

# DESIGN AND PLACE SEPP



Public Consultation Draft Feedback

GANSW

**NEW SOUTH WALES CHAPTER**

Submission date: 18 March 2022

## OVERVIEW

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The Australian Institute of Architects (the Institute) and its members are dedicated to raising the quality of the built environment for people and to the advancement of architecture. We seek to improve the enduring health and wellbeing of all Australians. The design of the built environment shapes the places where we live, work and meet.

Good design adds value to all aspects of the built environment. Good design creates built environments which are environmentally, socially and economically sustainable. Climate change, housing affordability, equitable access to core amenities such as solar access, ventilation, privacy and open spaces; these are urgent issues, requiring sophisticated solutions.

The planning and design of cities and towns to address these challenges will significantly impact the shape of Australia's built environment, requiring governments to be committed to delivering a high quality, sustainable legacy for future generations. Placing good design at the heart of this process will improve outcomes for our communities. The buildings and urban solutions we accept today directly impact on our ability to successfully navigate the key issues of the future - we need to design and build today for the future we hope to have.

To face these challenges and act upon lessons learnt, it is critical to foster the unique capability of our built environment professionals and their capacity to bring innovation and know-how to the government's work.



**Laura Cockburn**

PRESIDENT NSW CHAPTER



## ABOUT THE INSTITUTE

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The Australian Institute of Architects (the Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with around 12,000 members across Australia and overseas.

The Institute exists to advance the interests of members, their professional standards and contemporary practice, and expand and advocate the value of architects and architecture to the sustainable growth of our communities, economy and culture.

The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design.

## PURPOSE

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This submission is made by the Australian Institute of Architects (the Institute) to provide input on the draft Design and Place SEPP.

At the time of this submission the NSW Chapter President is Laura Cockburn, the NSW State Manager is Joanna McAndrew and the NSW Policy and Advocacy Manager is Lisa King.

## CONTACT DETAILS

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Australian Institute of Architects, NSW Chapter  
ABN 72 000 023 012

Tusculum  
3 Manning Street  
Potts Point NSW 2011  
t: 02 9246 4055  
[nsw@architecture.com.au](mailto:nsw@architecture.com.au)

### Contact

Name: Lisa King | Policy and Advocacy Manager NSW  
Email: [lisa.king@architecture.com.au](mailto:lisa.king@architecture.com.au)

## TABLE OF CONTENTS

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1. EXECUTIVE SUMMARY
2. RECOMMENDATIONS
3. SEPP AND REGULATION
4. APARTMENT DESIGN GUIDE
5. URBAN DESIGN GUIDE  
DESIGN REVIEW PANEL
6. BASIX AND SUSTAINABILITY MEASURES
7. CONCLUSION

## EXECUTIVE SUMMARY

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The Australian Institute of Architects (the Institute) commends the Department of Planning, Industry and Environment (DPIE) and the Government Architects NSW (GANSW) for elevating ecological sustainability, the protection of the environment and our connection with Country to the forefront of place-based design planning.

We strongly support the Design and Place SEPP and we look forward to working with the GANSW to ensure the implementation of this work results in a robust framework which delivers future-focussed design quality and is integrated appropriately with existing NSW planning processes.

### The Institute strongly supports:

- **provision of well-researched planning controls that protect the core amenities for residents such as solar-access, cross-ventilation, privacy and access to open space**
- **a clear and consistent demonstration of design principles and objectives prescribed as part of the application requirements for a development application**
- **strengthening the role of BASIX and increasing sustainability targets**
- **learning to connect with Country at the earliest opportunity and embedding this knowledge throughout our approach to planning**
- **an Urban Design Guide which puts quality place-based design at the forefront of strategic planning**

We advocate that the creation of well-designed places be the central emphasis that guides policy and decision-making. We support planning policy which enables community input in shaping the future of places, delivers certainty for investors and the resulting confidence in the system.

We understand the Design and Place SEPP has a significant role to play within the current legislative framework. It needs to support a design-thinking process which can address emerging strategic planning while demonstrating awareness of the development controls that apply to individual sites and the assessment of these proposals.

