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Nature Conservation Saves for Tomorrow

Department of Planning, Industry and Environment

<https://www.planningportal.nsw.gov.au/design-SEPP-2021>

20 February 2022

Re : Submission in support of on the Draft State Environmental Planning Policy (Design and Place) 2021

The Blue Mountains Conservation Society supports the draft Design and Place Policy¹. The Society believes that a small number of amendments and enhancements to the draft SEPP, Regulation, Apartment Design Guide (ADG) and Urban Design Guide (UDG) will significantly assist the Government achieve its Policy objectives.

The Blue Mountains Conservation Society (the Society) is a community-based volunteer organisation with 900 members. Approximately one in every 50 adults in the Blue Mountains is a member of the Society. Our mission is to help protect, conserve and advocate for the environment of the Greater Blue Mountains' National Parks, towns and villages, and rural-residential and agricultural areas. The Society's interest in the Policy is described in Attachment A.

The Society particularly supports:

- The practical and tangible steps towards net zero emissions by 2050. Particularly the comprehensive *net zero statement* required by clause 57D of the draft Regulations, raising the BASIX thermal performance and energy standards and introducing the new embodied carbon emissions standard (SEPP cl.27), improved natural ventilation in residential buildings (ADG 2.7), and storage of renewable energy in non-residential developments (SEPP cl.26(a)).

¹ Draft *Design and Place SEPP State Environmental Planning Policy (Design and Place) 2021*; draft *Environmental Planning and Assessment Amendment (Design and Place) Regulation 2021*; draft (revised) *Apartment Design Guide 2021*; draft *Urban Design Guide 2021*.

- The farsighted deep soil design guidance which will support larger and healthier trees which in turn will make urban areas cooler, more attractive, provide habitat for birds, and reduce stormwater runoff (SEPP cl.20; ADG 1.5; UDG 10.2 & 10.3).
- The tree canopy targets (UDG 10; ADG 1.5) and design guidance to retain mature trees (UDG, 10.1; ADG 1.5);
- The non-discretionary development standards for apartment size and ceiling height which will ensure the construction of liveable apartments (SEPP cl.32(3); ADG 2.4).
- The neighbourhood and development-scale design guidance and objectives to retain rainwater, reduce stormwater runoff and improve water quality (UDG 1.7 & 11; ADG 3.2).

The Society's recommended amendments and enhancements:

A. Exemption of class 1(a) buildings

Issue: the SEPP does not apply to development involving the erection of 24 or less class 1a buildings (SEPP cl.8(2)(e)). This will exempt a large proportion of housing developments from the SEPP including many in the Blue Mountains.

Recommended solution: the Society appreciates that the Government is trying to reduce the cost to smaller developers. However development involving the erection of 24 buildings is not small development and the effect is to pass the costs onto the homeowner and the community. The Society recommends that clause 8(2)(e) be limited to development involving the erection of five or less class 1a buildings.

B. BASIX standards

Context: BASIX has measurably reduced our impact on the environment and has a very important part to play in the future. The Society congratulates the Government on its decision to introduce a new embodied carbon emissions standard, and to revise and align the BASIX thermal performance and energy standards with the *NSW Net Zero Plan, Trajectory for Low Energy Buildings*, National Construction Code energy performance standards proposed for 2022, and to achieve an average of 7 stars under NatHERS.

Issue: the BASIX tool is necessarily complex and there is naturally a degree of uncertainty as to whether the revised and new standards will fulfil the Government's aspirations. The embodied carbon emissions standard is both particularly important and likely to change as new ideas, information and models emerge.²

² Cf. GBCA and thinkstep-anz. (2021). Embodied Carbon and Embodied Energy in Australia's Buildings. Sydney: Green Building Council of Australia and thinkstep-anz: <https://gbca-web.s3.amazonaws.com/media/documents/embodied-carbon--embodied-energy-in-australias-buildings-2021-07-22-final-public.pdf>

Recommended solution: Establish a panel of government and non-government experts to review the actual performance of the revised and new BASIX standards two years after commencement and report their findings well in advance of the Planning Secretary's review in 2025.³ The Society hopes that the Planning Secretary will approach the review on the assumption that there is likely to be a need to upgrade the standards, and particularly so the embodied carbon emissions standard.

