p>	<p>The Property Council supports the retention and adaptive reuse of significant items of local and State heritage. Where there is a requirement to protect heritage items and elements of industrial heritage, there must be clear guidance provided by the local council or State government about the which elements are important and the extent of change that is allowed.</p> <p>Recommendation 80: The UDG must be consistent with the relevant strategic planning process and DA assessment process that applies to significant heritage sites and the consultation role undertaken by heritage bodies (Heritage Council and local councils). It must also acknowledge the cost of preserving and adapting heritage fabric for reuse and how that can impact on project feasibility.</p>
<p>16.2 Respond to natural and built heritage values.</p>	<p>The Property Council supports the concept of new development responding to a location's natural and built heritage values. There are many examples of projects undertaken by our members to demonstrate where a good outcome of this has been delivered. This guidance could be improved with some examples of where new development and heritage can co-exist without significant adverse impacts.</p> <p>Recommendation 81: The UDG should provide a series of examples of projects that exhibit</p>

	the intended consideration of heritage issues and avoiding negative impacts.
Objective 17 – Scale and massing of built form responds to desired local character.	
Assessment Guidance	
<ul style="list-style-type: none"> - Local conditions, datums lines and materials have informed the design of the built form. - The scale, massing and height of new development responds positively to adjoining buildings, the topography, views, vistas and landmarks to reinforce a coherent local identity. - The proposal demonstrates adequate amenity and human comfort is maintained for local public space. - Materials and detailing respond to the local character of adjacent streetscapes and parks. - Setbacks are appropriate to local conditions and deep soil (where required). - Built form elements have appropriate orientation, proportion, composition and articulation 	<p>The Property Council supports consideration of a detailed site analysis when investigating the development potential of a site. Many of our members have delivered award-winning projects that have provided an appropriate response to the desired future character of an area. Areas and precincts undergoing transition and renewal must focus on the future state conditions rather than the density and height of existing buildings to guide new development.</p> <p>Recommendation 82: Areas undergoing transition under new planning controls (heights and densities) should recognise that future desired character may not be consistent with existing local character.</p>
Design Guidance	
17.1 Ensure built form layout responds to natural and built conditions of the place to maximise amenity.	<p>The Property Council supports the concept of maximising amenity by ensuring built form responds to natural and built conditions of the place. The UDG should provide an opportunity to achieve a truly place-based design outcome by identifying local planning controls that have not been developed in response to local conditions of the place. Prescriptive building setbacks and heights that ignore local topography and orientation should be applied flexibly to achieve superior amenity.</p> <p>Recommendation 83: The UDG should enable flexibility in respect to the application of local planning controls (LEP/DCP) that have not been prepared with a place-based approach.</p>
17.2 Manage built form (scale and massing) transitions at edges and within the development to fit the context.	<p>The Property Council acknowledges that in many cases a LEP or a DCP may establish the primary built form controls for a site and those controls may not provide the transition of building heights and scale across a precinct or a site. The UDG provides for an opportunity for better design outcomes to be</p>

	<p>delivered with greater flexibility in the application of planning controls.</p> <p>Recommendation 84: The UDG must enable a flexible approach in respect of certain local planning controls that do not provide for development that is consistent with the objectives of the guide or the SEPP.</p>
17.3 Consider human scale.	The Property Council supports the design guidance that prioritises the consideration of human scale.
17.4 Design massing and setbacks appropriate for adjacent public space	<p>The Property Council generally supports the intention to provide for appropriate massing and setbacks for land adjacent to open space. It is important that where any DCP is inconsistent with the UDG that inconsistency is resolved. The application of this section of the UDG has the greatest potential for inflexible application at the development application stage of a major development. The advice provided by design panels should have regard to LEP planning controls that will usually determine building heights and densities.</p> <p>Recommendation 85: The UDG should be applied having regard to LEP planning controls and avoiding any unreasonable limitations on development occurring in high and medium density areas.</p>
17.5 Create positive climatic conditions through layout, siting and appropriate built form.	<p>The Property Council generally supports the intention to provide for appropriate climatic conditions through layout, siting and appropriate built form. Our members have delivered many award-winning projects that have considered local climate (solar access, winds) in their design. We would be concerned where the design guidance provided in the UDG is applied in a prescriptive way that removes opportunity for innovative and create design outcomes.</p> <p>Recommendation 86: The UDG must clearly identify the requirements in 17.5 are intended as desirable guidelines and not prescriptive targets that must be achieved.</p>
17.6 Ensure site coverage provides a balance of indoor and outdoor space.	The Property Council generally supports the intention to ensure that site coverage provides an appropriate balance of indoor and outdoor space. Any new requirements concerning site coverage must be considered having regard to the relevant planning controls for the site in the LEP and DCP which may already provide objectives and standards for site