We recognise this is a large body of work and we note it is ambitious in its scope and nature. We thank the DPIE and the GANSW for showing leadership in this area and for striving to bring focus to place-based design. We believe this work will be vital into the future as we continue to face complex challenges, such as climate change.

**The Institute supports a rational, linear, design-based planning system, where good strategic planning underpins development controls that can lead to predictable outcomes for development assessment.**

## RECOMMENDATIONS

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1. Remove new definition of architect as defined in EP&A Amendment (Design and Place) Regulation 2021 and retain existing definition of qualified designer
2. Remove new definition of urban designer as defined in EP&A Amendment (Design and Place) Regulation 2021 and partner with industry to further resolve the definition, recognition and accreditation of urban designers
3. Design Review Panels should be endorsed rather than constituted by the Minister under part 16B for the local government area in which the development will be carried out (EP&A Amendment (Design and Place) Regulation 2021)
4. Further strengthen and simplify the link between design principles and objectives with the relevant design criteria and accompanying guidance across the suite of documents
5. Ensure language is clear, concise and not open to interpretation across the suite of documents
6. Provide further guidance in the Apartment Design Guide in terms of acceptable alternative solutions to ensure certainty in meeting design criteria particularly in the areas of shading and ventilation
7. Align with the NCC to ensure new housing meets the equivalent of LHDG Silver standard with some housing provided at Gold and Platinum standard levels or equivalent
8. Provide more specific guidance within the Urban Design Guide, including case studies, to better inform the design of other sites such as urban infill or in regional areas
9. Re-conceive the Urban Design Guide as a suite of guides for different development types or contexts as recommended by the Designers In Government group
10. Provide an opportunity for a Design Review Panel, or Design Advisory panel, at early concept or schematic design phase to critically review strategic merit prior to large time and cost outlays by proponents
11. Provide adequate resourcing and training to ensure Design Review Panel members have the expertise required to assess 'alternate pathways'
12. BASIX and sustainability measures should continue to be developed in collaboration with the Institute, and other relevant stakeholders, to determine how they will be practically implemented, with more detailed information provided and an additional round of consultation undertaken

## SEPP AND REGULATION

EP&A Amendment (Design and Place) Regulation 2021 (NSW) Definition of architect:

*architect means a design practitioner registered under the Design and Building Practitioners Act 2020 in the design practitioner – architectural class*

This definition must be deleted, and the existing definition of qualified designer being ‘a person registered as an architect in accordance with the Architects Act 2003’ retained.

The Institute strongly believes that the registration process administered by the NSW Architects Registration Board under the Architects Act 2003 is more than robust enough to ensure that architects have the requisite experience to competently carry out work under the Design and Place SEPP. The Institute cannot support ANY additional requirement for registration on architects under the Design and Place SEPP.

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EP&A Amendment (Design and Place) Regulation 2021 (NSW) Definition of architect:

*urban designer means the following—*

- (a) a qualified town planner with at least 5 years’ experience in precinct or master planning,*
- (b) a landscape architect with at least 5 years’ experience in precinct or master planning,*
- (c) an architect with at least 5 years’ experience in precinct or master planning.*

This definition should be removed until further work has been undertaken with all relevant stakeholders to ensure any definition of urban designer addresses the specific experience, skills and competencies required.

The Institute of Architects recommends a focus group be formed in partnership with government and including other relevant member organisations and professional bodies to further resolve the definition, recognition and accreditation of urban designers.

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EP&A Amendment (Design and Place) Regulation 2021 (NSW) [1] Sch 1 Cl 3:

*design review panel means—*

*the design review panel constituted by the Minister under Part 16B for the local government area in which the development will be carried out, or*

*if a design review panel has not been constituted for the local government area in which the development will be carried out— the State design review panel. (b) a landscape architect with at least 5 years’ experience in precinct or master planning, (c) an architect with at least 5 years’ experience in precinct or master planning.*

The Institute of Architects supports the City of Sydney position that the design review panel be **endorsed** by the Minister rather than **constituted** under part 16B for the local government area in which the development will be carried out.

