



Abbie Galvin FRAIA
Government Architect NSW
Department of Planning, Industry & Environment

By email: [EMAIL ADDRESS]

20 August 2020

Dear Abbie,

RE: Request for preliminary input - Design and Place SEPP

Thank you for seeking Shelter NSW's early feedback on the proposed Design and Place SEPP. As the peak body for housing advocacy in NSW, we welcome the opportunity to inform the development of policy that protects and enhances the design quality of homes and neighbourhoods in NSW.

We also appreciate being able to provide this feedback at a later date. This has allowed my team to prepare submissions on a raft of related strategies, reviews and SEPPs currently on exhibition as well as consult with our peers in the community housing advocacy sector.

We approach all of these topics from the perspective of low-income households who struggle to secure good quality housing in the private market. On design quality specifically, Shelter NSW published a series of research reports in 2017 entitled *Equitable Density* which identified key challenges and potential solutions at the building, neighbourhood and metropolitan scale.

The lead authors of that series have since expanded on that research with the recently published AHURI report *Improving outcomes for apartment residents and neighbourhoods*. Together with expert advice from our board members, these reports form the basis for our comments.

In organising our feedback, we have followed the provided response template to identify the issues and opportunities, and propose solutions, that are relevant to each part. We note that the template separated out comments related to supporting guidance and tools, however we found it simpler to group these together given that each part functions by referencing these documents.

Overall, we support the proposed structure of the SEPP in seeking to define good design, describe a process for achieving it and shape development beyond the building scale. The fact the Government Architect is leading this process gives us with confidence that the SEPP will achieve good outcomes.

Our only major concern is whether the signalled move to a 'principle-based system' implies a reduced role for minimum standards. In light of this, we hope that the Design and Place SEPP will build upon the success of instruments like SEPP 65 in improving the quality of people's homes.

To that end, Shelter NSW would be pleased to participate in any further consultation on the Design and Place SEPP. Please contact our Senior Policy Officer Ryan Harris at ryan@shelternsw.org.au or 0422 073 786 to make any such arrangements or to discuss our feedback provided here.

Best wishes,

John Engeler
CEO
Shelter NSW

Part 1: Preliminary

Our understanding of Part 1 is that it will define the aims and objectives for good design by giving legal weight to the Government Architect's policy *Better Placed*. That document describes the principles and characteristics for well-designed built environments in NSW.

Issues and opportunities

Lower-income households are more likely to live in higher-density housing

Population growth and planning policies in NSW are driving a shift towards more compact forms of development. The design of these built environments has a disproportionate impact on households of low-incomes (those in the bottom 40% of the distribution) as they are over-represented in high-density housing compared to other housing types. Planning for new development therefore needs to consider the unique needs of the most common groups of low-income households living in higher-density including: millennial renters; international students; migrant families; older single public housing tenants; and older homeowners.

However, they are least likely to be able to avoid or adapt to places that are poorly designed

By definition, low-income households have fewer resources to compete effectively in the open market for well-located and well-designed housing. Development regulation is therefore especially important given that over 95% in Australia of housing is provided by the private market. Moreover, the fact the over half of apartment residents are renters further limits their control over the quality and condition of their home. Good design can and does improve amenity and reduce running costs. However, where the planning system compromises on design quality, the impacts are most likely to filter down to households on low-incomes who cannot afford an alternative.

Design that considers their needs can improve wellbeing, community and affordability outcomes

Better design and planning can improve the lived experience of low-income households by considering their needs. At the building scale, this includes prioritising the health, comfort and social relations of residents by reducing noise disturbances, providing family-friendly communal spaces and apartment layouts, and ensuring access to light and air. At the neighbourhood scale, it includes focusing on household costs and social relations by integrating free or low-cost community infrastructure and taking a tenure-blind approach to design.

Solutions

A definition of good design should reflect the needs of low-income households

We support a legal definition of good design because it provides for a minimum standard of development quality. Assessing developments against the aims and objectives of good design acts as a crucial pub test by asking basic questions like 'does it have good amenity?' and 'is it safe?'. Where a development does not meet those objectives, it is most likely that a household on a low income will end up living there. The Design and Place SEPP should therefore make one of its aims to protect and enhance the wellbeing, community and affordability outcomes of households on low-incomes by ensuring that all developments meet a minimum threshold for design quality and amenity.

The aims and objectives of good design should apply to all forms of higher-density housing

We support the NSW Government's efforts to facilitate more diverse dwelling types through the forthcoming Housing Diversity SEPP. However, given that this instrument will allow smaller dwellings sizes, there is a risk that amenity will be traded off against unguaranteed promises of affordability as happened with boarding houses under the Affordable Rental Housing SEPP. The Design and Place SEPP should therefore provide guidance similar to SEPP 65 to all forms of high-density housing.

