

DECEMBER 2021

Design and Place SEPP Overview

Overview of the Design and Place SEPP consultation draft and related guides for public exhibition



The Department of Planning, Industry and Environment acknowledges the Traditional Custodians of the land and pays respect to Elders past, present, and future. We honour Australian Aboriginal and Torres Strait Islander peoples' primary cultural and spiritual relationships to place, and their rich contribution to our society. To that end, all our work seeks to uphold the idea that if we care for Country, it will care for us.

Published by NSW Department of Planning, Industry and Environment
www.dpie.nsw.gov.au

Title: DESIGN AND PLACE SEPP
– OVERVIEW

Acknowledgements

DPIE and Government Architect New South Wales (GANSW) images only, unless otherwise captioned.
Illustrations by Felix Saw.

© State of New South Wales through Department of Planning, Industry and Environment 2021. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (December 2021) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

Contents

A. Introduction	3
A.1 What is on exhibition	6
A.2 What's changed since the previous exhibition?	7
A.3 Key features of the policy package	8
A.4 About the consultation draft	12
A.5 Amendments to other instruments	13
B. Stakeholder engagement and response	14
B.1 Certainty and flexibility	15
B.2 Commerciality and feasibility	16
B.3 Sustainability and ambition	17
B.4 Quality and amenity	18
B.5 Design skills	19
B.6 Design review	19
B.7 Metro and regional differentiation	20
B.8 Hierarchy of instruments	21
B.9 Connecting with Country	22
C. Information Sheets	23
C.1 Apartment Design Guide	24
C.2 Sustainability in residential buildings (BASIX)	27
C.3 Sustainability in non-residential buildings	29
Glossary	31

Cover image: Summer Hill Mill, Sydney
Design: Hassell. Photo: Guy Wilkinson



Part A

Introduction

Photo: Brett Boardman

We're taking a new approach to planning and development to support a new way of living. That means making sure everyone can be part of healthy, productive, and sustainable communities, with access to greener places, better public spaces, and homes that are comfortable to live in – no matter where they live. To make that happen we need more consistent, certain and streamlined planning processes, especially when it comes to design.

The new *State Environmental Planning Policy (Design and Place) 2021* (DP SEPP) and supporting guides are part of a broader review of all our SEPPs and it aims to simplify the way that we plan for and design sustainable and resilient places in NSW.

The DP SEPP is the first policy to implement the Minister's State Planning Principles which require new planning instruments to deliver 'well-designed places that enhance quality of life, the environment and the economy'.

NSW is taking a leading role in sustainability and the DP SEPP puts the sustainability, quality, beauty and vibrancy of places at the forefront of development. Our shared responsibility to sustain healthy and thriving communities, and to care for our environment underpins the policy. The DP SEPP spans places of all scales, from precincts, large developments and buildings, to infrastructure and public space.

We've worked closely with stakeholders including the development industry, local government, and the community for almost 12 months, to develop this new policy for the people of NSW. Industry and councils told us

the initial policy positions didn't quite have the balance right.

We listened to that feedback and have worked hard addressing those issues. We're now ready to exhibit the DP SEPP and hear your responses to the changes we've made. Throughout the exhibition, we will also continue to consult with stakeholders to continue to test the economic, social, and environmental benefits of the policy.

Policy isn't made until all views have been considered – so far our consultation with stakeholders has involved in-depth conversations with industry, councils and other peak stakeholders about potential impacts. Now it's time for everyone to have their say.

Ultimately, our aim is to deliver what the community wants from their local area and their homes while balancing this with continued housing supply.

The DP SEPP outlines a principle-based approach to encourage greater creativity and innovation and reduce complexity in the planning system.



Photo: Destination NSW

A.1

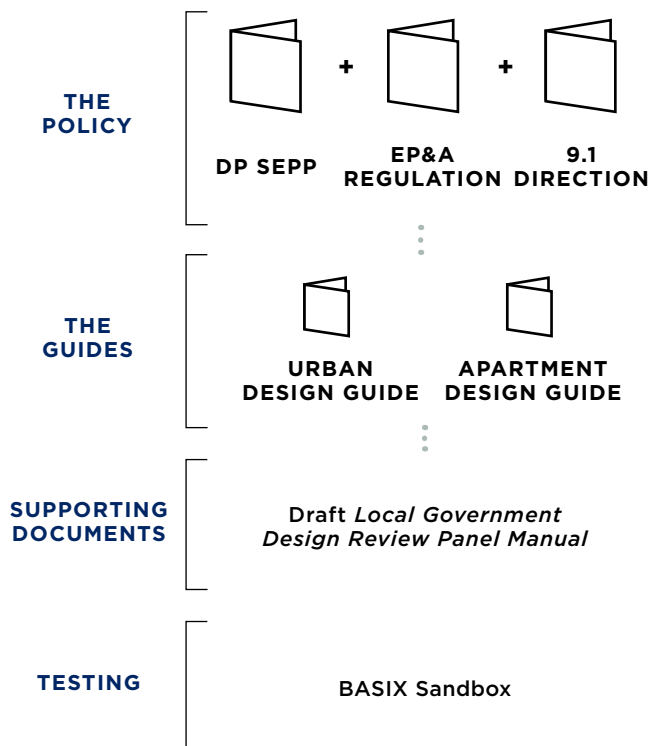
What is on exhibition?

This document provides an overview of the DP SEPP policy package which comprises:

- the proposed draft *State Environmental Planning Policy (Design and Place) 2021 (DP SEPP)*
- proposed changes to the Environmental Planning and Assessment Regulation 2000 (**EP&A Regulation**)
- proposed direction by the Minister under section 9.1 of the *Environmental Planning and Assessment Act 1979 (9.1 Direction)*

The policy package is supported by:

- the revised *Apartment Design Guide (ADG)*
- the proposed new *Urban Design Guide (UDG)*
- updates to residential sustainability (BASIX) and new sustainability requirements for non-residential development
- supporting tools for testing during exhibition and the BASIX Sandbox Tool
- the *Local Government Design Review Panel Manual (LGDRPM)*.



Timeline

The following timeline shows key milestones for the DP SEPP from mid-2020 until it comes into effect in late 2022.

MID-LATE 2020	FEB-APRIL 2021	MAY-SEPT 2021	LATE 2021	END 2021 - EARLY 2022	MAY-JUNE 2022	MID-END 2022	END 2022
Writing the DP SEPP explanation of intended effect (EIE)	Public exhibition 1	Writing the SEPP and guides	Public exhibition 2	Finalise the SEPP	Make the DP SEPP	Transitional period (6 months)	DP SEPP in effect

Status of the draft instrument

For the purposes of section 4.15(1)(a)(ii) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) the draft proposed DP SEPP is not notified to any consent authorities and so is not a mandatory matter for consideration under section 4.15 of the EP&A Act. Consent authorities therefore should not enforce the provisions of this draft.

However, applicants may consider the DP SEPP and guides in the development of future proposals (for example, taking into account the considerations of the DP SEPP, and new guide objectives).

Have your say

The policy package is on exhibition until late February 2022. You may make a submission via the NSW Planning Portal: [Have your say](#)

For more information:

- See the [website](#).
- Send an email to designandplacessepp@planning.nsw.gov.au
- [Register](#) for briefings over the course of the exhibition.

A.2

What has changed since the previous exhibition?

From February – April 2021, the Department of Planning, Industry and Environment exhibited an explanation of intended effect to create a Design and Place SEPP (EIE). Over 1,000 people attended webinars and forums to learn about the proposed DP SEPP, and 337 written submissions were made.

How we've listened to stakeholders

In July 2021, a summary of feedback from that public exhibition was set out in a '[What we heard](#)' document'.

Minister's issues

The Minister identified 7 issues for further attention. We worked with internal and external policy working groups, including peak industry bodies and councils. These issues have been addressed as follows:

- *Undertake rigorous cost-benefit modelling for the SEPP and supporting guides* – completed in partnership with NSW Treasury during the drafting of this instrument.
- *Set clear environmental sustainability targets* – see **Information Sheets C-2 and C-3**.
- *Clarify the appropriate qualifications and design skills* – detail of design skills required, and the content of design verification statements are set out below in Design skills.
- *Establish clear definitions for precinct thresholds* – thresholds to apply the *Urban Design Guide* have been streamlined.
- *Develop streamlined and consistent processes for design review* – a new *Local Government Design Review Panel Manual* and related thresholds will be referenced in the EP&A Regulation.
- *Draft the SEPP to require the flexible application of the revised Apartment*

Design Guide – the DP SEPP has introduced mechanisms to support alternative design solutions.