C. Offsetting non-renewable energy use in non-residential development

Issue: clause 57D(1)(e) of the Regulations requires large new commercial buildings, hotels, and shopping centres in the Greater Sydney Region and State Significant Development throughout NSW to purchase 1 megawatt of renewable energy certificates over five years to offset the residual non-renewable energy used by the building. The clause applies to a variety of buildings of a variety of scales some of which are likely to emit more than the offset and some less. Further, to achieve net zero by 2050, the Society believes that these developments should offset non-renewable energy use until it ceases.

Recommended solution: require proponents to model and identify in the *net zero statement* the residual non-renewable energy that will be used by the development and, as a condition of consent, require the surrender of renewable energy certificates to offset the whole of the non-renewable energy used until the use of non-renewable energy ceases.

D. Supporting native species through biodiversity sensitive urban design

Issue: Sydney is home to at least 124 species of animals and plants threatened with extinction.⁴ Greater Sydney and Australian cities⁵ generally provide important habitat for nearly half of all listed threatened species.⁶ Scientists have found that, hectare for hectare, urban areas contain more threatened species than do non-urban areas.⁷ Although the tree canopy and deep soil provisions of the SEPP, ADG and UDG will have benefits to biodiversity/native species, the benefits are incidental and limited.

Recommended solution: with a view to introducing controls and assessment and design guidance in the near future, acknowledge the need and opportunity to conserve native species in urban areas in the SEPP, ADG and UDG. In the meantime commence the development and implementation of a NSW Government framework for biodiversity sensitive urban design (BSUD)⁸ including by (for example):

- Developing guidelines on BSUD;

³ As required by cl.28 of the SEPP.

⁴ Ives, Christopher D, et al (2016) 'Cities are hotspots for biodiversity', *Global Biology and Biogeography*, 25, 1, 117-126: <https://onlinelibrary.wiley.com/doi/abs/10.1111/geb.12404>

⁵ Defined as urban areas with a population of 10,000 people or more: see Ives, D et al (2016) *ibid*.

⁶ 'Threatened species live in every Australian city', *Conservation this week*, University of Washington, January 5, 2016: <https://www.conservationmagazine.org/2016/01/threatened-species-live-in-every-australian-city/>

⁷ Ives, Christopher D, et al (2016) 'Cities are hotspots for biodiversity', *Global Biology and Biogeography*, 25, 1, 117-126: <https://onlinelibrary.wiley.com/doi/abs/10.1111/geb.12404>

⁸ Garrard, G et al 'Biodiversity Sensitive Urban Design', *Conservation Letters*, September 2017, 0(00), 1-9.

- Supporting a competition to raise awareness of and annually reward the best examples of BSUD;
- Promoting efforts by urban planners and developers to incorporate BSUD into new or existing developments;
- Working with industry to create a rating system to recognise NSW developments that have incorporated the key elements of BSUD;
- Working with local governments to phase-in standards that require new developments in areas of high urban biodiversity value to incorporate BSUD principles.

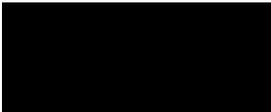
E. Development standards for trees and water

Issue: the tree canopy targets and deep soil, mature tree retention, and water quality and retention design guidance will greatly benefit homeowners and the community. However these measures come at a cost and some local councils and developers may seek to avoid them. The same dynamic has encouraged the NSW Government to adopt non-discretionary apartment size and ceiling height development standards.

Recommended solution: introduce non-discretionary tree canopy, deep soil, mature tree retention and water quality and retention development standards, set at the level of best practice, with developers and consent authorities free to adopt high standards if they choose.

Thank you for the opportunity to provide a submission to this development.

Yours sincerely



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Attachment A

<p>Towns, villages, and suburbs of the Blue Mountains</p>	<p>The Society expects the number of apartments and town houses in the Blue Mountains to increase gradually, and approvals being sought for subdivisions. In all cases the Society believes that the prescribed design criteria or guidance provided by the Design and Place Policy will benefit those inhabiting new dwellings, their neighbours, and the environment of the Blue Mountains.</p>
<p>Rural-residential areas, agricultural areas, and National Park</p>	<p>The NSW Government is aiming to halve greenhouse gas emissions by 2030 and achieve net zero emissions by 2050 to reduce the impacts of climate change. The Policy contributes to the achievement of those targets and the rural-residential and agricultural areas and National Parks of the Blue Mountains will benefit as a result. Those areas will also benefit from the improved water quality expected to be a result of the Policy.</p>