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## RECOMMENDATIONS

1. Remove new definition of architect as defined in EP&A Amendment (Design and Place) Regulation 2021 and retain existing definition of qualified designer
2. Remove new definition of urban designer as defined in EP&A Amendment (Design and Place) Regulation 2021 and partner with industry to further resolve the definition, recognition and accreditation of urban designers
3. Design Review Panels should be endorsed rather than constituted by the Minister under part 16B for the local government area in which the development will be carried out (EP&A Amendment (Design and Place) Regulation 2021)

## APARTMENT DESIGN GUIDE

The Institute commends the government for placing context, built form, sustainability and connecting with Country at the heart of good place-making. We strongly support the objectives of the ADG which identify and value the important conditions and amenities, such as solar access, natural cross-ventilation, privacy and access to open space which greatly contribute to making our apartments liveable.

The Institute strongly supports an ADG which clearly links design principles with objectives and the relevant design criteria and accompanying guidance. The ADG has provided common ground and consistency for planning controls across NSW. We believe these links can be further simplified and strengthened to ensure there is no ambiguity, and assessments can be carried out efficiently and effectively. The use of wording which is not open to interpretation is critical, and the Institute believes the wording of some sections can be further tightened to ensure consistency and clarity. In this respect, we support the detailed response outlined in the City of Sydney submission.

The Institute supports an 'alternate pathway' which enables a flexible approach to design, however we believe further guidance including supporting case studies would assist both designers and assessors in understanding what an acceptable alternative solution may be and ensuring the consent authority is confident the objectives have been satisfied. This additional guidance should aim to provide more certainty with regard to how each design criteria may be met, particularly in the areas of shading and ventilation.

The Institute strongly supports the position that all new housing be certified Silver standard level under the Livable Housing Australia certification. Additionally, we would also welcome an objective which supports some housing being provided at Gold and Platinum standard levels. We encourage the NSW government to adopt the NCC inclusion of accessible standards into housing ensuring there is national consistency and meeting the objectives of the 2041 Housing Strategy.

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## RECOMMENDATIONS

4. **Further strengthen and simplify the link between design principles and objectives with the relevant design criteria and accompanying guidance across the suite of documents**
5. **Ensure language is clear, concise and not open to interpretation across the suite of documents**
6. **Provide further guidance in the Apartment Design Guide in terms of acceptable alternative solutions to ensure certainty in meeting design criteria particularly in the areas of shading and ventilation**
7. **Align with the NCC to ensure new housing meets the equivalent of LHDG Silver standard with some housing provided at Gold and Platinum standard levels or equivalent**

## URBAN DESIGN GUIDE

### DESIGN REVIEW PANEL MANUAL

The Institute strongly supports the intent of the Urban Design Guide and the guidance provided. Member feedback has indicated that many architects feel the guidance provided is more relevant to greenfield sites at the outer limits of existing cities and that additional guidance, with case studies, should be provided to more comprehensively and specifically address other contexts such as urban infill sites and regional areas. We support the recommendation put forward by the Designers in Government group which suggests re-conceiving the UDG as a suite of guides for different development types or contexts.

Key decisions, including the integration of infrastructure and land use need to be structured in strategic frameworks prior to the development application process occurring. The Institute strongly supports a Design Review panel, or Design Advisory Panel, at early concept or schematic design phase which aims to critically review the basis of an application to ensure there is strategic merit. This form of design review enables a collaborative discussion about the issues and opportunities at an early stage to assist both the applicant and the assessment team in understanding the best outcomes for the site prior to significant costs being outlaid by the proponent or large delays being experienced. This will ensure urban design resources are directed at the outset of a project leading to improved place-based plan making.

We strongly support the inclusion of a planner and urban designer, either independent or from within government itself, on the panel to provide a broader review of the project in its context and encourage design-based thinking where alternatives can be interrogated and considered.

The Institute is concerned that there is currently a lack of sufficiently experienced panel members, particularly in regional areas. It is imperative that the proposed Design Review panels are supported adequately to ensure panels are resourced with those who have the expertise to provide the level of guidance required, particularly in the event of a 'alternate pathway' being assessed.