- *Prioritise consolidating and streamlining policies and guidelines* – the DP SEPP will be the primary source of design principles and considerations for development applications on urban land. The UDG will also improve the consistency of master plans and development control plans (DCPs). A Ministerial Direction will require planning authorities to consider the principles and considerations of the DP SEPP and the objectives of the UDG when preparing planning proposals, including future local environmental plan (LEP) reviews. Current LEPs and DCPs will not be modified by the policy package, other than the matters that are already deemed to override other instruments in *State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (2002)* (SEPP 65) and the *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* (BASIX SEPP).

Policy working groups

Eight policy working groups, with representatives from industry peak bodies and councils, were established to consider key topics raised during public exhibition. Four rounds were held. Further testing and economic modelling was done to develop the policy. The policy package reflects the feedback we received from public exhibition, this further work and the extensive, additional engagement with stakeholders. See a response to the stakeholder issues raised in **Part B - Stakeholder engagement and response** and information sheets on specific topics.



A.3 Key features of the policy package

Principle-based approach

There are 5 design principles that are introduced by the DP SEPP. Each principle is supported by 2 considerations and specific measures to satisfy each principle.

	1. Deliver beauty and amenity to create a sense of belonging for people	1. Overall design quality	2. Comfortable, inclusive and healthy places
	2. Deliver inviting public spaces and enhanced public life to create engaged communities	3. Culture, character and heritage	4. Public space for public life
	3. Promote productive and connected places to enable communities to thrive	5. Sustainable transport and walkability	6. Vibrant and affordable neighbourhoods
	4. Design sustainable and greener places to ensure the wellbeing of people and the environment	7. Green infrastructure	8. Resource efficiency and emissions reduction
	5. Deliver resilient and diverse places for enduring communities	9. Resilience and adaptation to change	10. Optimal and diverse land use

Approach to guidance

Two guides are given effect under the DP SEPP – the revised *Apartment Design Guide* (ADG), and a new *Urban Design Guide* (UDG). The DP SEPP clarifies that assessment is to be against the objectives of each guide, by either applying the design criteria and guidance in the guide, or through a reasonable alternative that meets the objective. Design verification statements will support this process by describing how the objectives have been met. Further detail is included in Design skills in **Part B**.

The ADG will continue to apply to residential development of 3 or more storeys and 4 or more dwellings, or as otherwise referred to in other instruments³. The UDG will apply to development applications under the DP SEPP and that meet the following thresholds:

—development over 1 ha

—development on applicable industrial-zoned land over 1 ha *only* if the application also involves built form with a capital investment value (CIV) of \$30 million or more, or

—where a master plan or DCP is required by another instrument, or a concept development application under section 4.22 of the EP&A Act is proposed.

Apartment Design Guide

The *Apartment Design Guide* has been refreshed, and the objectives, design criteria and guidance have been reviewed. Fundamental to the success of the ADG since its introduction in 2015 is that it results in homes that people want to live in. Responses in *The place you live community survey*, held in September 2021, identified private open space, airflow, sunlight and storage as people's most important issues.

3. For example, SEPP Amendment (Build-to-rent Housing) 2021 [NSW] Schedule 1, clause 41H

The revised ADG addresses the design of quality places that will meet people's needs for living. It guides development that provides trees and landscaped gardens, room for growing families, space to work and study from home, storage that suits modern life and a space to park your bike.

Key changes in response to feedback and learnings since the last review include providing a clear framework for the flexible application of the ADG, and the need for design verification now being against the objectives of the ADG. The new mechanism will enable alternative solutions to those in the ADG that may better suit the needs of the local area and the site. External storage and studio balcony depths have also been adjusted in response to people's needs.

New guidance is also provided for a diverse mix of apartments (where there is no guidance provided by the local council), as well as updates to sustainability measures – tree planting in deep soil, bike parking, shading of glazed facades, waste storage and rainwater harvesting. Furniture layouts have also been provided to support the assessment of non-standard apartment sizes.

To provide greater clarity and consistency about the measurement of cross-ventilation, a standard method of measurement has been applied. This will ensure that more people living in apartments get the natural airflow they need to reduce their heating and cooling bills, prevent mould, and experience indoor-outdoor living. This does not change the existing requirements for cross-ventilation, but it does address technical gaps in previous guidance on calculating or assuming natural cross-ventilation to ensure this is delivered as intended.

Changes to deep soil provision will also ensure we still get the tree canopy cover that is needed to green our environment and combat extreme heat.

A better response to place is facilitated through new guidance on indoor common space types and ground floor uses to help new apartment buildings achieve an offer that is more than just the sum of their units. A new mechanism will enable alternative solutions to design criteria that better suit the needs of the local area and the site.

All these changes have been costed to ensure they are feasible and affordable in future designs.

See **C-1 Apartment Design Guide** for more details of changes from ADG 2015, those proposed in the EIE and the proposed revised ADG.

Urban Design Guide

The Urban Design Guide (UDG) is a resource to improve the planning and design of urban environments across NSW. Without clear objectives established from the outset, we risk poorer outcomes for our new suburbs – less housing diversity, fewer trees, inadequate infrastructure and public space – with the challenge of retrofitting these at much greater cost later.

Places designed using the UDG will make it easier to walk and cycle to work or school, to the shops or the park, and to catch a bus or train. This will be achieved through a combination of practical outcomes, such as a maximum block size for walkability, and '20-minute neighbourhood' target distances from homes to parks, schools, shops and public transport, through to guidance on a process for places to be developed that take into account their topography, movement systems and urban structures.

We're helping to create great places with more spaces to enjoy as our cities and suburbs grow. Targets for public space and tree canopy, walking distances to clusters of services, density and diversity, all help shape our future neighbourhoods into beautiful, vibrant and diverse places across NSW. Focusing on providing more, and more diverse types of housing close to shops, services, transport and parks, encourages healthier lifestyles and avoids the car dependency typical of post-war development. This means more places where people love to live, with public space, facilities, places to meet and hang out – space made for community by design.

Sustainability

NSW is taking a leading role in sustainability with a pledge to reach net zero emissions by 2050 and delivery of the Net Zero Plan Stage 1 by 2030. NSW has whole-of-economy targets to reduce greenhouse gas emissions by 50 per cent by 2030 compared to 2005 levels, and net zero emissions by 2050. Achieving these targets will require all new and existing buildings in NSW to be operating at net zero well before 2050. The proposal aligns with these NSW policies: Net Zero Plan, Electricity Infrastructure Roadmap, Electric Vehicle Strategy, Waste and Sustainable Materials Strategy 2041, NSW Clean Air Strategy, and our Climate Change Policy Framework.

The NSW planning system does not currently have oversight of modelled operational emissions, water or embodied emissions performance for new non-residential buildings. The proposed sustainability performance standards and compliance pathways will enable NSW to gain access to new or improved data that will inform future benchmarks and targets in the DP SEPP and other planning and regulatory settings.

BASIX

As part of the planning approvals process in NSW, all new homes, and renovations over \$50,000 must meet the Building Sustainability Index (BASIX) requirements, which examine the energy and water use and the thermal performance of the development. We plan to make a number of changes to BASIX to take effect in late 2022.

Increasing the targets for energy and thermal performance – Consistent with the NSW Government's Net Zero Plan and to align with the proposed increases to the *National Construction Code*, we plan to increase the targets for energy use and thermal performance. The proposed targets were the result of a rigorous cost-benefit analysis. We plan to review these targets every few years to meet the Government's net zero objectives and its commitment to the national *Trajectory for Low Energy Buildings*.

Introducing a new requirement for embodied carbon emissions – To assess the embodied carbon emissions of the material used to build each home, we plan to add a new BASIX Materials Index. It will be similar to the 3 existing BASIX components. That is, the developer will need to enter

some additional information about the development and meet a target for the embodied carbon emissions.

Updating the BASIX Tool – To improve the user experience, we are rebuilding the BASIX Tool to integrate it with the Planning Portal. As part of this, we are updating some of the BASIX methodologies (e.g. for lifts, lighting and appliances) to reflect ongoing innovation and feedback from our stakeholders. Phase 1 of the BASIX Sandbox will be available for beta testing during the public exhibition.

Introducing an alternative merit assessment pathway – To provide greater flexibility in demonstrating that a development has met the NSW sustainability requirements, we plan to introduce a merit assessment pathway. This will allow a recognised professional to complete a sustainability assessment using other accredited modelling software. Assessments using this pathway can be submitted as part of a development application as an alternative to a BASIX assessment.

Non-residential sustainability

New standards and reporting requirements are proposed for all non-residential developments. These proposed measures will be applied in conjunction with the sustainability provisions in BASIX as well as the ADG and UDG. They also align with other NSW policies including the Net Zero Plan, Electricity Infrastructure Roadmap, Electric Vehicle Strategy, Waste and Sustainable Materials Strategy 2041, NSW Clean Air Strategy and our Climate Change Policy Framework.