	<p>coverage. The UDG has identified 50 to 70% for low density detached housing. It is important that these site coverage requirements are considered in terms of other planning requirements such as densities, setbacks and landscape requirements.</p> <p>Recommendation 87: The UDG must clearly identify the site coverage standards provided in 17.6 are for guidance purposes only and not to be applied as prescriptive planning controls.</p>
17.7 Use materials that are appropriate for the local area and will reduce urban heat.	The Property Council supports design guidance for the use of material that are appropriate for the local area and will reduce urban heat.
Objective 18 – Built form enlivens the ground plane and activates and frames public space.	
Assessment Guidance	
<ul style="list-style-type: none"> - Built form frontages to main streets, neighbourhood centres, and public open spaces are fine grain and provide active frontages. - Materials make a positive contribution to the public realm 	The Property Council supports the objectives associated with assessment guidance of built form adjacent to the public realm. Many of our members have delivered award-winning projects that exhibit superior relationship to the adjacent public realm.
Design Guidance	
18.1 Design public-private interfaces to support the public realm.	The Property Council supports public-private interfaces that support the public realm. It is important that any DCP provision applying to a site or precinct is consistent with this guideline and if not, the UDG must resolve the conflict.
18.2 Vary and articulate built form.	The Property Council supports built form that is varied and articulated. It is important that any DCP provision applying to a site or precinct is consistent with this guideline and if not, the UDG must resolve the conflict.
18.3 Design active frontages.	<p>The Property Council supports the concept of designing for active frontages. The UDG provides a number of targets and standards that should be provided in a development. The ability of a development to conform to those targets and standards will be limited by site specific characteristics such as topography, orientation, flood affectation and sources of noise such as busy roads. The UDG must provide a flexible approach to the application of targets or standards for active frontages.</p> <p>Recommendation 88: The UDG must provide a flexible approach to the requirements for</p>

	active street frontages to take into account any site-specific characteristics.
18.4 Integrate services and infrastructure.	The Property Council supports the need for better integration of services and infrastructure where possible and practical. This will require agreement of multiple utility service providers (council, water supply authority, energy supply authority, telecommunications provider, gas supplier, waste collection contractor, etc).
18.5 Consider the impacts of material choices.	The Property Council acknowledges the importance of having regard to the impacts of material choices. Appropriate guidance around the advantages and disadvantages of certain types of materials would be useful to better help understanding of benefits and costs of particular external materials and finishes.
Objective 19 – Developments use resources efficiently, reduce embodied emissions, and consider onsite energy production.	
Assessment Guidance	
<ul style="list-style-type: none"> – The proposal is a sustainable development. – The development has considered and committed to emissions targets through to implementation and considered onsite renewable energy equivalent to 20 per cent of the annual electrical energy demand. – Smart technologies and infrastructure have been integrated into the development 	The Property Council supports the objectives associated with assessment guidance for the developments to use resources efficiently, reduce embodied emissions, and consider onsite energy production. Many of our members have delivered award-winning projects that exhibit superior sustainability performance and have incorporated innovative technology to reduce embodied emissions and take up of alternative energy generation.
Design Guidance	
19.1 Reduce energy consumption and support renewable energy generation.	The Property Council supports measures that encourage the reduction of energy consumption and renewable energy generation where it is both practical and feasible.
19.2 Deliver net zero emissions neighbourhoods	The Property Council supports measures that encourage the delivery of net zero emissions neighbourhoods where it is both practical and feasible.
19.3 Minimise embodied carbon in materials.	The Property Council supports intent of the measure to minimise embodied carbon in material. However, the planning system is not the efficient place to deliver real outcomes in embodied energy. The selection and quantification of materials at this early stage of the development is inappropriate. Quantities would be approximate at best, and further design development may result in significant changes in