Part 2: Design process

Our understanding of Part 2 is that it will prescribe a process for developers and planners to achieve and assess good design outcomes. It will do so by giving legal weight to the Government Architect's policies *Implementing Good Design* and *Evaluating Good Design*. References to a 'principle-based' system also appear to signal a move away from quantifiable minimum standards to assessing developments based on the satisfaction of design quality principles.

Issues and opportunities

Minimum standards protect low-income residents from cost-cutting practices

Existing planning instruments that regulate design quality such as SEPP 65 have improved amenity for low-income residents in NSW. Without these standards, decisions on design quality would be left to developers and architects. Such discretion may work in favour of the consumer where a developer is motivated by a reputation for design quality or an architect is able to discern opportunities unique to the site. However, it does not protect low-income households from development practices that are primarily focused on reducing costs and increasing profit.

The issue with minimum standards lies in having planners administer them

An unintended outcome of having design regulations that incorporate numeric standards is that planners tend not to allow variations. This can lead to design proposals being rejected for non-compliance even though they achieve a better design outcome including reasonable trade-offs in amenity. Here, the devil is in the detail. Recognising such opportunities requires design expertise which planners do not necessarily possess.

Greater flexibility can improve design quality by accommodating changing household needs

The needs of households change over time as new residents move into a neighbourhood and demographics change within a building. At a neighbourhood scale, this may create demand for new types of infrastructure or community spaces. At a building scale, it may mean dwellings need to accommodate growing families, multi-generational care arrangements and working-from-home spaces. Being able to retrofit and adapt these spaces is therefore an important consideration in the design and planning process.

Solutions

Minimum standards should provide a baseline level of amenity for residents

We support the retention of minimum development standards as having been proven to produce better design quality outcomes. While we recognise that a system based on design quality principles has the potential to augment these standards, we do not believe it should permit deviations on certain matters which we consider essential amenity. These red lines include solar access, natural cross-ventilation, visual and acoustic privacy, minimum building separations, minimum ceiling heights, habitable room depth, unit size, and private and communal open spaces.

The planning system should incorporate flexibility through design review panels

We support variations from minimum standards where there is a rigorous framework to assess improvements or justify trade-offs in amenity. Design review panels comprised of experts could facilitate such a process by judging that a variation is 'deemed to satisfy' a holistic balance of design quality principles. Such rulings must consider the impact of the decision on the changing needs of households and be published in an accessible format for transparency and provide a useful feedback loop to policy makers.

Part 3: Sustainability and resilience

Our understanding of Part 3 is that it will require developers to meet certain energy efficiency and performance standards. It will do so by requiring the use of the Department of Planning's *BASIX* tool which measures the sustainability of new buildings.

Issues and opportunities

Passive design and green infrastructure can reduce household energy costs

Low income households are least able to afford the costs associated with increased energy use from heating and cooling their homes. However, passive design features at both the building and neighbourhood scale can significantly reduce their demand for electricity. Besides insulating materials, these include provisions for adequate solar access, natural cross-ventilation and tree canopy in deep soil.

However, it is unclear if current measures of sustainability account for such features

Current planning instruments such as the BASIX SEPP do not appear to account for passive design features which reduce electricity demand. In general, it is unclear how the BASIX tool derives its measure of sustainability—it is a 'black-box'. As such, there is an opportunity to improve design guidance on achieving and assessing energy efficiency through a more holistic and transparent rating system.

Solutions

The BASIX tool should account for passive design features

We support energy performance standards that are based on passive design features at both the building and neighbourhood scale. These features reduce costs for households on low incomes by improving thermal comfort in the home and reducing their demand for electricity. The BASIX tool should therefore account for passive design features and green infrastructure such as natural cross-ventilation, solar access and tree canopy in deep soil.

Part 4: Context and place

Our understanding of Part 4 is that it will require plans for future development prepared by state government, local councils and proponents to respond to an analysis of the local context. It appears it will do so by giving legal effect to the Department of Planning's *Public Spaces Framework*.

Issues and opportunities

Low-income households rely on easy access to social and community infrastructure

Public spaces that have no- or low-cost public facilities play an important role for households who may not be able to afford paid alternatives like cafes and gyms. Purposeful open space, community centres and libraries are especially valuable but often lacking in new higher density areas. Where they are available, they are particularly well-used and loved where they provide access to positive features of their natural setting.

Coordinated planning at a precinct scale can lead to better design and place outcomes

While councils are able to regulate development of local areas through Development Control Plans, their reliance of market-led development and government agencies can lead to delays in infrastructure. Coordinated planning led by state governments can result in more orderly development by identifying and prioritising infrastructure needs at a precinct scale. However, this carries the risk that local communities lose their say in the process.