Reflecting the DP SEPP's broader focus on the design of buildings, spaces and places:

- non-residential sustainability targets for energy, water and waste and electric vehicle (EV) readiness have been introduced
- applicants will be asked to consider, early in the design process, how the project will avoid dependence on fossil fuels and be capable of operating at net zero emissions
- disclosure of information about embodied emissions and responsible sourcing of key materials will be required.

For the residents of NSW, this means the DP SEPP will help make our new buildings cheaper to heat and keep cool, will save drinking water and will contribute to a low-carbon future.

Design skills and design review

Design skills

Qualified designers will be required to prepare a design verification statement for a range of developments that have a significant impact to verify they designed or directed the design of the proposal, and state how it addresses the objectives of their relevant guide, justify any alternative design solutions, and respond to feedback from design review panels. Design verification statements will now be required in the following circumstances:

Table 1: When design verification statements are required and who prepares these

WHAT	WHO	VERIFICATION AGAINST
Apartment building	Architect (as currently required by SEPP 65)*	Objectives of the ADG
Developments that comprise public or common open space over 1,000 m ²	Landscape architect (registered with the Australian Institute of Landscape Architects) or landscape designer (8 years' experience)	Objectives of the UDG
Urban design development to which the UDG applies (e.g. sites greater than 1 ha).	Urban designer with 5 years' experience in precinct or master planning	Objectives of the UDG

The verification will be for the relevant component of the application. For example – a large proposal may have an urban designer verify the overall master plan, a landscape architect verify the design of a major open space, and an architect verify an individual apartment building.

Design review

The new *Local Government Design Review Panel Manual* will be referenced in the EP&A Regulation, together with the design review thresholds, and provides guidance on the operation and function of design review panels. Applicants must prepare a design review report to demonstrate how they have considered the advice of the panel and justify any departure from that advice, and consent authorities must have regard to this statement in determining an application.

*They must also meet the requirements for Class 2 buildings under the *Design and Building Practitioner's Act 2020*. The design requirements of the DBP Act are not modified by the DP SEPP.

A.4

About this consultation draft

Consolidation of SEPPs

The proposed DP SEPP will incorporate two existing SEPPs:

- *State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development 2002 (SEPP 65)*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)*.

SEPP 65 and the BASIX SEPP will be repealed when the DP SEPP takes effect.

Application of the DP SEPP

The DP SEPP will apply to the whole of NSW, other than specified land use zone exclusions, including some rural land, industrial land, environmental conservation land and waterways.

The DP SEPP is also proposed to have some application to planning proposals on sites greater than 1 ha, such as land being converted to non-rural land or where built form controls are proposed to be changed. This is proposed to be achieved via a new section 9.1 Ministerial Direction.

Other than the BASIX provisions, the DP SEPP will not apply to Class 1A buildings (and for development applications comprising 24 Class 1A buildings or fewer), Class 7a buildings and Class 10 buildings, where they do not form part of a mixed-use development otherwise captured by this SEPP, nor the amalgamation and subdivision of 2 lots.

Other exclusions are development under Schedule 1, items 1 to 10, 18 and 20 to 25 of *State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)*.

The policy package will not amend:

- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the Codes SEPP)*. Changes to complying development standards will be considered as part of the DP SEPP's ongoing monitoring and review
- *State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (Growth Centres SEPP)* or *SEPP (Western Sydney Aerotropolis) 2020*. However, the development of future master plans and precinct plans under these SEPPs will need to consider the *Urban Design Guide*.

Changes to the EP&A Regulation

The policy package proposes to introduce new requirements into the EP&A Regulation to support policy initiatives:

- a new requirement for site analysis that seeks to improve the quality of contextual and site analysis presented on drawings submitted with development applications
 - new development application requirements for DP SEPP development, including:
 - a net zero ready statement for all development, excluding BASIX-affected development
 - documentation that discloses embodied energy
 - design verification statements for urban designers and landscape architects
 - verification that the advice of design review panels has been incorporated.
- For urban design development (to which the UDG applies):
- estimated energy consumption and emissions (which also applies to offices, shopping centres, and hotels)
 - for State significant developments, explanation of how projects respond to Country and to inputs from Aboriginal stakeholders.

Several existing clauses of the EP&A Regulation, including those associated with SEPP 65 and the BASIX SEPP, are also proposed to be amended, including:

- a requirement for DCPs to have regard to the UDG
- clauses 50, 143A, 154A will expand the requirement for a design statement, and knowledge and skill requirements for architects will also be aligned to the Design Building Practitioner's Regulation 2021 (Schedule 2, cl 5)
- design review panel requirements (formerly in SEPP 65) through reference to a new Local Government Design Review Panel Manual, as well as thresholds for design review panel referral.

Ministerial Direction

A new section 9.1 Ministerial Direction is proposed to require planning proposals for sites greater than 1ha to have regard to the DP SEPP design principles and considerations, to be considered by a design review panel, and consider the UDG objectives.

A.5 Amendments to other instruments

Limiting solar absorptance

To support the updated BASIX standards and new sustainability standards and requirements for non-residential development, the department is considering complementary amendments to existing policies that will consider roof colours and alternative technologies to mitigate urban heat impact.

The urban heat impact results in metropolitan or built-up areas being significantly warmer than the surrounding areas. Having roofs that absorb a smaller proportion of the incident solar radiation is one way to reduce the urban heat impact – this can be supported by using lighter colours.

When referring to building materials, such as roof tiles and roof sheeting, colours are classified based on their solar absorptance (SA). Solar absorptance is the proportion of the total incident solar radiation that is absorbed by the roofing material (the remainder is reflected) and is expressed as a ratio between 0 and 1.

BASIX classifies colour into *light, medium and dark* based on their solar absorptance.

BASIX SOLAR ABSORPTANCE RATING	
Light	< 0.475
Medium	0.475 - 0.7
Dark	> 0.7

Roofs that have a lower solar absorptance absorb less heat than dark roofs.

The policy intent of these new development standards is to ensure the solar absorptance of roofing on new houses is no higher than 0.7:

- colour can have a SA rating in the BASIX light to medium range, or a surface treatment may be applied that reduces the SA below 0.7, and
- the finished roof surface must be a low reflective surface, to prevent glare.

Dark roofs with SA higher than 0.7 may be allowed in certain circumstances such as heritage-listed items and in cold climates where dark roofs contribute to homes being more comfortable throughout the year.

These development standards would be located in both the Codes SEPP and *Standard Instrument—Principal Local Environmental Plan (2006)* (Standard Instrument LEP), to ensure all new homes are following the same rules.

For the Codes SEPP, the development standard would be included in the following codes:

- Part 3 Housing Code
- Part 3A Rural Housing Code
- Part 3B Low Rise Housing Diversity Code
- Part 3C Greenfield Housing Code
- Part 3D Inland Housing Code
- Part 5A Commercial and Industrial (New Buildings and Additions) Code.

The same standard will also be proposed as a new clause in the Standard Instrument LEP.

As part of the public exhibition of the DP SEPP, the department is also seeking submissions in response to these proposed amendments to limit solar absorptance.

Table 2: How the DP SEPP applies to various development types

DEVELOPMENT TYPE	MATTERS TO CONSIDER (DP SEPP)			APPLICATION REQUIREMENTS (EP&A REGULATION)			REQUIRED SKILLS / DESIGN VERIFICATION		
DA for detached house (Class 1A)	N/A – excluded from SEPP other than BASIX			Note: site plan required – EP&A Reg Schedule 1 Part 1			BASIX certificate or equivalent		
Complying development – Low Rise Housing Diversity Code	N/A – excluded from SEPP other than BASIX			Note: site plan required – EP&A Reg Schedule 1 Part 2			Note: Design Verification Statement for Complying Development under Codes SEPP		
Residential apartment building (Class 2)	SEPP considerations		ADG objectives	Site and place analysis					Architect
Concept DA for apartment complex over 1ha		UDG objectives			Aboriginal stakeholders (State significant developments only)			Urban designer	
State significant development to which the DP SEPP applies						As LEP cl 7.13 requires DCP			
Office under 1 ha with CIV of \$40m							Landscape architect (If open space over 1,000 m ²)		
Co-living/ student housing (Class 3)		Guidance under Housing SEPP							
Factory costing \$20m on 10 ha site		Excluded from UDG unless both >1ha and >\$30m CIV							
Pharmaceutical plant over 1 ha	SRD SEPP Schedule 1, item 10 excluded from DP SEPP								
Rural mine, heavy industry, port	Zones excluded from land application of DP SEPP								

Part B

Stakeholder engagement and response

Key themes of the SEPP are described below using those raised in the *What We Heard* report.