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## RECOMMENDATIONS

8. Provide more specific guidance within the Urban Design Guide, including case studies, to better inform the design of other sites such as urban infill or in regional areas
9. Re-conceive the Urban Design Guide as a suite of guides for different development types or contexts as recommended by the Designers In Government group
10. Provide an opportunity for a Design Review Panel, or Design Advisory panel, at early concept or schematic design phase to critically review strategic merit prior to large time and cost outlays by proponents
11. Provide adequate resourcing and training to ensure Design Review Panel members have the expertise required to assess 'alternate pathways'

## BASIX AND SUSTAINABILITY MEASURES

### STRONGLY SUPPORTED

The Institute supports the proposed measures for non-residential buildings to increase their energy efficiency and progress towards net zero greenhouse gas emissions (SEPP Part 2, Clauses 19 – 22 & Part 3, Division 1, Clause 26 as well as EP&AA Regs 2000, Schedule 1, Part 6, Division 1A, Clause 57D), noting: the Institute supports the City of Sydney’s recommendation to remove NCC JP1 from the list of compliant standards and supports their proposed amendments to Subclause 1e to align with their methodology for offsite renewable energy.

The Institute supports the proposed new measures for residential buildings to increase their energy efficiency and thermal comfort, in line with proposed changes to the National Construction Code. We would welcome continued consultation as the new BASIX tools are developed and note the significant difficulty in providing feedback without access to the tools. (SEPP Part 2, Clauses 19-22 & Part 3, Division 2, Clause 27).

The Institute supports the proposed measures to include infrastructure for electric vehicles; noting specific technical energy supply requirements should be defined in consultation with electric vehicle experts) (EP&AA Regs 2000, Schedule 1, Part 6, Division 8A, Clause 99).

### IN PRINCIPLE SUPPORT – FURTHER CONSULTATION REQUIRED

The Institute supports the proposed reporting measure for embodied energy / emissions in non-residential buildings; noting that extensive work is underway (lead by the NABERS team and in collaboration with the Australian Government and a wide cohort of industry and academic advisors) to define a robust and practical method of implementation. We request that consultation on this project continue and welcome the opportunity to actively contribute to the project. (EP&AA Regs 2000, Schedule 1, Part 6, Division 1A, Clause 57C).

The Institute supports the proposed new reporting measure and standards for embodied energy / emissions for residential buildings in principle; noting that access to the tool for testing is critical before comprehensive comments can be provided to the NSW Government, and further consultation is required to ensure objectives are achieved in a robust and practical manner. The per person metric chosen to measure embodied energy / emissions should be explained in detail and possibly changed to square metres (SEPP Part 3, Division 2, Clause 27).

The Institute supports the new merit assessment pathway for residential buildings in principle; noting that extensive further information and consultation is required to address concerns regarding the administrative structures and administrative resourcing required to ensure sustainability objectives are met and to prevent ‘gaming of the system’. Detailed work is required to determine how ‘recognised professionals’ who are permitted to conduct assessments and ‘Non- BASIX modelling software’ will be accredited and audited. It is not clear if energy modelling software that meets the international technical standard (ANSI/ ASHRAE standard 140-2017) takes into consideration Australian climatic conditions and the properties associated with Australian building materials. Hence it is unclear if this standard is suitable for use. It is noted that the *Merit*

*Assessment Pathway Modelling Rules* are still under development and not included in the Design and Place SEPP Exhibition Package; the Institute requests that detailed consultation be undertaken on the Rules (EP&AA Regs 2000, Schedule 1, Part 6, Division 8A, Clause 164A).

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## RECOMMENDATIONS

- 12. BASIX and sustainability measures should continue to be developed in collaboration with the Institute, and other relevant stakeholders, to determine how they will be practically implemented, with more detailed information provided and an additional round of consultation undertaken**

## CONCLUSION

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The Institute commends the DPIE and GANSW for the extensive work which has been undertaken on the Design and Place SEPP, including the considerable time dedicated to consultation with industry. We strongly support the intent of this work and the important objectives which have been elevated as a result.

The Institute is grateful for the opportunity to provide input into the draft Design and Place SEPP. We look forward to continued consultation as this work evolves even further and we offer the Institute's support in assisting the DPIE and the GANSW to achieve a high quality, place-based framework for delivering quality built environment outcomes for all in NSW.