Solutions

A local context analysis should audit social and community infrastructure at a precinct scale

We support precinct scale plans that identify and prioritise infrastructure needs of the local community at a precinct scale. A context analysis should act as the evidence base for such plans regardless of who prepares them. In following this process, the analysis should identify where future infrastructure and open space can be located to maximise convenience and take advantage of their natural setting.

Local communities should have an opportunity to articulate desires for their neighbourhood

We support a role for local communities where an analysis is prepared by a body other than the local council. Any analysis of the local context should therefore account for the views of local residents as to what they value most in their neighbourhood and what infrastructure is needed to support development. The process prescribed by the SEPP should therefore have regard to existing strategies and/or community engagement.

Part 5: Urban structure

Our understanding of Part 5 is that it will regulate development at a neighbourhood scale with regard to various forms of infrastructure, heritage and cultural facilities. It will do so by giving legal weight to a number of Government Architect and Department of Planning policies including the *Design Guide for Regional NSW*, *Good Urban Design*, *Greener Places* and the *Public Spaces Framework*.

Issues and opportunities

A well-designed public domain can extend a sense of home to an entire neighbourhood

Design elements of the public domain play a key role in establishing social relations among neighbours and improving the health and wellbeing of residents. Community centres, useful open spaces (particularly for children and pets) and libraries are especially valuable. They also make areas more affordable for low-income residents who may not be able to make use of cafes, restaurants and gyms as places to socialise and exercise.

The public domain needs to reflect local character and respond to changing needs

The fact that there is no state-wide instrument to regulate the design quality of the public realm reflects the important role of local councils in shaping their local areas. There would otherwise be a risk that unique places end up looking and feeling the same. However, not all councils are equally capable of articulating and implementing their vision of local identity. Moreover, their communities are constantly changing as new residents move in and demographic profiles evolve.

Solutions

Master plans and development proposals should reflect local visions at a neighbourhood scale

We support local councils being able to make controls that are specific to their area. Where a state instrument requires plans to include particular design elements, local councils should be free to determine the location, type and quality of public infrastructure, facilities and open space.

Infrastructure and facilities should be flexibly designed to accommodate changing needs

We support planning provisions that require the current and future needs of residents to be considered in the design process. These should allow for public spaces to be retrofitted and adapted as resident needs change over time.

Part 6: Urban grain and character

Our understanding of Part 6 is that it will regulate development at the street scale with regard to land and spatial division, designation of uses, and street accessibility. It would appear that it will do so by giving legal effect to the Department of Planning's policy *Local Character and Place Guidelines*.

Issues and opportunities

The interface between the private and public domain shapes wellbeing and community outcomes

The way space is divided at the block level can have significant impacts on the health and safety of residents as well as the useability of public space. For instance, the proximity of dwellings to key transport infrastructure can expose residents to noise disturbances and pollution as well as create uncomfortable pedestrian environments. Similarly, the bulk and scale of higher-density buildings can create wind tunnels and overshadow public spaces if they are not balanced by adequate street widths and tapered heights near parks and waterfronts.

More thoughtful planning of ground-floor retail can address needs for community space

While the commercial units of residential buildings are intended to enliven streets and create visual interest, they are often left empty. Where they are tenanted, they often default to uses as convenience stores and cafes that low-income residents may not be able to afford. Meanwhile, there may be an unmet need for community gathering spaces ranging from function rooms for meetings and social events to co-working spaces and play rooms.

Street design can also improve the comfort, enjoyment and safety of pedestrians

Designing streets from the journey perspective of different types of pedestrians could substantially improve their experience navigating the public realm. For instance, identifying infrastructure barriers and avoiding solutions such as underpasses could improve access routes to key points of interest such as shopping centres and transport hubs. Infrastructure such as street furniture, shade trees and adequate lighting would similarly enhance comfort and safety. Adequate footpath widths and cycle lanes would also improve access for pedestrians with disability and manage road user conflict.

Solutions

Master plans and development proposals should mitigate shadow, wind and noise impacts

We support higher-density development providing it is appropriately scaled and located to avoid negative impacts on residents and public space. A number of key matters should be considered in any provisions or design guidance to achieve this balance. These include building height to street width ratios, proximity to noise- and pollution-producing infrastructure, and height transitions near open space.

Ground floor retail should be flexibly planned to accommodate community spaces

We support the inclusion of commercial units in residential developments providing they are thoughtfully planned to consider community needs. In planning for the possibility that a commercial tenancy is not taken up, these spaces should be designed in such a way that they are readily able to be adapted for community uses with minimal fit-out costs.