Photo: Grahame Edwards

B.1

Certainty and flexibility

Great design is everyone's business – It's more than how things look, it's fundamental to better lives, better places, better returns on investment, and a more sustainable and resilient future.

The DP SEPP proposes that development is evaluated against 5 design principles (the **principles**). Consent authorities must be satisfied the development can meet these principles by reference to specific matters (the **considerations**). These general design considerations enable a consistent approach to design and place challenges.

Desired outcomes that relate to a given type of development are then elaborated in guidance. Residential apartments must meet the objectives of the ADG, and for planning proposals and development applications greater than 1 ha (generally), the objectives of the UDG must be addressed.

WHAT WE HEARD	WHAT WE'VE DONE
Enabling flexibility in the application of the ADG	<p>A new clause in the DP SEPP requires consent authorities to consider reasonable alternative solutions to design criteria and/or design guidance that meet the objectives if they result in a neutral or better design outcome. The ADG has been updated to include examples of alternative design solutions.</p> <p>Applicants will need to make the case for these alternative solutions. To demonstrate the alternative is a better design outcome for the relevant site and context (i.e. is place-based), the designer will need to verify how options and design review advice were considered and the preferred solution arrived at, in the design verification statement.</p> <p>Changes to the Regulation and the guides also clarify and strengthen site analysis as a means for applicants and assessors to determine context and therefore justify place-based decisions.</p>
DP SEPP in the planning system	<p>The DP SEPP will help structure applications consistently by providing general considerations for all applicable development (for statements of environmental effects), and simplified design objectives in the guides (for designers to address in the design verification statement).</p> <p>Design review will be required to take place before DA lodgement, so that the panel's advice can guide design outcomes, and panels will be asked to review how the objectives have been met holistically. A design review report is to be submitted with the development application to demonstrate how the applicant has considered the panel's advice. Councils will be required to give detailed reasons for departing from the recommendations of the design review panel. The process and timeliness of design review will also be improved by requiring panels to adhere to a new <i>Local Government Design Review Panel Manual</i>.</p>
Providing greater certainty around implementation and timing	<p>The DP SEPP is proposed to include a delayed commencement provision of approximately 6 months. Generally, the DP SEPP and guides will not affect apartment development lodged before commencement, nor precinct planning that has already been undertaken – e.g. existing Growth Centres indicative layout plans (ILPs) and approved Aerotropolis precinct plans. Full savings and transitional arrangements are set out in the draft DP SEPP.</p>
Ensuring the DP SEPP structure is simple and streamlined	<p>Considerations provide means by which each principle can be met, in many cases broken down into specific measures. This provides a line of sight and a hierarchy between broad principles and specific actions. The considerations are outcome-based – for example the development has considered light and air to support human health – enabling greater flexibility as to how this is achieved.</p> <p>Where relevant, criteria have been included in the DP SEPP to support each guide to simplify assessment and to avoid confusion between standards and guidance (which SEPP 65 contributed to by cross-referencing the ADG for non-discretionary standards).</p>

B.2 Commerciality and feasibility

Consider the cost of bad design – Better design doesn't have to cost more, but the cost of bad design can have significant long-term safety, economic and societal impacts including poorer health and wellbeing. Well-designed places are more likely to be welcomed and supported by the community – not resisted.

The commerciality and feasibility of development is subject to many factors, including unforeseen events and changing market preferences. The work to create a DP SEPP coincided with the COVID-19 pandemic, which has accelerated global trends and continues to shape the places we live, work and play, as well as reshaping industry, and our understanding of what residents need. The DP SEPP is sensitive to the need to smooth this transition, and to meet the needs of future markets and the transition to net zero by 2050. Other productive outcomes of the DP SEPP include the efficient use of land, encouraging a mix of uses and local access to shops, parks and schools, sustainable transport and enabling industry to reduce car parking.

WHAT WE HEARD	WHAT WE'VE DONE
A revised ADG that balances costs and benefits	Cost-benefit analysis has been done to support the policy package, including the cost-benefit analysis for apartments and urban design development over 1 ha.
Having a positive impact on housing affordability	<p>The application of guidance, including the ADG, has been set out in the DP SEPP, and consent authorities are required to consider reasonable alternative solutions where proposed by applicants.</p> <p>In terms of feasibility planning for future sites, the DP SEPP will not apply to projects already in the planning process, including section 4.55 amendments in the first 2 years or proposals that rely on and are lodged within 2 years of a concept DA. The extensive public consultation process (i.e. February 2021 EIE exhibition and November 2021 draft DP SEPP exhibition) and proposed 6 month delayed commencement date will provide industry with sufficient lead-in time to take account of these new provisions when undertaking feasibility studies to acquire new property.</p> <p>New density targets for residential and mixed-use development around centres for sites to which the UDG applies will also assist with future housing affordability – see below.</p>
Density provisions	<p>Minimum density targets have been included in the DP SEPP in line with the submissions made in response to the EIE. For all development to which the UDG applies, a gross residential density target is proposed of at least 15 dwellings per ha to ensure that future development is serviceable. For development that has excellent transport accessibility (defined as 'PTAL 6' using a methodology developed in the UK and applied to NSW since 2019), a higher minimum density target of 30 dwellings per ha is given, to make best use of transport infrastructure and to discourage urban sprawl.</p> <p>Development must be capable of achieving these gross density targets – that is, across the developable area of the site, the primary development controls (including zoning, height, floor space ratio and site coverage) must be capable of achieving a minimum yield, as demonstrated by the urban design strategy.</p>

B.3

Sustainability and ambition

Designing for the future – We need our cities and towns to develop sustainably and adapt to new technology - to foster new and emerging markets, businesses, jobs, and economic prosperity, and to enable the transition to net zero in the built environment.

For non-residential development, the DP SEPP proposes to introduce a net zero statement to help applicants demonstrate how their development will transition to net zero emissions in operation. Applicants will report on their proposed energy performance, onsite renewables and avoidance of fossil-fuel reliant systems. An embodied emissions disclosure will be introduced to facilitate reporting on embodied emissions of material. For residential development, we plan to increase the BASIX sustainability targets, and also include a new materials index to assess the embodied energy of materials.

WHAT WE HEARD	WHAT WE'VE DONE
Responding to climate change	<p>Development on sites to which the UDG applies require consideration of natural hazard risk (including compound and climate change scenarios).</p> <p>The DP SEPP proposes to increase BASIX targets, updated to align with the new <i>National Construction Code</i> (NCC2022), on the trajectory to net zero. A materials index will also be introduced, to commence reporting on embodied carbon.</p> <p>Minimum performance standards and verification methods for energy and water will also be introduced for non-residential projects, in line with the application of the DP SEPP to a broad range of development in NSW.</p> <p>Sustainability targets under the SEPP will be reviewed in 2025.</p>
Promoting green infrastructure, public space and biodiversity	<p>The DP SEPP requires consideration of green infrastructure, public space and water management through tree canopy and public open space targets in the UDG. Place-based considerations in the UDG will also strengthen an approach to place that starts with its unique characteristics, connects green and blue infrastructure and reduces impacts on the natural environment and fosters biodiversity by design.</p>
Updating BASIX and alternative pathways	<p>The BASIX Sandbox will be updated, and an alternative pathway to BASIX is proposed, to enable other tools to be used. The manner in which BASIX takes into account various site measures is also being regularly reviewed.</p> <p>The targets required by BASIX will now be included in the DP SEPP package to provide greater transparency.</p>

For more information, refer to **information sheets C-2 and C-3**.

B.4

Quality and amenity

Well-connected communities and apartments for living – We’re helping to create places with more spaces for you to enjoy as our cities and suburbs grow. People will live in safer, well-ventilated, well-lit, greener, and healthier places.

The DP SEPP proposes to provide a framework for assessing the quality of design outcomes, particularly homes, to ensure that what is built is fit for the future. We need families to be able to continue to live affordably closer to work, to work from home, and to build communities where we want to live – well-connected to schools, transport, parks and grocery shops.

The DP SEPP also proposes to improve the quality of design application requirements including:

- site analysis (site and context analysis, site synthesis – the parameters for development, and design drawings showing the response to place)
- place analysis (relationship to wider context and strategic planning, taking account of the existing and future built environment, natural environment, public space and movement and connections)
- design drawings
- design verification statements
- design review reporting (by panels as well as applicants responding to panels).