	<p>construction systems – that result in assessment needing to be repeated.</p> <p>Recommendation 89: Measures to minimise embodied carbon in building materials should be developed in consultation with the development industry, having regard to the impacts this may have upon the construction and development process.</p>
19.4 Consider integrating smart technologies and solutions	The Property Council supports the development of smart cities technology where it is both practical and feasible.
Part 3 – Implementing good design practice	
3.1 Importance of good urban design process	The Property Council supports good urban design and an effective process to achieve good urban design is essential to achieve a highly desirable urban environment.
3.2 The process in practice	The Property Council supports the need to document the outputs from the urban design process to illustrate the journey from ideas to final design. The level of detail must be appropriate for the scale of the project concerned to avoid unnecessary details being submitted.
3.3 Good urban design process	This section of the guide provides a step-by-step description of the urban design process, including design preparation, design development and design delivery. We welcome the detailed explanation of the urban design process and expect that proposals that can demonstrate they have followed a detailed design process will be considered favourably by design review panels.
3.4 DP SEPP and UDG requirements	Table 3.1 of this section sets out the typical urban design DA requirements for the affected categories of development. The Property Council is concerned that the application requirements set out in Table 3.1 are indicative only and require further consideration before the UDG is finalised. Stakeholders involved with preparing development applications will require further clarification on the submission requirements for a broad range of development types. It is important that the submission requirements are clear and practical to avoid confusion and unnecessary additional documentation.
State Significant Development (SSD)	Section 3.4 indicates where a SSD is supported by strategic planning it will require a Master Plan,

	<p>a DCP and a Design Verification Statement. The UDG indicates where SSD is not supported by strategic planning the case for change requires further justification. As SSD is determined by a SEPP and may not be identified in strategic planning framework, the requirement for justification of the change should not be required.</p> <p>Recommendation: 90 The application requirements for State Significant Development should be changed to remove the requirement for further justification of a change to an application when the change is not consistent with strategic planning.</p>
Subdivision Development Applications	<p>Section 3.4 indicates where a Subdivision Development Application is supported by strategic planning it will require a Master Plan and a Design Verification Statement. Where a subdivision proposal is not supported by strategic planning, the case of change will require further justification. As residential subdivision requires a change to a permissible zoning and minimum lot sizes, most subdivisions will have been through a LEP change which in most cases cannot occur unless the proposal is consistent with the relevant strategy document (eg a residential or settlement strategy). This is supported.</p> <p>Recommendation 91: The UDG should be amended to provide a DA process flowpath for a residential subdivision and clearly indicate where the UDG should be applied in each step of the DA process.</p>
Other Development Applications (DA)	<p>Section 3.4 indicates where a DA is supported by strategic planning (Regional Plan, District Plan or local strategy) it will require Design Verification Statement and, depending on the complexity of the project, a Master Plan and DCP. The UDG indicates the level of detail and applicability of these will be defined on a case-by-case basis. Subject to further detail being prepared to explain where a Master Plan and DCP is needed, this is supported.</p>
Planning Proposals	<p>The Property Council understands that a Ministerial Direction will require that planning proposals on land greater than 1 hectare (10,000m²) consider the Design and Place SEPP</p>

	and the UDG. It is appropriate that the DP SEPP and the UDG are considered early in the redevelopment of a precinct or development site undergoing transformation or renewal. Where there has been consideration of the UDG as part of a planning proposal and a rezoning is supported, it is appropriate that this is recognised as part of the consideration of any subsequent development applications within the precinct or site.
Appendix 1 – Application Requirements	
Design verification statement – template	The Property Council generally supports the release of a Design Verification Statement template and notes that it is intended to serve as a guide for design professionals to prepare a DVS for their projects. We understand that architects and urban designers have been provided with workshops to address various aspects of the D&P SEPP package including the UDG. It is important that the content of these statements have been considered and discussed with the members of those groups.
Appendix 2 – Public Open Space	<p>The content of Appendix 2 provides a useful tool for planning open space areas in greenfield land release areas. The criteria and methodology for the provision of open space in new neighbourhoods will be of greatest value to land developers and councils in those areas under development. The relevance of this information to other places and development scenarios is limited. We would suggest that this should be a stand-alone document that would form part of the toolbox for these areas rather than sitting within the UDG.</p> <p>Recommendation 92: Public open space guidelines in Appendix 2 should be removed from the UDG and should form a standalone document that sits within a toolbox for greenfield land release areas.</p>
Appendix 3 – Providing urban tree canopy in large developments	
Method for setting large-scale development tree canopy targets	The use of prescriptive targets for urban tree canopy is not supported. A more flexible approach is preferred where a desired outcome is stated, and several performance-based criteria established to measure if the principles and the objectives has been met.

