

17 June 2022

The Hon. Anthony John Roberts, MP  
Minister for Planning  
GPO Box 5341  
SYDNEY NSW 2001

Dear Minister Roberts,

**Open letter of concern regarding the Design and Place State Environmental Planning Policy**

The New South Wales Young Lawyers Environment and Planning Sub-Committee (**Committee**) writes to express its concern at the decision to not proceed with the proposed *Design and Place State Environmental Planning Policy (DP SEPP)*.

As you would be aware, the draft DP SEPP (including the draft Apartment Design Guide and Urban Design Guide) represents many months of development and community participation, throughout which the Committee and numerous other community groups and stakeholders have been actively engaged. We are concerned that, by overturning these efforts, the Government risks poorer planning outcomes - resulting in housing and built environments that are not fit for purpose, communities that are vulnerable to future demographic and environmental challenges, and an uncoordinated approach to new developments that is incompatible with the principles of good design.

We recommend that the Minister reconsider the decision not to proceed with the DP SEPP. A detailed analysis on the Committee's position is outlined in the Committee's 2021 submission on the DP SEPP (**2021 Submission**). In particular, the Committee wishes to draw to the Minister's attention the below matters.

**NSW Young Lawyers**

New South Wales Young Lawyers is a division of The Law Society of New South Wales. NSW Young Lawyers supports practitioners in their professional and career development in numerous ways, including by encouraging active participation in its 15 separate sub-committees, each dedicated to particular areas of practice. Membership is automatic for all NSW lawyers under 36 years of age and/or in their first five years of practice, as well as law students. NSW Young Lawyers currently has over 15,000 members.

The Committee is a group of approximately 250 members interested in our natural and built environment. The Committee focuses on environmental and planning law issues, raising awareness in the profession and the community about developments in legislation, case law and policy.

**The need for an integrated approach to design in the NSW planning system**

The *Environmental Planning and Assessment Act 1979* (NSW) makes clear that one of the objects of the New South Wales planning legislation is to "promote good design and amenity of the built environment" (s 1.1(g)). We view this as an essential and enabling pillar of the State's planning system - without good design, it would not be possible to deliver and maintain affordable housing (s 1.1(d)), facilitate ecologically sustainable development (s 1.1(b)) or promote the orderly and economic use and development of land (s 1.1(c)).

The Committee in its 2021 Submission supported attempts in the DP SEPP to consolidate and integrate design principles and considerations into the assessment process, both for apartments and 'precinct' urban developments. In our view, the principles-based approach encouraged consistency and simplicity, while allowing the application of the principles to be tailored to the particular context of the development. Greater

emphasis was placed on ensuring that developments would be consistent with design principles and criteria set out in the DP SEPP and the guides. Yet, the draft DP SEPP also incorporated a flexible approach that allowed 'alternative solutions' to be proposed, so long as these met the overall design objectives.

Without these overarching design controls being explicitly provided for in the DP SEPP, new developments will advance in a fragmented way, without a built-in mechanism to address broader planning challenges such as housing diversity, public space, climate change and sustainability.

### **Missed opportunities to improve our approach to urban planning**

The DP SEPP also presented a unique opportunity to drive change and 'future-proof' development in New South Wales through environmental planning, for example, by:

- promoting the Government's "net-zero emissions by 2050" policy by requiring consent authorities and proponents to consider passive design, energy efficiency and the use of renewable energy;
- providing additional guidance on meaningful engagement with Aboriginal Stakeholders and incorporating local Aboriginal knowledge and culture into design;
- facilitating housing diversity through guidance on the mix of housing made available;
- incorporating measures in the Urban Design Guide to reduce the urban heat-island effect, such as tree canopy and choice of building materials; and
- encouraging new developments to be carbon-neutral, with provisions for electric vehicles.

Efforts to combat global heating and ensure development can adequately respond to its impacts will become more expensive in the future if developments require retrofitting to incorporate more environmentally friendly design elements.

While we acknowledge your intention to progress updates to the BASIX standards, we consider that the other initiatives incorporated into the draft DP SEPP were valuable and should continue to be developed going forward.

If you have any queries in relation to the above, please contact the undersigned at your convenience.

Sincerely,

**Contact:**



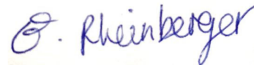
**Leah Serafim**

President

NSW Young Lawyers

Email: [presidentYL@lawsocnsw.asn.au](mailto:presidentYL@lawsocnsw.asn.au)

**Alternate Contact:**



**Brigitte Rheinberger**

Chair

NSW Young Lawyers Environment and Planning Sub-Committee

Email: [envirolawexec@gmail.com](mailto:envirolawexec@gmail.com)

**Alternate Contact:**



**Kyra Pastrovic**

Submissions Lead

NSW Young Lawyers

Email: [kyra.lei97@gmail.com](mailto:kyra.lei97@gmail.com)