WHAT WE HEARD	WHAT WE’VE DONE
Delivering quality places and homes	<p>The considerations of the DP SEPP and the objectives of the ADG both reflect learnings from the pandemic set out in the EIE and now reflected in Australian Productivity Commissions research⁴ – in the neighbourhoods, by supporting local economies and transport networks, providing for public open space, walking and cycling and considering car use and the potential for rising congestion.</p> <p>For apartments, design criteria for bike parking and storage have been retained, and guidance provided for achieving better family apartments. To accommodate working from home, the proposed change to bedroom sizes has been replaced with more flexible guidance on additional space provision.</p>
Better accommodating diverse households	<p>Housing diversity is a key consideration of the DP SEPP. In areas of excellent transport accessibility (see B-2 above), with density to be maximised and guidance provided on housing mix, the DP SEPP will ensure that diversity is delivered.</p> <p>In relation to apartments, the revised ADG provides guidance on apartments for families with children and working from home, and a new mix target (when no local authority mix is provided) aims to ensure there are a range of dwellings provided for different household sizes and to enable a whole-of-life approach.</p>
Ensuring health and amenity	<p>Amenity has been introduced into Principle 1 to clarify this is a key outcome sought by the DP SEPP. A number of other amenity outcomes and public benefits are delivered by the DP SEPP ranging from open space and tree canopy, to supporting walking and cycling; targets for these are outlined in the UDG.</p>

4, Working From Home: Research Paper, Australian Government Productivity Commission, September 2021

B.5 Design review

Timely advice from experts – Improving the quality of design advice on projects by engaging with design review panels early, improving the response time of panels, and design review reporting, so applicants get advice when it matters.

The existing provisions relating to design review have been brought over from SEPP 65 and applied to all development under the DP SEPP. A manual has been prepared to assist with the timeliness and consistency of local design review panels.

WHAT WE HEARD	WHAT WE'VE DONE
How can design review be improved and better integrated in the assessment pathway to ensure it adds value?	<p>To address inconsistency in the process and feedback of existing design review panels, clarify the role of parties and how recommendations should be made, local design review panels must follow a new design review manual that has been prepared for this purpose, which also guides the skills required for panellists, and the need to consider the design holistically when giving advice. Councils that do not currently have a design review panel must constitute one prior to the DP SEPP taking effect.</p> <p>Applicants will be required to seek panel input before lodging applications and submit a design review report that sets out how the recommendations of the design review panel have been addressed. The design verification statement will need to justify any alternative solutions to design criteria.</p>

B.6 Design skills

Quality by design – Recognising that architects have improved the standard of apartment design, and that involving landscape architects and urban designers likewise elevates the design of open space and major development.

The proposal to extend design verification to open space and urban design has been retained and refined in the DP SEPP. Town planners, architects and landscape architects are proposed to be acknowledged as having potential skills in urban design. In the case of surveying, the DP SEPP still seeks a designer's input on subdivisions of sites over 1 ha, development with a CIV of \$30m or developments that are over 35 m tall, recognising these kinds of development would benefit from a greater consideration of place.

Plans to expand the requirement for registered architects has been removed, and instead we have aligned the skills, knowledge and experience of architects undertaking residential apartment development with the Design Building Practitioner's Regulation.

WHAT WE HEARD	WHAT WE'VE DONE
Are there opportunities to include a wider range of accreditation and skills that currently practice within the built environment industry? Will there be support for growing the skill sets of assessing officers?	<p>A wider range of skills have now been acknowledged in the design process, including planners, landscape designers and urban designers – see Design skills and Design review above.</p> <p>During the implementation phase of the SEPP there is proposed to be education and training for assessment teams and industry.</p>

B.7

Metro and regional differentiation

A SEPP for all of NSW – A principle-based SEPP with universal aspirations that can be adapted to context, fit for our towns, cities and suburbs.

The SEPP does not apply to rural land. Otherwise, the DP SEPP generally sets out considerations that apply broadly, and are appropriate to regional and city settings, suburban and greenfield contexts.

WHAT WE HEARD	WHAT WE'VE DONE
How will the DP SEPP accommodate different development contexts (e.g. metro and regional, inner city and suburban or greenfield)?	<p>The terms 'precinct' and 'significant development' have been removed, with a primary threshold of generally 1 ha adopted for the UDG – the scale at which place-based changes can be effective in both regional and metro contexts.</p> <p>The urban design process defined in the UDG is universal and encourages applicants to respond to the unique qualities of places across NSW. This approach caters for the range of different contexts (metro, regional, inner/outer suburbs) and development types covered by the UDG.</p> <p>It is expected that the level of complexity in the proposed urban design strategy, will vary depending on context, scale and nature of the project.</p> <p>A small number of measures have been circumscribed to reflect the differences between Sydney and regional NSW, including:</p> <ul style="list-style-type: none"> – requirement for procuring offsite renewable energy certificates for a minimum 5 years is for large commercial assets in Greater Sydney only and State significant development across NSW to enable further feasibility to be undertaken for regional NSW, and – car parking being applied to areas of high public transport accessibility only, to ensure outer metro and regional areas reliant on cars are not faced with an undersupply of parking.
How will the DP SEPP apply in the context of rural land?	<p>Generally, the SEPP does not apply, other than RU5 Village or E4 Environmental Living zones. The SEPP also does not apply to detached houses nor Codes SEPP development (other than in respect of BASIX) nor minor subdivisions.</p> <p>The main manner the SEPP would apply to rural land would be in greenfield subdivision – so sites over 1 ha in RU5/E4 zones, or planning proposals for subdivision or conversion of rural land over 1 ha.</p>
What is the status of coverage of State significant development areas containing environmentally sensitive land, e.g. bushfire buffers, environmental and drainage corridors?	<p>As with rural land, the SEPP will not apply to land zoned E1 to E3 or W1 to W3, unless it is proposed to be converted to other uses to which the DP SEPP applies (such as greenfield subdivision).</p> <p>The UDG sets out an approach which starts with the unique characteristics of place, and takes account of the natural environment when designing new urban places, to reinforce the need to protect environmentally sensitive zones, set buffers, and connect green corridors in the design process.</p>

B.8 Hierarchy of instruments

Supporting long-term change – Setting the principles and parameters to enable a better response to place in both future development and the review of strategic plans.

The SEPP is intended to apply broadly to new development and planning proposals. Codes SEPP development will be excluded from its operation, as well as completed precinct planning.

WHAT WE HEARD	WHAT WE'VE DONE
How will the hierarchy of the proposed SEPP be clarified?	<p>DP SEPP-applicable development has now been defined, including its relationship to key SEPPs and other environmental planning instruments.</p> <p>The DP SEPP will not apply to development under the Codes SEPP. It will not amend existing indicative layout plans under the Growth Centres SEPP, nor existing precinct plans under the Aerotropolis SEPP. However future ILPs and precinct plans will need to take into account the UDG.</p> <p>Future planning proposals, including LEPs, and future DCPs will also need to take into account the DP SEPP and the UDG respectively.</p> <p>The intent of the UDG to support consistency in DCPs is to ensure that place strategies and master plans are supported by controls that ensure that they are implemented as intended, and any non-spatial components such as floor space bonuses allocated in DCPs still meet controls. This is particularly relevant to any mechanisms for value capture in light of the Kaldas Review and practice note on Planning Agreements (Feb 2021).</p>
Will this reduce council involvement in the assessment process?	<p>No change is proposed to council's role as consent authority, nor the need to take account of advice of design review panels when given. The SEPP will assist councils to respond to applications thematically by reference to the principles, considerations, objectives and design review recommendations, to streamline and focus decisions on overall design quality, and reduce reliance on compliance tables. Councils will be provided with new information to assist in their assessment, such as a materials index, and design review report.</p>
What happens when the DP SEPP conflicts with local policy?	<p>The DP SEPP will continue to override local policy in relation to –</p> <ul style="list-style-type: none"> – the relevant components of the ADG set out in clause 6A of SEPP 65, which have been retained – BASIX targets, which will continue to override local residential sustainability targets – where applicants demonstrate a lower parking rate is appropriate in areas of high transport access, a lower parking rate may be applied to those developments subject to the lodgement of a green travel plan. <p>Generally, however, the DP SEPP does not affect existing LEPs and DCPs, nor does it modify place strategies and master plans prepared before the SEPP comes into force.</p>

B.9

Connecting with Country

Well-designed places will care for us as we care for them –

Great design starts with Country, and supports safer, healthier, more connected, and inclusive places and communities.

The DP SEPP aims to recognise the importance of Country to Aboriginal people and to incorporate local Aboriginal knowledge and culture into new developments as a way of responding to Country. The Connecting with Country Framework will also provide additional guidance and suggested methods for working with Aboriginal stakeholders to realise the best outcomes for Country and for communities.