Streets should be planned and designed from the perspective of vulnerable pedestrians

We support provisions for street design that account for the needs of various groups navigating the public realm. These could include minimum widths for footpaths and cycle lanes and mandatory affordances including street furniture, lighting and shade trees, as well as design guidance on permeable street networks and block lengths

Part 7: Built form and spaces

Our understanding of Part 7 is that it will regulate the design of all residential buildings requiring a development consent along with other types of development. It appears that it will do so by continuing to give legal effect to the various design guides published by the Department of Planning and the Government Architect including the *Apartment Design Guide*, *Low Rise Housing Diversity Design Guide* and *Seniors Living Policy Urban Design Guidelines for Infill Development*, as well as considering unpublished guides on *Compact Apartments* and *Small Lot Housing*.

Issues and opportunities

Poor design quality of residential buildings disproportionately affects low-income households

By definition, households on low incomes have fewer resources to compete effectively for good quality housing in the open market. As renters, they also have less control over the design and management of their homes. Regulation of design quality has an essential role in improving wellbeing, community and affordability outcomes for these groups. For instance, adequate solar access and natural cross-ventilation can reduce energy costs by improving the thermal regulation. Access to a variety of communal open spaces can improve relations between neighbours both by enabling interaction and providing children with spaces to play and make noise. Adequate separation, orientation and sealing can similarly ensure visual and acoustic privacy by blocking out noise from infrastructure and preventing overlooking.

Minimum standards have proven to be successful in improving design quality

Planning instruments such as SEPP 65 have produced better outcomes for apartment residents by setting minimum standards for design quality. Without these, the impacts of poorer quality development on mental health, childhood development and community cohesion are all likely to fall on those whose incomes do not afford them an alternative. In consolidating or enhancing existing design guides, as well as introducing new ones, there is an opportunity to entrench and expand these protections to all forms of housing that require a development application.

However, the planning system has facilitated workarounds to these standards for singles

This opportunity is especially important given the NSW Government's efforts to facilitate the supply of higher-density and smaller dwellings through the forthcoming Housing Diversity SEPP. Its predecessor, the Affordable Rental Housing SEPP, facilitated developments such as new generation boarding houses to which amenity standards such as those in SEPP 65 does not currently apply. This has exposed single people in particular to lower levels of amenity without necessarily resulting in lower rents.

Meanwhile, gaps remain in catering to the needs of large and extended families

The largest single group among lower-income households living in higher-density are families with children¹. Despite the success of planning instruments such as SEPP 65, there remains a need for more useful shared spaces and dwelling designs to accommodate them. This includes dedicated play spaces for children as well as areas to study, work from home or host occasional gatherings. Within the home, dwellings with additional bedrooms are also needed to accommodate growing families with children or visiting relatives who provide care. However, this does not necessarily require additional floor space if apartment layouts are flexibly designed to allow for options like single- and double-bedrooms and dual-key apartments.

¹ Easthope, H., Crommelin, L., Troy, L., Davison, G., Nethercote, M., Foster, S., van den Nouwelant, R., Kleeman, A., Randolph, B., and Horne, R. (2020) *Improving outcomes for apartment residents and neighbourhoods*, AHURI Final Report 329, AHURI: Melbourne.

Solutions

Minimum standards of design quality should be maintained and expanded to other housing types

We support the retention of minimum standards that require all types of housing to provide a baseline level of residential amenity. This should include adequate solar access, natural cross-ventilation, visual and acoustic privacy, minimum building separations, minimum ceiling heights, habitable room depth, unit size, and private and communal open spaces. The Design and Place SEPP should build on the success of SEPP 65 by maintaining these core amenity standards and expanding them to apply to all types of housing including boarding houses facilitated by the Housing Diversity SEPP. The unpublished *Compact Apartments* guide should similarly account for these standards given the added effort required to achieve good amenity in a smaller dwelling.

Variations to these standards should be allowed but only by design review panels

We support design solutions that achieve the same level of design quality intended by minimum standards without being strictly compliant. Any such proposals should be assessed by an expert panel of design experts. In assessing a variation, the panel could rule that a variation is 'deemed to satisfy' the relevant design principle or an acceptable balance of all principles. Such a process would thereby provide a balance between certainty and flexibility for proponents and future residents.

Design provisions and guidance should support the needs of growing and extended families

We support more flexibility and variety in building design to accommodate families with children and multigenerational households living in high density. Dwelling mix, unit size and communal space provisions should specifically factor the needs of these groups. Such provisions should be supported by design guidance for facilitating additional bedrooms within the same floor area, dual key apartments and communal work and study areas.