	Recommendation 93: The prescriptive urban tree canopy targets indicated in Appendix 3 of the UDG should be removed and a performance-based approach should be developed to achieve the principles and objectives of the guide.
Appendix 4 – Street dwell space	<p>The Property Council notes the work undertaken to consider the need for footpath space for a range of activities including outdoor dining, socialising and movement. These are all considered essential features of our cities and centres and in many cases our footpath have not been designed for those uses.</p> <p>We encourage the Government Architect to continue working closely with Transport for NSW and local councils to ensure that the guidelines consider a broad range of factors including pedestrian safety, amenity, and the suitability of certain locations where vital infrastructure prevents the use of footpath and roadside spaces for passive uses.</p> <p>Recommendation 94: Further consultation on the application of Appendix 4 of the UDG must take place between Transport for NSW and local councils to ensure that the guidelines are fit for purpose and do not lead to any unintended consequences.</p>

Draft Local Government Design Review Panel Manual 2021

Draft Local Government Design Review Panel Manual (the 'Manual')	
Issue	Commentary
General	<p>The Property Council welcomes a guide to provide consistency between Design Review Panel experiences. However, it is our view that the Manual places disproportionate weight on the role of design review panels.</p> <p>Many of our members have considerable experience dealing with design review panels since they were initially established under SEPP 65 in 2002. The operation of panels needs to focus to provide written feedback that is delivered efficiently, does not conflict with the rights of a proponent to lodge a development application and is carried out in an independent manner.</p> <p>We would be grateful for these comments to be taken into consideration as the Manual is refined and finalised.</p>

Part 1 Understanding design review panels	The Property Council supports the guidance provided within Part 1 of the Manual and the clear indication that the recommendations of a design review panel are advisory only.
Part 2 Establishing a design review panel	<p>The Property Council has noted Part 2 of the Manual is intended for councils as they establish a local design review panel.</p> <p>2.3 addresses the costs of operating a panel and we welcome the statement made that all parties should be mindful of the cost of conducting design review using a design review panel.</p> <p>2.5 provides the set of skills that a member of a design review panel member should have. It is essential that member of panels have extensive professional experience across a range of sectors relevant to the main types of projects found in the LGA.</p> <p>2.7 covers the council resources provided to support the design review panel. It is vital that local councils adequately resource and support their design review panels. 2.3 indicated that the fees paid by the proponents do not fully cover the council's costs of running a design review panel. This should not cause significant delays in panel operations.</p> <p>Recommendation: We recommend Design Review Panel members are required to demonstrate extensive professional experience across a range of sectors relevant to the main types of projects found in the relevant LGA.</p>
Part 3 Design review panel operations	<p>The Property Council welcomes the guidance provided in 3.2 and 3.3 to explain the steps that can be expected during the design review panel process. An important issue that the Manual has identified is the consistency of panel members from one review to the next. It is essential that panel members remain consistent for the duration of a review and changes should be avoided wherever possible.</p> <p>Consideration should be given to councils providing proponents with a fact sheet explaining how the panel process operates when they submit a development application online using the Planning Portal.</p>
Part 4 Deliverables, application and governance	The Property Council supports the content of part 4 of the Manual – Deliverable, application and governance. In particular, the time for the design advice letter (section 4.1) to be issued is critical and delays in providing this feedback should be avoided where possible. The advice content should follow a consistent layout and style with recommendations clearly stated so that proponents and council planners both understand the advice provided by the panel.

	The requirement for a design review report to be prepared by the proponent is supported. Given the considerable time and effort that is spent preparing Design Review Reports, these must be included in the assessment planner's detailed consideration of projects and indicate where the design advice is supported or not supported.
Part 5 Case studies	The Property Council welcomes the inclusion of six (6) case studies to provide real examples of how design review panels have provided constructive advice that has led to outstanding design outcomes being delivered. Consideration should also be given to expanding the case studies section of the Manual to describe scenarios or situations that should be avoided in the design review panel process (councils and proponents should be de-identified in those cases). It would assist councils to understand what aspects of the design review panel process did not work or failed.

Conclusion

The Property Council does not support the DP SEPP package in its current form due to the negative impacts upon:

- Housing affordability through increased uncertainty and more complex approval processes; and
- Ongoing and sustainable housing supply
- Investor confidence
- The NSW economy's recovery post COVID-19

Elements of the DP SEPP package relating to proposed reforms to the BASIX Building Sustainability Index are supported.

We recommend.

- **The DP SEPP is withdrawn from public exhibition**
- **The aspects of the DP SEPP relating to the reform of the BASIX Building Sustainability Index are extracted and progressed separately**
- **The DP SEPP is disseminated and subject to a rigorous and comprehensive review before any aspect of the DP SEPP is progressed further.**