WHAT WE HEARD	WHAT WE'VE DONE
How will contemporary practice of living culture be reflected as well as cultural heritage? How will industry and government be supported to improve processes and protocols for more meaningful and appropriate engagement with Aboriginal people? How will Aboriginal communities be supported to respond to increased requirements for participation in planning, design and delivery of projects?	<p>The need to acknowledge the cultural significance of Country from an Aboriginal perspective is outlined in the aims of the DP SEPP. For State significant development over 1 hectare, the design verification statement for master plans will need to verify how Country has informed the design, in 3 specific ways that address some of the current challenges to incorporating living culture – the level of engagement, meaningful action, and protection of intellectual property. The design verification statement will therefore explain how:</p> <ul style="list-style-type: none">– the relevant Aboriginal stakeholders are involved throughout the process– their advice has informed the design outcomes– Indigenous Cultural Intellectual Property (ICIP) is recognised and respected.

An aerial photograph of a modern university campus. The image is partially covered by a large, dark blue rectangular overlay on the left side. The overlay contains the text 'Part C' and 'Information sheets' in white. A red horizontal line is positioned below 'Part C'. The background shows a mix of modern buildings with colorful facades (red, white, and grey) and older concrete structures. There are green lawns, paved walkways, and some trees. A few people are visible walking on the paths.

Part C

Information sheets

Photo: Salty Dingo

C.1

Apartment Design Guide

An overview of the key changes to the 2015 ADG, and changes made since the EIE, is as follows:

DG = design guidance
DC = design criteria
NDDS = non-discretionary development standard
POS = private open space

Table 3: Overview of key changes to ADG 2015

THEME	2015 ADG	EIE	CURRENT DRAFT ADG
Verification statement	Registered architect response to 9 design quality principles	-	Design verification statement – registered architect response to 36 objectives, grouped under the 5 SEPP principles (DG)
Building separation	9 storeys and above – 12-24m Up to 8 storeys 9-18m Up to 4 storeys 6-12m (in visual privacy)	25+ storeys – increase 24 m separation to 30 m separation	No change to distances from ADG 2015 (DC)
Building form	No maximum tower floorplate	Maximum 700 m ² GFA tower floorplate	No maximum tower floorplate
Street activation	No metrics on non-residential	40% ground floor allocated to non-residential use in R3-R4 zones and in centres	Place based – where it meets LGA objectives (DG) Guidance on ground floor apartments (DG)
Deep soil	<650: 7% no minimum dimension 650-1500: 7% minimum 3m 10% >1500+: 7% minimum 6m 15%	<650: 14-18% 650-1500: 14-18% 1500-3000: 14-18% >3000: 21-25%	<1500 m ² : 10% site area, minimum 3 m wide (DC) 1500 m ² +: 15% site area, minimum 3 m wide with 6 m portion (DC)
Tree canopy	No targets set		>1500 m ² : 15% minimum tree canopy target (DC) 1500 m ² +: 20% minimum tree canopy target (DC)
Car parking	For development within 800m of railway station in Sydney Metro or in B3/B4 in nominated regional centres use lesser of Guide to Traffic Generating Developments or Council guidance Criteria for carparking identified in clause 30 of SEPP 65 as NDDS	Reduced minimum and/or maximum cap Ability to reduce rates by taking action e.g.: Travel Plan	No change proposed from ADG 2015 NDDS status retained Green Travel Plan can be submitted to support a proposal for reduced carparking in PTAL 6 areas (DG) All resident car spaces to be ‘EV ready’ (DG)
Bike parking	No minimum	1 per bedroom	1 per dwelling (DG) Class A spaces can be provided as part of external storage calculation 1 visitor space per 10 dwellings (DG)
Common circulation	Maximum of 8 units/core Up to 12 units/core with additional amenity	Maximum of 8 units per core (DC) 8-12 units per core below nine storeys (DG)	No change proposed from ADG 2015 to maximum of 8 units/core (DC) or up to 12 units/core with additional amenity (DG) Controls on lift wait time & capacity (DC) Corridors to be naturally lit and ventilated (DG) Corridors over 12m to be articulated (DG) Provide suitable clearance in front of lifts to allow for circulation, furniture and emergency access (DG)

THEME	2015 ADG	EIE	CURRENT DRAFT ADG
Communal spaces	Minimum 25% of site area 50% has 2 hrs midwinter sunlight access	Replace site area metric with unit metric Minimum 250 m ² for residential developments >1000 m ² New requirements for communal space (internal)	8 m ² /unit up to 25% of site area (allowing smaller CS for small developments) (DC) No change to midwinter sunlight access (DC) No requirement for internal communal space. Guidance for where it is provided. Minimum dimension 6m. For sites smaller than 650sqm, minimum dimension 4m (DG) Decouple communal space from deep soil to enable greater flexibility with location (DG)
Apartment mix	No metrics for mix	-	Where there are no local government controls in place, for developments >20 apartments, at least 3 dwelling types, minimum 10% of one type, maximum 50% studio/1 bed (studios/1 bed considered as one type) (DG) Up to 20% of 2-3 bed apartments with increased size for families/working from home, including multiple main bedrooms, one 12 sqm bedroom, a second living space, at least one bath and wider service spaces, and easily accessed location near communal spaces (DG) Allowance for 2.4m wide, 7 m ² study as habitable room to support working from home, only one per apt (DG) Limiting structural and services to internal walls to promote flexibility, with examples provided (DG)
Apartment size	Studio 35 m ² , 1 bed 50 m ² , 2 bed 70 m ² , 3 bed or more 90 m ² Extra bathrooms add 5 m ² Extra bedrooms add 12 m ² Minimum width 3.6 m for studio + 1 bed Minimum width 4 m for 2 bed & 3 bed or more Min room sizes Criteria for minimum size identified in clause 30 of SEPP 65 as NDDS	Guidance for departure from minimum areas 20% of 2 +3 bed - have 12m ² bedrooms to support family units and working from home Non-structural walls for flexible layouts	No change to min apartment sizes from ADG 2015 (NDDS) No change to apartment widths or min room sizes from ADG 2015 (DC) or using furniture layouts to support departure from minimum areas and room sizes (DG)
Ceiling height	Minimum ceiling heights: habitable rooms 2.7 m non-habitable 2.4 m 2.4 m for upper floor of 2 storey apartment, where area <50% of total area 30 deg slope from 1.8m for attics 3.3m for ground & first floors in mixed use areas to promote flexibility Criteria for ceiling height identified in clause 30 of SEPP 65 as NDDS	Ground floor ceiling heights for all non-residential uses (habitable rooms only) to 4.2m	Residential ceilings generally unchanged from ADG 2015, except kitchens allowed to be 2.4 m (NDDS) Ground floor non-residential ceilings 3.3 m high (irrespective of zone) (NDDS) Floor to floor height recommendations for ground and first floors to promote flexibility moved to 1.2 Built form and siting and changed to guidance.
Livable Housing	20% of apartments	Increase if supported by NSW Government research	No change to ADG 2015 (DG)
Adaptable apartments (AS4299)	Defer to local council policy	Increase if supported by NSW Government research	No change to ADG 2015 (DG)

THEME	2015 ADG	EIE	CURRENT DRAFT ADG
Private open space	<p>Minimum area: studio 4 m², 1 bed 8 m², 2 bed 10 m², 3 bed or more 12 m²</p> <p>Minimum depth: studio -, 1 bed 2 m, 2 bed 2 m, 3 bed or more 2.4 m</p> <p>Ground level/podium apartments 15 m²/3 m deep</p>	<p>Increase to minimum depth of balconies for some apt sizes – studios to have 1 m minimum depth, 2 bed units to have 2.4 m minimum depth</p>	<p>No change to minimum areas (DC)</p> <p>Minimum depth introduced for studios (1m) and increased for 2 bed (2.4 m) (DC)</p>
Solar access	<p>Living area and public open space in 70% of apartments get 2 hrs (Sydney metro, Newcastle and Wollongong LGAs) and 3 hrs elsewhere between 9am and 3pm midwinter</p> <p>Max 15% with no direct sunlight</p> <p>1 sqm direct sunlight measured at 1m AFFL, achieved for at least 15 mins</p>	<p>Extend time period (no definition)</p>	<p>Add Gosford LGA to: Living area and public open space in 70% of apartments get 2 hrs (Sydney metro, Newcastle, Wollongong and Gosford LGAs) and 3 hrs elsewhere between 9am and 3pm midwinter (DC)</p> <p>No change to max 15% with no direct sunlight (DC)</p> <p>Allow 8am-3pm window in constrained situations where criteria can't be met (DG)</p>
Shading and glare control	<p>Shading encouraged in guidance (no metrics)</p> <p>High performance glazing accepted for reducing reflectance</p>	<p>50% glazing or no glass for 50% of first metre of floor</p>	<p>Glazing greater than 30% of the wall to have external shading to block 30% of summer sun (DG)</p> <p>Performance glazing not considered substitute for shade (DG)</p>
Natural cross-ventilation	<p>60% of apartments level 9 and below</p> <p>18m glass to glass for through apartments</p>	<p>Increase to 70% of all units across all stories</p> <p>Require ceiling fans for habitable rooms with 2.7m ceilings</p> <p>More kitchens and bathrooms with windows</p>	<p>Maintain current 60% for first 9 storeys, and 18 m dimension for through-apartments (DC)</p> <p>Apartments 10 storeys or greater are deemed to be cross-ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and balconies cannot be fully enclosed (DC)</p> <p>Ventilation tool in appendix to help applicants and assessors calculate / model / prove alternative design solutions for ventilation</p>
Storage	<p>Minimum volume: studio 4m³, 1 bed 6m³, 2 bed 8m³, 3 bed or more 10m³ with at least 50% internal</p>	<p>Increase provision for storage external to apartment (4,5,6,7 m³ instead of 2,3,4,5 m³)</p>	<p>No change to internal volumes</p> <p>External volumes increased (4,5,6,7 m³ instead of 2,3,4,5 m³) (DC)</p> <p>Total storage: studio 6 m³, 1 bed 8 m³, 2 bed 10 m³, 3 bed or more 12 m³ (DC)</p> <p>Additional specification for both internal and external storage dimensions (DG)</p>
Water efficiency	<p>No specifics but reference to non-potable</p>	<p>Non-potable water use</p>	<p>Rainwater storage tank size specified (DG)</p> <p>Recycled water infrastructure required (purple pipe) (DG)</p>
Waste	<p>2 days waste storage within apartments for waste and recycling</p>	<p>Source separation of waste streams</p>	<p>No change to 2 days waste storage within apartments for waste, recycling (DG)</p> <p>Days waste storage within apartments for organics (DG)</p>

C.2

Sustainability in residential buildings (BASIX)

Most of the proposed changes to BASIX and the sustainability of new residential buildings that were outlined in the DP SEPP EIE are proceeding as planned. There are a few changes in the EIE that are not proceeding, as outlined below. We are not introducing any new concepts beyond what was discussed in the EIE.

Providing other assessment tools that ‘plug in’ to BASIX

The EIE discussed the possibility of recognising under BASIX, the following tools, which assess both thermal comfort and energy performance:

- the Green Star Homes Standard currently being developed by the Green Building Council of Australia (GBCA), which became available in 2021, and
- the ‘Whole-of-Home’ tools to be accredited by the NatHERS Administrator, which are proposed to be available in 2022.

We are not currently recognising these tools within BASIX.

Allowing a tailored approach for thermal comfort and energy performance

The EIE proposed allowing minor trade-offs to thermal comfort performance if the developer improved other sustainability aspects of the development.

We received significant feedback opposed to this proposal and have decided not to proceed with this proposal.

Aligning sustainability performance with DP SEPP principles

The EIE proposed expanding BASIX to also include new requirements for embodied carbon emissions, green infrastructure, and stormwater run-off.

We are proceeding with a new embodied carbon emissions requirement, but are not introducing green infrastructure, and stormwater run-off requirements into BASIX at this time as further work is required in this area.

Sustainability assessment consistent with other jurisdictions

The EIE discussed possible changes to the way BASIX reports the estimated water and energy consumption of a development in comparison to a benchmark to align with the *National Construction Code* requirements that apply in other jurisdictions.

NSW has worked to align the BASIX requirements with the NCC requirements that will apply from 2022 in other jurisdictions. At this stage, the way BASIX reports estimated water and energy consumption (i.e. with reference to a benchmark) will remain.

Promoting innovation and the adoption of new technology

The EIE discussed introducing ‘BASIX Plus’ certification to recognise designs that exceed the BASIX performance requirements by a specific amount.

There was minimal interest from our stakeholders in this proposal. We are not planning to proceed with a ‘BASIX Plus’ certification at this time. However, developers can demonstrate higher performance by having the design certified under other standards such as the Green Star Homes Standard or Passive House standard. These standards have a higher threshold than required by BASIX.

Clauses of the DP SEPP reflect the intent and manner of operation of the BASIX scheme under the current BASIX SEPP, with drafting changes made to simplify language, consolidate similar provisions and remove redundant provisions. Former provisions of the BASIX SEPP can be found in the DP SEPP as follows:

Table 4: Overview of key changes required to integrate BASIX SEPP into the DP SEPP

BASIX SEPP	DP SEPP
s3 Aims Specifies: <ul style="list-style-type: none"> — the legislative provisions establishing BASIX — that an application for a development consent, complying development certificate or construction certificate for most residential development must be accompanied by a list of commitments (on the BASIX certificate) — that the development must comply with the BASIX commitments — that this policy aims to ensure consistent application of the BASIX scheme throughout NSW, and overrides — competing provisions in other environmental planning instruments and development control plans that would modify BASIX obligations 	The first three provisions have been omitted as they are redundant (they are covered by the EP&A Regulation and the new 'relevant building' definition in DP SEPP below) The fourth provision has been carried over (cl 28). The fifth provision has been carried over (cl 29).
s4 Definitions Defines <i>BASIX affected building</i> , <i>BASIX affected development</i> , <i>BASIX certificate</i> , <i>BASIX commitment</i> , <i>BASIX optional development</i> , and <i>competing provision</i>	These definitions have been maintained but form part of the Dictionary of the DP SEPP (DP SEPP schedule 3 directs you to the EP&A Regulation for the definition).
cl 5 Land to which the Policy applies This Policy applies to the whole of the State, including Lord Howe Island.	(cl 6) This Policy applies to the State
cl 6 Buildings to which the Policy applies Specifies the types of residential development that BASIX applies to.	cl 29(3) introduces a new term 'relevant building', which is defined in 29(5)(e) to define when BASIX applies (reflecting the same intent as the BASIX SEPP, using a defined term)
cl 7 Relationship with other environmental planning instruments This Policy prevails over any other environmental planning instrument, whenever made, to the extent of any inconsistency.	Maintained with minor rewording in cl 29(1).
cl 8 Other environmental planning instruments do not apply to BASIX commitments Specifies that the competing provisions of an environmental planning instrument are of no effect if they would modify BASIX obligations	Clauses 8 and 9 of BASIX SEPP merged into cl 29(1) of DP SEPP
cl 9 Development control plans do not apply to BASIX commitments Specifies that the competing provisions of a development control plan are of no effect if they would modify BASIX obligations	
s10 Provisions providing for exceptions to development standards do not allow departures from BASIX commitments <i>State Environmental Planning Policy No 1—Development Standards</i> does not apply to a development standard that arises, under the regulations under the Act, in connection with a BASIX commitment for a building to which this Policy applies or for the land on which such a building is situated.	Deleted as existing clause was unnecessary
NEW PROPOSALS FOR DP SEPP (not in BASIX SEPP):	New provision 28 specifying that a relevant building must meet the BASIX targets for a) energy/operational emissions, b) thermal performance, c) water, and d) embodied emissions/materials index. The targets, which will vary with building type and location, are listed in schedule 1. New provision stating that it is intended to periodically review BASIX requirements to align with national requirements and achieve NSW policy objectives New Regulation cl 164a specifying that a merit assessment can be completed by a suitably qualified professional to meet NSW sustainability requirements in place of a BASIX assessment and BASIX certificate

C.3 Sustainability in non-residential buildings

Overview of sustainability for non-residential buildings

Performance benchmarks and targets vary across development types and apply to both new development and major refurbishments. Performance improvements are tailored to specific use cases. Where applicable, these have been informed by data and information from the National Australian Built Environment Rating System (NABERS), the National Construction Code (NCC), the Green Building Council of Australia (GBCA), Electric Vehicle Council and other analysis.

The stringency of performance requirements will likely expand or increase in future SEPP reviews.

An overview of the proposed measures, standards and where they apply are as follows.

Table 5: Energy use requirements

PROPOSED USE	ENERGY PERFORMANCE PATHWAYS	OFFSET RESIDUAL EMISSIONS REQUIREMENT
<p>The below developments must meet the National Construction Code's Section J requirements. Deemed-to-satisfy method is not permitted. Then they must achieve one of the below assurance pathways.</p> <p>Where certain developments cannot achieve net zero emissions in operation, they will procure renewable energy certificates to offset their residual emissions for a minimum 5-year period.</p>		
Offices (base building) ≥ 1000 m² net lettable area (NLA)	Independently verified NCC JV3 compliant method OR Signed minimum 5.5 Star NABERS Energy Commitment Agreement OR Certified Green Star Buildings "credit achievement" in Credit 22: Energy Use.	Yes - Greater Sydney only
Retail premises (shopping centres base building) ≥ 5000 m² gross lettable area retail (GLAR)	Independently verified NCC JV3 compliant method OR Signed minimum 4.5 Star NABERS Energy Commitment Agreement OR Certified Green Star Buildings "minimum expectation" in Credit 22: Energy Use.	Yes - Greater Sydney only
Hotels (whole of building) ≥ 100 rooms	Independently verified NCC JV3 compliant method OR Signed minimum 4 Star NABERS Energy Commitment Agreement OR Certified Green Star Buildings 'minimum expectation' in Credit 22: Energy Use.	Yes - Greater Sydney only
Mixed use – Where one or more of the above land uses apply	One of the above pathways relevant to the proposed use.	Yes - Greater Sydney only
State significant development where the SEPP applies	Green Star Buildings 'credit achievement' in Credit 22: Energy Use.	Yes – whole of NSW

Table 6: Water use requirements

PROPOSED USE	MINIMUM WATER PERFORMANCE STANDARD
Offices (base building) $\geq 1000\text{m}^2$ NLA	4-star NABERS Water Rating; OR
Hotels (whole building) ≥ 100 rooms	Green Star Buildings 'minimum expectation' in Credit 25: Water Use.
Retail premises (base building) $\geq 5,000\text{m}^2$ GLAR	Green Star Buildings 'minimum expectation' in Credit 25: Water Use.
All other developments	

Table 7: Electric vehicle requirements

PROPOSED USE	EV MINIMUM REQUIREMENTS
Apartments (class 2), residential aged care / retirement living (class 9c)	100% EV-ready parking spaces Minimum 10% visitor parking spaces installed with EV charging stations (or 1 space if <10 spaces provided)
Class 3 buildings that are hotels or motels	Minimum 25% EV ready parking spaces
Offices (class 5) and retail centres (class 6)	Minimum 10% EV-ready parking spaces
All other non-residential uses (excluding class 1, 4, 7a and 10, and class 3 buildings that are not hotels or motels)	Minimum 20% EV-ready parking spaces

An "EV-ready" parking space has cabling to the space, and room for the charging head unit

Table 8: Sustainability application requirements

APPLICATION REQUIREMENT	COMMENTS
Net zero statement (NZS) Components include: <ul style="list-style-type: none"> — Net zero ready: Disclose estimated scope 1 and 2 emissions up to 2050 — Net zero ready: Where fossil-fuel dependent building systems are used, confirmation (on plans) of sufficient physical space, infrastructure and electrical capacity for the development to transition to 100% fossil-fuel free energy by 2035 — Energy performance assurance pathway: identify method of independent verification and provide evidence (developments in Table 1 only) — Energy performance measures: information about onsite renewables, passive design, other infrastructure that will improve energy performance e.g. chilled beams — Evidence electric vehicle requirements will be met (developments in Table 3 only) — Evidence of intent / procurement of renewable energy certificates for minimum 5 years (specific developments in Table 1 only). 	There are various components to the net zero statement, outlined to the left. The information is requested at each point in the development process, including development application, construction certificate and occupation certificate.
Embodied emissions statement (EES) <ul style="list-style-type: none"> — Disclose embodied emissions for the top 5 materials in the development. — Disclose any products that have an environmental product declaration (EPD). — Describe how low-emission construction technologies are proposed to be used in the development, and how this has informed the selection of materials, structural systems and construction methods. 	Calculating embodied emissions will be supported by a proposed new embodied emissions calculator on the Planning Portal.

ACRONYMS	
ADG	<i>Apartment Design Guide</i>
Aerotropolis SEPP	<i>State Environmental Planning Policy (Western Sydney Aerotropolis) 2020</i>
BASIX	Building Sustainability Index
BASIX SEPP	<i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i>
CIV	capital investment value
Codes SEPP	<i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>
DA	development application
DCP	development control plan
DPIE	Department of Planning, Industry and Environment
DP SEPP	<i>State Environmental Planning Policy (Design and Place) 2021</i>
EIE	explanation of intended effect
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EV	electric vehicle
GANSW	Government Architect New South Wales
Growth Centres	<i>SEPP State Environmental Planning Policy (Sydney Region Growth Centres) 2006</i>
ILP	indicative layout plan
LEP	local environmental plan
NABERS	National Australian Built Environment Rating System
NCC	<i>National Construction Code</i>
NDL	net developable land
NSW SDRP	NSW State Design Review Panel
LGDRPM	<i>Local Government Design Review Panel Manual</i>
PTAL	public transport accessibility level
SA	solar absorptance
SEPP	State environmental planning policy
SEPP 65	State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development (2002)
SRD DEPP	<i>State Environmental Planning Policy (State and Regional Development) 2011</i>
TfNSW	Transport for New South Wales
UDG	<i>Urban Design Guide</i>

GLOSSARY	
Amenity	The ‘liveability’, comfort or quality of a place which makes it pleasant and agreeable to be in for individuals and the community. Amenity is important in the public, communal and private domains and includes the enjoyment of sunlight, views, privacy and quiet. It also includes protection from pollution and odours. Expectations of amenity and comfort are contextual and change over time.
Complying development	A combined planning and construction approval for straightforward development that can be determined through a fast-track assessment by a council or an accredited certifier. Complying development applies to homes, businesses and industry and allows for a range of things like the construction of a new dwelling house, alterations and additions to a house, new industrial buildings, demolition of a building, and changes to a business use.
Design review panel	A panel of expert and independent design professionals that provides constructive feedback on the design quality of development proposals and strategic design projects.
EV ready	An ‘EV-ready’ parking space has cabling to the space, and room for the charging head unit.
Green infrastructure	The network of green spaces (either natural or constructed), urban tree canopy in streets, continuous soil and water systems that deliver multiple environmental, economic, and social values and benefits to urban communities.
Green travel plan	A plan prepared by a qualified transport planner or traffic engineer that details measures to promote and support the use of sustainable transport options, such as public transport, cycling and walking.
Master plan	A framework document showing how development will occur in each place and including building parameters like height, density, shadowing, and environmental concerns. It is a visual document that details a clear strategy or plan for the physical transformation of a place, supported by financial, economic, and social policy documents which outline delivery mechanisms and implementation strategies.

Net zero ready	A 'net zero ready' development has high energy performance, is EV ready, is capable of achieving net zero operational emissions and is either all-electric, or 'all-electric ready', i.e. capable of becoming all-electric and not using onsite fuels.	Urban design development	Defined as: <ul style="list-style-type: none"> — development on land that is not in an industrial zone that has a site area greater than 1 ha, or — development on land in an industrial zone (IN1 General Industrial, IN2 Light Industrial and IN4 Working Waterfront) that has: <ul style="list-style-type: none"> i. a capital investment value of \$30 million or more, and ii. a site area greater than 1 ha, or — 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.
Public space	Places publicly owned, or designated for public use, that are accessible and enjoyable for all, free of charge and without a profit motive, including: <ul style="list-style-type: none"> — public open spaces – active and passive spaces including parks, gardens, playgrounds, public beaches, riverbanks and waterfronts, outdoor playing fields and sports courts, and publicly accessible bushland — public facilities – public libraries, museums, galleries, civic and community centres, show grounds and indoor public sports facilities — streets – streets, avenues and boulevards, squares and plazas, pavements, passages and lanes, and bicycle paths. 	Walkability	Refers to measures that support safe, comfortable, and direct walking to destinations such as footpaths, crossings, shading, protection from traffic, connected paths along desire lines and proximity, typically 1600 m or less to destinations by the shortest route.
Public open space	Land that has been reserved for the purpose of recreation and sport, preservation of natural environments, and provision of green space. For apartment buildings, this land is vested in or under the control of a public authority.		
Resilience	A complex and dynamic system-based concept used differently in various disciplines referring to the ability of a system to return to a previous or improved set of dynamics following a shock. It also refers to the potential for individuals, communities, and ecosystems to prevent, absorb, accommodate, and recover from a range of shocks and stresses, including but not limited to bushfires, flooding, extreme heat and coastal hazards.		
Sustainability	Relates to the endurance of systems, buildings, spaces, and processes – their ability to be maintained at a certain rate or level, which contributes positively to environmental, economic and social outcomes.		
Tree canopy	The layer of leaves, branches and stems of a tree that provide coverage of the ground when viewed from above. Urban tree canopy refers to trees on public and private land within urban areas and comprises a variety of tree types such as exotics, deciduous trees, and evergreens.		



dpie.nsw.gov.au